

Erewash Borough Council

Question 1: Does the draft direction on tenure set out the relevant factors that registered providers should consider when deciding what type of tenancy they should offer and issue?

17 - 31	<p>The Government wants to give all registered providers much greater flexibility, enabling them to offer lifetime security where it is needed but also to set shorter terms for social rent as well as Affordable Rent properties where that makes more sense.</p>	<p>Discussion with our housing partners indicates that there are few objections to e.g. five year tenancies in principle, although the cost of review and managing these tenancies may be prohibitive in practice.</p> <p>It does seem to make good use of properties, if people move out if they no longer have a need for that type, size or tenure of property, leaving them free for households who need them.</p> <p>However, there are concerns about sustainability of communities, if people know that they do not have a long term commitment to the property or the area.</p> <p>We would need to ensure that in all local areas - there is a choice of properties and tenures which are continually available – e.g homes to buy; appropriate and affordable properties suitable for single people, families of different sizes; older people; people with physical disabilities. This can help to ensure that people can move to a property which meets their current needs, but whilst staying in the same community. However, this may be difficult to achieve quickly, in some area.</p> <p>Options to ensure that people can buy their social rented or Affordable Rented property if they are in a position now to afford it, should ensure some long-term commitment to a property</p>

Question 2: Does the draft direction on tenure set out the right minimum requirements for a registered provider's tenancy policy?

<p>48 – 49</p> <p>Direction - 2</p>	<p>The proposed requirement on registered providers to “<i>publish clear and accessible policies which outline their approach to tenancy management</i>”</p> <p>Will need to include the stance and processes re Kind of tenancies Length of fixed term tenancies Circumstances when grant tenancies of a particular type Circumstances when tenancy not reissued etc etc</p> <p>Will need to also communicate their tenancy policy (particularly for vulnerable tenants)</p>	<p>The minimum requirements as set out do appear to be acceptable</p> <p>However, the difficulty is in aligning the Registered Providers Tenancy Policy, with Local Authorities Tenancy Strategies, which do not have to be implemented for at least another 18 months.</p> <p>Each Local Authority will have its own Tenancy Strategy, but RPs cannot practically have a tenancy strategy for each LA area.</p> <p>RPs may well be in conflict with LA Tenancy aspirations, particularly with regard to e.g. the transfer of existing social rented properties to Affordable Rented. However, it has been made clear that RPs can and will make their own decisions about tenure even where these are at odds with the LA.</p> <p>The fact that RP Tenancy Strategies will be in place, the time LA Tenancy Strategies are fully formulated, does seem to make a nonsense of the obligations on LAs to have a Tenancy Strategy, which can effectively be ignored by RPs. (this is no criticism of the RPs, but of the process)</p>
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Question 3: Does the draft direction set out the right minimum protections for tenants of registered providers?

<p>50 - 53</p>	<p>Minimum 2 year tenancy, but expected to be longer.</p> <p>How take into account vulnerable people's needs</p>	<p>Yes, the direction does set out the right minimum protection.</p> <p>From Grant Shapps amendment letter perhaps would be prudent to actually alter the “minimum 2</p>
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	<p>Probationary tenancies for e.g. 1 year – 18 months first</p> <p>No change to tenure for existing social rented tenants moving to a new home</p>	<p>year tenancy” to a minimum 5 year tenancy.</p> <p>A 2 year tenancy gives little more protection than a private rented tenancy</p>
Question 4: Do you agree with the principle and detail of our proposed direction on mutual exchange?		
55 – 60 Direction 3	<p>RPs to offer better mutual exchange process – internet based</p> <p>National scheme but not compulsory</p> <p>Promotion and alternative access solutions</p>	<p>Agree in principle re direction on mutual exchange.</p> <p>However, understand there have been major difficulties when a national scheme has been attempted in the past.</p> <p>Difficulties of different eligibility criteria and tenure types in different LA areas/different RPs would have to be overcome</p>
Question 5: Do you agree with the principle and detail of our proposed revisions to the direction on tenant involvement and empowerment?		
61-65 Direction 4	<p>Tenants scrutinise their RPs performance</p> <p>Right to Manage</p> <p>Tenants Panels directing complaints to Ombudsman</p> <p>Annual report to tenants</p> <p>Tenant Cashback – carry out own repairs</p>	<p>Some concerns about this:</p> <p>Do unpaid tenants have the time and expertise to scrutinise performance and query annual reports?</p> <p>If individual tenants unable to complain to Ombudsman – important but “less popular” issues may go untackled.</p> <p>Tenants carrying out own repairs – some merits for very minor repairs, but concerns re the standard of repairs, and the possible implications for the viability of the existing repairs and maintenance teams.</p>
Question 6: What type of models for involving social tenants in repair and maintenance services are registered providers likely to offer, how many tenants might participate in these and what costs and benefits might they result in?		
		As strategic Housing authority, do

		not feel qualified to answer this.
Question 7: Do the proposed revisions to the rent direction adequately reflect the introduction of Affordable Rent?		
Direction		
66 – 68 Direction 5	<p>Para 68 - “properties are to be treated as Affordable Rent where they are provided pursuant to a housing supply delivery agreement with the Homes and Communities Agency under the 2011-15 Affordable Housing Programme”</p> <p>Outside rent restructuring policy and social rent formula</p>	<p>There is some lack of clarity here with paragraph 68.</p> <p>In practice – some RPs have a small housing supply delivery agreement, but are not transferring existing properties to Affordable Rent.</p> <p>We also understand that a few RPs have no current delivery agreement, but may be allowed to deliver new HCA funded homes at Affordable Rent, where there is slippage from others. The fact that Affordable Rents are outside the Social Rent formula does not satisfactorily highlight that Affordable Rents are subject to market forces, and there will not, in principle, be any “restraints” imposed on future possible increases for new tenants.</p>
Question 8: Do you agree with the proposed revisions to the Quality of Accommodation direction to reflect the expiry of the original target date for compliance?		
69-71 Direction 6	Solely in relation to the dates for compliance	No issues with this
Question 9: Energy efficiency is implicit in the revisions to the Quality of Accommodation Direction; should we make it more explicit?		
69-71 Direction 6		Energy efficiency should be made more explicit, as this is an important issue.. If there are minimum standards – these should be outlined. The main concentration should be on standards which will save the service users money, in these austere times.

Exchange Forum

Responses have been collected from tenants (who are members of www.exchangeforum.co.uk).

Consultation – Social Housing Reform

Question 1. Does the draft direction on tenure set out the relevant factors that registered providers should consider when deciding what type of tenancy they should offer and issue?

We feel that overall, the draft direction on tenure does set out the relevant factors that are needed when deciding on what types of tenancy is/may be offered.

Some comments- “no matter how clear a landlord makes it – there will always be some that don’t bother to read their tenancy agreement”

“My tenancy agreement is so long at the moment – please don’t make it any longer or more complicated”

Question 2. Does the draft direction on tenure set out the right minimum requirements for a registered provider’s tenancy policy?

We feel the minimum requirements are adequate. If there are providers who are considering just offering a two year tenancy, our members think this may as well be the whole probationary tenancy.

On the whole, our members feel that a 12 month probationary tenancy is adequate, but since housing stock is in such short supply, that unless there are exceptional circumstances, a “one-strike and you are out” clause should be included so that probationary tenancies are not continually being given.

Some comments – “If I’m a good tenant –the probationary period won’t make much difference to me will it”?

“So does this mean that if a tenant doesn’t follow the rules but has really good excuses then their probationary tenancy might be extended”?

“People have to realise that their actions affect others so landlords must evict in the probationary period if the tenant does wrong. Surely landlords only want good tenants”.

“Don’t tenants get lots of written warnings etc before they get evicted? Well its about time landlords got tough and if a tenant does just one thing wrong in the probationary period – they should be out. No more chances”.

Question 3. Does the draft direction set out the right minimum protection for tenants of registered providers?

Exchange Forum welcomes the revised Tenancy Standard so that registered providers can participate in ART. However, our members either do not understand or even know what ART is.

Some comments – “What is an Affordable Rent Tenancy”? “Does my landlord do this”?

“I can’t afford my rent now – can I go on this”.

Question 4. Do you agree in principle and detail of our proposed direction on mutual exchange?

In principle, Exchange Forum agrees on the draft direction on mutual exchange, but as has already been noted in the previous consultations, as tenants, our members are very concerned on what affect a mutual exchange will have on their tenancy. There are also many other issues which should be noted.

Some comments – “Suppose less people will move now that tenancies will change”.

“Does this mean I have to start a new tenancy – even after living within the authority for over 20 years?”

“What happens if I move to a different area and have a different landlord? Can’t my current landlord give me a reference for good behaviour as a tenant etc so my new agreement lasts longer?”

Exchange Forum was established in July 2001 – making us the oldest on-line web-based mutual exchange site. Yes – even before Homeswapper.

Whilst there are now many web-based home exchange sites on the internet, we feel landlords and tenants need to be careful as to whom they register with. Exchange Forum, Homeswapper and possibly two other companies including ourselves require tenants to input their full details on registration. We do this to stop people registering under lots of different names. We are aware of many exchange websites quoting inflated figures and statistics. This is due to the fact that most other websites allow people to easily register multiple accounts in an attempt to lure other tenants towards their exchange. Having these multiple accounts and usernames just misleads people and also makes the challenge a tenant is facing in finding the right property much more difficult. These sites also never remove members, thus enabling them to say they have the largest number of advertisers. In reality this is not true. On average between 7,000 to 8,000 people exchange properties each year. Obviously more people are looking, but it is highly unlikely to be the figure of 100,000+.

Some comments – “fed up of some sites – you see the same property advertised under different names”.

“Why is it that some sites let people offer money for exchanging homes – don’t they realise exchanges can fall through because of this”?

“There a few sites that keep sending me emails even after I have supposedly de-registered.”

It also has to be said that tenants prefer different methods in trying to find their exchange. Some like to look through adverts on the internet (rather like looking through the newspaper) and others prefer to use sophisticated search and match tools. It has to be re-iterated that most tenants actually like to look for themselves rather than have a “computerised” match sent to them. We have found over the last decade that there are still a lot of people that struggle with the simplest of IT challenges. If the systems are too complicated and packed with gimmicks then they will just not use the websites. It must be considered if other websites are only providing complicated search and match systems and rely upon SMS notifications of matches to tenants they could be isolating the less technical members. We agree that this is a challenge for landlords.

Some comments – “I like looking through adverts more than having potential swaps sent to me”.

"If I am busy – the few clicks of a mouse and I can have a list of exchanges in front of me – it's like a treasure chest opening up – but other times I like to just browse".

"Plain and simple is best – even my Mum and Dad can use it".

"Why can't my landlord pay for the site I want to use – not the site they think I ought to use"?

Whilst every effort should be made by providers to publicise the availability of any properties that are available for mutual exchanges locally, this doesn't have to be internet based. Local Authorities and RSL's have moved away from holding paper based registers listing properties for mutual exchange which Exchange Forum feels is a hindrance for tenants who don't have internet access. With some providers closing local offices to the public, access to paper-based listings is further hindered. The majority of tenants actually only move within their local area, so we feel this needs to be looked at again. *Some comments - "I only want to move to a bigger house in my area – but there are no lists anymore at my Housing Office".*

"I'm looking for my Mum – but have to sneak on the internet at work because my landlord has given up with written listings – this sucks".

Another major concern for tenants who wish to carry out a mutual exchange is that there is no clear format on repairs. The majority of providers state that when a mutual exchange is carried out, tenants accept the property "as seen". This in itself is totally acceptable to the majority of tenants but the problems arise when the exchange has taken place. We have heard from some tenants who have been told they cannot have any repairs done for six months and in some extreme cases, three years! There has to be much more clarification and uniformity by providers on this.

Some comments – "Can someone please tell me when I can have this leak fixed – my landlord says I took the property 'as seen'? This is ridiculous – I didn't know it was leaking and am not sure they did either since they won't show me what the inspector wrote down".

A further issue is for tenants who wish to move much further afield. To get to an area of choice, a lot of tenants use the "hopping" method. This entails exchanging with different properties in different areas a number of times to actually get closer to where they want to be. For some tenants, in order to get from one end of the country to the other, the "hopping" method is the only way to get to the area of their choice and it may take three, four, five or more moves. Any increase in the length of probationary tenancies will further hinder a tenant's chance of obtaining a mutual exchange. Exchange Forum feels that if providers could have some flexibility on probationary tenancies, this would help tenants. At present, few providers will allow an exchange to take place until the probationary period has been completed.

Some comments – "If what the papers are saying is correct – by the time I get to move from Cumbria down to Devon to look after my sister, it might be too late. At least I have managed two home exchanges in three years by just moving as soon as my probationary period is up".

"Maybe there will be less people moving now – so less choice for those of us who really do want to move".

Question 5. Do you agree with the principle and detail of our proposed revisions to the direction of tenant involvement and empowerment?

Overall, Exchange Forum agrees with this principle. Providers of any service should be accountable to their customers and this includes landlords.

Question 6. What type of models for involving social tenants in repair and maintenance services are registered providers likely to offer, how many tenants might participate in these and what costs and benefits might they result in?

This is not a question Exchange Forum can answer.

Question 7. Do the proposed revisions to the rent direction adequately reflect the introduction of Affordable Rent?

As stated above, the majority of our members have absolutely no idea what Affordable Rent is or how it will work. Exchange Forum therefore feels this question cannot be commented on.

Question 8. Do you agree with the proposed revisions to the Quality of Accommodation direction to reflect the expiry of the original target date for compliance?

Exchange Forum feels that some tenants may feel let down by the fact that some landlords have failed to complete the Decent Homes Standard and are now at risk of a “watered down” Quality of Accommodation Standard.

Comments – “ so far as possible??? (6.3 (a)) So if my landlord says it's not possible to pay for the double glazing (which has not been done under the Decent Homes Standard 2010)- does this mean I don't get it?”

“Exactly what constitutes ‘Modern facilities and services’ – my parents’ kitchen is falling apart because its 20 years old but the landlord won't replace it”.

Question 9. Energy efficiency is implicit in the revisions to the Quality of Accommodation Direction; should we make it more explicit?

Exchange Forum feels that it cannot comment on this question.

Exeter City Council

1) Does the draft direction on tenure set out the relevant factors that registered providers should consider when deciding what type of tenancy they should offer and issue?

We believe that the draft direction does set out the relevant factors that registered providers should consider when deciding what type of tenancy they should offer and issue. We are pleased to see that the draft direction is explicit about tenancy policies taking into account the needs of those households who are vulnerable through age, disability or illness and households with children.

2) Does the draft direction on tenure set out the right minimum requirements for a registered provider's tenancy policy?

Although we agree that the minimum standards are fair, Exeter City Council would normally offer a minimum of five year flexible tenancies and only offer two year tenancies in exceptional circumstances. The offer of a two year tenancy could, for example, be used for tenants who are younger than 18 and whose prospects and situation are more likely to change over that period than those of a family with young children or an older person moving into Older Persons accommodation'

There needs to be a balance between meeting housing need and supporting successful, stable communities. Two year tenancies may lead to a lack of personal investment in an area or a home. Tenants may feel that if they are only resident in an area for two years they do not need to engage with their community and may also not maintain their property. Time-limited tenancies of two years with tenancy reviews against criteria such as income and job seeking behaviour could lead to disincentives to finding work (if tenants believe they will be forced to leave if they find better paid jobs).

3) Does the draft direction set out the right minimum protections for tenants of registered providers?

As the local authority for Exeter and one of the administrators of the Devon Home Choice scheme we are concerned that a secure tenant downsizing or completing a mutual exchange to an affordable rent property may not be offered the same security of tenure. It is unlikely that a tenant would give up their secure social tenancy for a less secure tenancy at a higher rent. This will, in our opinion, act as a deterrent to social mobility.

4) Do you agree with the principle and detail of our proposed direction on mutual exchange?

Exeter City Council believes that if people wish to move we should provide all the help we can to facilitate this and increase social mobility around the country. We have therefore been keen to participate in the national pilot to help provide people with alternative ways of finding accommodation outside the choice-based lettings route.

We would, however, like to point out that a national internet-based mutual exchange register already exists in Homeswapper. Customer services officers already provide support for tenants who are not computer literate to register with this service and use it effectively and we would provide the same help and support to all our tenants for any new internet-based system.

5) Do you agree with the principle and detail of our proposed revisions to the direction on tenant involvement and empowerment?

Exeter City Council tenants are given every available opportunity to become involved with landlord scrutiny and we agree that any provider of social housing should give their tenants the same ability to hold them to account. Exeter City Council Housing Services encourage tenant-led scrutiny through the Resident Auditor Team. This group of tenants and residents assess the way the Council provides services and suggest improvements. Performance information is scrutinised every quarter by a Performance Review Committee made up of tenants, Councillors and officers and suggestions are put forward for improvements to working practices.

As a local authority landlord with retained housing stock, however, we must have regard to political, legal and financial realities. Although we can take recommendations on board we cannot always implement them.

As far as a Tenant Cashback Scheme is proposed, this is not a new idea. We do, however, question the take up of this in our area as little or no interest has been taken by tenants in this to date.

6) What type of models for involving social tenants in repair and maintenance services are registered providers likely to offer, how many tenants might participate in these and what costs and benefits might they result in?

Currently, we would continue to involve our residents in the preparation and revision of our Asset Management Strategy and in the Repairs Partnership Board, which brings together tenants, officers and contractors to discuss performance and cost.

With the implementation of any Tenant Cashback Scheme we would need to be satisfied that any work met stringent health and safety standards and our own service standards. Any implementation of this would involve additional staff resources which may not be appropriate during a time of financial austerity.

7) Do the proposed revisions to the rent direction adequately reflect the introduction of Affordable Rent?

The proposed revision reflects the introduction of Affordable rent, but as a local authority with retained stock we are not in a position to charge such a rent. Our political direction indicates that Councillors are not convinced that

Affordable Rent is truly affordable. As such, officers are being directed to maximise the use of social rent where possible and our overarching Tenancy Strategy would require local registered providers to be mindful of this.

8) Do you agree with the proposed revisions to the Quality of Accommodation direction to reflect the expiry of the original target date for compliance?

We agree that the maintenance of properties at the Decent Homes Standard in perpetuity is a positive thing. However, we would question the use of the word 'reasonable' with regard to the state of properties as this will be different for every registered provider. We suggest that more detailed guidelines are produced to direct providers over this issue.

9) Energy efficiency is implicit in the revisions to the Quality of Accommodation Direction; should we make it more explicit?

We think that the need to increase the energy efficiency of homes should be explicitly stated in the Quality of Accommodation Direction.

Fabrick Housing Group

General Comments

Fabrick Housing Group owns and manages over 15,000 within the North of England. The Group consists of two housing association partners – Tees Valley Housing, a 'traditional' long established organisation operating in 16 local authority areas from North Tyneside down to York, and Erimus Housing, a stock transfer company predominantly based in Middlesbrough. Fabrick Housing Group largely welcomes this consultation document and the clarification it gives to a number of key areas on social housing reform. The directions generally offer flexibility, especially around the use of different tenures and rent setting regimes to suit local circumstances. However, in other areas such as mutual exchanges and the 'Tenant Cashback' model we are disappointed at how prescriptive the guidance currently is.

In developing our feedback we have sought the views of Board members, tenants and staff.

Question 1: Does the draft direction on tenure set out the relevant factors that registered providers should consider when deciding what type of tenancy they should offer and issue?

The draft Direction does seem to give providers the flexibility to determine the tenancy contract based on the tenant's needs, needs of the business and what fits within the context of the operating environment. It is important that the flexibility is respected and that providers are able to draw up policies that are pertinent to their businesses, including the continued use of lifetime tenancies if appropriate.

However, tenants are concerned about the lack of controls on Registered Providers which could result in some using the flexibilities to offer inappropriate tenancies to the advantage of the RP rather than the community. Given the TSA's backstop regulation role, who would monitor this?

Question 2: Does the draft direction on tenure set out the right minimum requirements for a registered provider's tenancy policy?

There is a real balance to be struck between outlining minimum requirements, thereby offering maximum flexibility for landlords, and being prescriptive about definitions. For example, it is suggested that landlords should take into account the needs of 'vulnerable' households. This is completely accepted, although there will be several different definitions of what is vulnerable and different landlords will have different interpretations. This could lead to confusion for applicants/tenants and be difficult for local authorities in areas where several RPs are operating. It is vital that individual organisations' Tenancy Policies therefore offer clear guide lines for people and therefore minimise potential challenge.

Question 3: Does the draft direction set out the right minimum protections for tenants of registered providers?

This area has now been further clarified by the recent revision to the proposed standard stating that the minimum 2 year tenancy should only be used exceptionally and a period of five years should be more the norm as a minimum. The guidance also clarifies the application and timescale of probationary tenancies that can precede a flexible tenancy and this is welcomed. It is also recognised that certain types of households should be given longer term tenancies in the vast majority of cases. This may go some way to allay tenant's fears that the use of shorter term flexible tenancies will lead to transient communities. However, feedback from our own tenants suggests that they would like to see longer term tenancies given, especially to young families, vulnerable households and those with disabilities.

It is pleasing to see that the document gives discretion to landlords to provide the same level of security to existing tenants choosing to move to an affordable rented property. We feel that this is essential to facilitate regeneration programmes whereby tenants have to be decanted and would want maximum choice in terms of an alternative property. It also enables the landlord to make best use of existing stock. For example, we would look to move tenants to a more suitable property if possible rather than make expensive and possibly short term adaptations to their existing home. Being able to protect security in these instances will give us more flexibility to utilise our stock to its best effect.

Question 4: Do you agree with the principle and detail of our proposed direction on mutual exchange?

This direction is very prescriptive as it suggests that RPs should subscribe to a specific provider of the proposed service. There will no doubt be a charge for this service and we would want to know likely costs and ensure it provides value for money.

Currently, within the Tees Valley area all five local authorities and RPs support the 'Compass' choice based lettings scheme. The system includes a facility to allow mutual exchanges at no extra cost. We are aware that other IT providers of such systems also allow customers to view requests for mutual exchanges. Perhaps this system could offer national coverage without requiring additional resources.

We would welcome more detail on the parameters around the mutual exchange scheme. For example, if it is largely self serving from the tenants perspective, will there be checks in the system to ensure the mutual exchange suits their needs, to ensure they can afford to pay the rent and service charges (if appropriate), and to make applicants aware they may be giving up their rights if they move to a different type of tenancy? We would also expect that there would need to be additional support from staff in helping customers access the systems and understand the implications of exchanges.

Question 5: Do you agree with the principle and detail of our proposed revisions to the direction on tenant involvement and empowerment?

We support the strong emphasis on the involvement of tenants in the management of services. The focus on scrutiny of landlord performance is important, especially as the role of the Housing Regulator will be reduced. It should be acknowledged however, that the capacity for tenants to be fully engaged in this agenda will take time to develop and RPs will need to identify the right level of resources and support for tenants for this to be truly effective.

Other than the production of an Annual Report for tenants, there appears to be no requirement for RPs to externally benchmark their services. This may make internal challenge more difficult for tenants.

The proposals for the Tenant Cashback model are far too prescriptive and, although there is scant detail about the proposal, we feel that it is not well thought through at this stage. We feel there will be additional costs to administer such a scheme for managing requests for carrying out repairs, monitoring the quality of work and ensuring health and safety requirements etc. We believe that any assumed 'savings' would be counteracted by these other costs.

Question 6: What type of models for involving social tenants in repair and maintenance services are registered providers likely to offer, how many tenants might participate in these and what costs and benefits might they result in?

Feedback from our tenants on this proposal is very negative. They do not see any real merit in such a scheme and are concerned about the risks to the Group if tenant led repairs go wrong.

If we did have to implement such a scheme, it would therefore probably be restricted to very low level, non-essential repairs. However, we feel that in our area of operation, there would be little take up. We would wish to see a full independent review of the pilot schemes currently being carried out in this regard before this is implemented. We would also want to have the flexibility as to whether to introduce such a scheme within our organisation, after first consulting widely with our residents and seeking their views.

Question 7: Do the proposed revisions to the rent direction adequately reflect the introduction of Affordable Rent?

We are happy to work within the rent review parameters proposed for both Social and Affordable Rent. With regard to setting the initial or starting levels for Affordable Rent, there are some concerns about the limitations of the model when applied to the NE of England taking into account the differential when compared to the applicable Social Rent. Being a sub market model we would request that the Regulator considers excluding service charges from the 80% equivalent charge. This would increase the potential scope for Affordable Rents in regions such as ours.

The cost of acquiring individual valuations for first lets of new properties and particularly affordable rent conversions can be viewed as a barrier to increasing the numbers of affordable rented stock given the low rent differential between social and affordable rents in many cases in NE England. Would it be possible to modify the full valuation requirement to make the affordable rent option more attractive in such circumstances?

Question 8: Do you agree with the proposed revisions to the Quality of Accommodation direction to reflect the expiry of the original target date for compliance?

We agree with the direction and the requirement to maintain decent homes. There needs to be more detail on the issue of 'serious detriment' in relation to non-compliance and how or if, this would be triggered.

Question 9: Energy Efficiency is implicit in the revisions to the Quality of Accommodation direction; should we make it more explicit?

It is important that landlords provide energy efficient accommodation that helps reduce carbon emissions; however an equally pressing issue is that of fuel poverty. Perhaps this could be given more profile within the direction.

First Ark Group

The First Ark Group comprises of Knowsley Housing Trust and KHT Services Limited. Knowsley Housing Trust is the largest housing provider in Knowsley, working in the 5th most deprived borough in the UK. KHT provides homes to 25,000 people. Over 80% of our customers are in receipt of housing benefit. The combined changes of the proposed changes to social housing provision and welfare reform will have a significant effect upon our customers.

First Ark welcomes the opportunity to respond to the consultation at a time of significant change and challenges within the housing sector. Parts of these challenges and changes relate to the proposed changes to regulation and concern about who will carry out the regulatory roles. It is important that we have responded to this consultation on behalf of KHT customers and future customers.

We support the localism agenda and effective scrutiny from our customers.

First Ark Specific Responses to the Consultation Questions

Consultation Question	First Ark Response
1. Does the draft direction on tenure set out the relevant factors that RP's should consider when deciding what type of tenancy they should offer and issue?	<p>We have welcomed the changes to the minimum guarantee of tenancy for five years except in exceptional circumstances. We consider that 5 years recognises the need for both family and household stability and the impact of shorter term tenancies can have on neighbourhood sustainability. We consider the detail with the Tenure direction Section 3 (g) identifies key considerations in relation to what type of tenancy should be offered without constituting a prescriptive tenancy policy.</p> <p>Whilst we welcome the extension of the period of probationary tenancy from 12 to 18 months we still consider the period should be a standard 2 years and that this probationary period should be considered as part of the fixed term period. Under the directive the length of the tenancy is "in addition to any probationary period".</p> <p>This policy could provide a longer overall tenancy period to customers who have been placed on longer or extended probationary periods. Effectively tenants who demonstrate behaviour which requires additional caution prior to being granted a tenancy with the Registered Provider will have a longer overall tenancy than a tenant who conducts the tenancy satisfactory and is elevated to the fixed term tenancy after only 12 months. This could potentially</p>

	incentivise behaviour that would lead to probation extensions with the end game seeking to lengthen the overall access to social and affordable housing.
2. Does the draft direction on tenure set out the right minimum requirements for a RP's tenancy policy?	The draft direction is very explicit in terms of its requirements for a tenancy policy. The critical element is that these are minimum considerations and provides the RP with the capacity to implement other localised factors into the tenancy policy. Such factors not included in the direction may include property type and local area lettings policies. However more detail within the directive would limit the RP's flexibility to respond to the local agenda.
3. Does the draft direction set out the right minimum protections for tenants of registered providers?	<p>We welcome the explicit security of tenure for tenants who are existing tenants at the point of implementation of the Localism Act. This has proven to be an area of great concern for our customers in local discussions.</p> <p>We welcome the direction that customers who wish to move from one tenancy to another (excluding affordable rent homes) can keep their security of tenure. We consider that this is critical in the promotion of exchanges for circumstances such as under occupation.</p>
4. Do you agree with the principle and detail of our proposed direction on mutual exchange?	<p>Within the Knowsley context, the provision of the web based Mutual exchange service will require significant support from the organisation as Knowsley has lower than average 'e' literacy. Whilst improving internet access and e learning is a commitment within the organisation we recognise that the model of self service does not fit our full customer profile. It is not clear what the cost implication of the national scheme will be and the level of the registration costs for the provider.</p> <p>Demand for mutual exchange outside of the local geography is currently low and the value for money of the scheme would need to be effectively evaluated.</p>
5. Do you agree with the principle and	We consider the role of tenants to be critical to any successful RP. Effective tenant engagement and

<p>direction of our proposed revisions on the direction to Tenant Involvement and Empowerment?</p>	<p>scrutiny has been a key component of KHT's business since its inception. We consider the directive changes in relation the provision of information to tenants and support to tenant panels' fundamental to the co-regulation model.</p> <p>In relation to the role of the tenant scrutiny panel as the final adjudicator for tenant complaints to the organisation and their role in referral to the Housing Ombudsman we consider this to be an additional level of intervention and bureaucracy for customers who want a complaint resolved. We fully support the role of tenants to independently hear the complaint hearing and this role has been fulfilled successfully by our Landlord Board and Local Area Boards including tenant representation at every hearing for several years. We consider that the directive and Localism Act should require tenant involvement in the complaint process rather than the current proposals.</p> <p>In relation to the Right to Manage proposals these provisions only apply to local authorities.</p> <p>The new requirement within this directive is the Tenant Cashback scheme. Whilst we welcome the provision to provide customers with more information in relation to the cost of the repair service and their involvement in the procurement of repair contracts and partnerships, we consider that the Cashback scheme creates an implicit right to self repair and we are cautious about the implementation. We do not consider the pilots to have effectively been tested fully and the cost to the organisations is unknown both in terms of officer time to implement a scheme and any long term implications to the values of the housing asset as a result of poor quality repairs and improvements that fail to have Landlord approval.</p> <p>We would consider it more appropriate to have a requirement to consult with customers about whether the scheme should be implemented rather than a directive to implement. During the consultation for local offers in relation to the Home standard this option was not identified by our customers as a service to be considered.</p>
<p>6. What types of</p>	<p>The types of models for involving tenants should be</p>

models for involving social tenants in repair and maintenance services are RP's likely to offer, how many tenants might participate in these and what costs and benefits may they result in?	<p>determined by the tenants of the RP. However the models are likely to include:</p> <ul style="list-style-type: none"> • Participation in Partnership and Contract monitoring groups • Participation in visioning the scope and delivery of the service • Prioritisation of repair types and services • Provision of regular performance information • Tenant led working groups, regular focus groups for repairs service • Scrutiny of the repair and maintenance service • Tenant involvement in procurement • Tenant prioritisation of repair and improvement works • Tenant Satisfaction • Tenant self repair schemes <p>It is difficult to identify the costs and benefits of the models as they would be specific to each project. Involving customer in the repair service is a critical element of the involvement and engagement processes that recognises that most interactions customers have with their landlords are in relation to repair and maintenance services.</p>
7. Do the proposed revisions to the rent direction adequately reflect the introduction of Affordable Rent?	Yes, the proposals are consistent with previous communications in relation to Affordable Rent.
8. Do you agree with the proposed revisions to the Quality of Accommodation direction to reflect the expiry of the original target date for compliance?	The original timeframe for Decency has now passed and so it is appropriate the standard is changed to reflect the current position. It seems sensible that given the delays and separate agreements for reaching Decent Homes for some Registered Providers and Local Authorities the standard reflects the ability of the Regulator to grant temporary exemptions. Customers of landlords where exemptions exist must be informed of the reasons and the revised implementation dates.
9. Energy efficiency is implicit in the revisions to the Quality of Accommodation Direction; should we	The directive states that "facilities and services for the provision of a reasonable level of thermal comfort". We consider that this is a reasonable directive and does not require more explicit narrative. Reasonable thermal comfort will be

make it more explicit?	achieved through a variety of means that take into account cost, customer preference and property type.
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Franklands Village Housing Association

The following comments are from Franklands Village Housing Association, a SE based housing association, in response to the consultation paper dated July 2011.

Question 1: Does the draft direction on tenure set out the relevant factors that registered providers should consider when deciding what type of tenancy they should offer and issue?

The introduction of flexibility in the tenure offered by moving away from the traditional requirement for 'the most secure' form is generally welcome and offers landlords greater flexibility in the use of their stock. The revised recommended minimum term of 5 years is also supported.

Question 2: Does the draft direction on tenure set out the right minimum requirements for a registered provider's tenancy policy?

As the consultation document states most, if not all, associations will already have in place appeal and complaint procedures. Provided they are properly established and clear, the procedures will protect the interests of landlord and tenant & avoid potential litigation and further direction should be unnecessary.

Question 3: Does the draft direction set out the right minimum protections for tenants of registered providers?

See above.

Question 4: Do you agree with the principle and detail of our proposed direction on mutual exchange?

The principle is sound and nobody could reasonably argue that encouraging and facilitating tenants to exchange homes where they choose and want to do so is not worthwhile. It makes best use of the available stock and at little or no cost to the landlord. However prescribing how landlords are to do this is an unnecessary and bureaucratic measure that is diametrically opposed to the ministers' foreword which describes giving landlords the freedom to run their own businesses and giving tenants control over the decisions they make about their lives.

If introduced, the regulatory requirements would have no impact on this association since we already subscribe to the national Homeswapper system and assist already tenants with their applications and enquiries. However we believe that this is best left to associations to manage as they see fit by agreement with their tenants. We therefore oppose it becoming a regulatory requirement.

Question 5: Do you agree with the principle and detail of our proposed revisions to the direction on tenant involvement and empowerment?

We agree that landlords should encourage resident involvement and take their views into account. However it will not always be practical and there may be no desire on the part of tenants to form a panel. The most popular and best received means of communicating with tenants is by text, email and personal visit. For smaller landlords with a dispersed stock it will be difficult for residents to take part in such a panel and for any such panel to be truly representative and have a meaningful role.

Any worthwhile annual report should already include performance information. In practice, performance information requires comparative figures to demonstrate how the landlord is performing compared to peers. This has been common practice by this association and the many associations with which we have close links.

The consultation paper states:

'We believe that the publication of information about repair and maintenance budgets will help tenants to judge whether local schemes are sufficiently ambitious.'

Information on the amount spent, the average cost of work and resident satisfaction with the repairs service is reported already either in performance information or the association's accounts. Tenants will have views already on the quality of the repair service based on personal experience and it is very doubtful that publishing any further information would influence or change them.

Question 6: What type of models for involving social tenants in repair and maintenance services are registered providers likely to offer, how many tenants might participate in these and what costs and benefits might they result in?

Under current law the landlord has obligations to keep the property in good repair and condition. Tenants have the right to repair legislation to call upon where the landlord fails to meet their repairing obligations and a separate right to compensation for certain improvements they have carried out at their own expense when they vacate. This makes the obligations of both parties clear. The proposals muddy and blur this relationship

This proposal is not sensible and is unlikely to achieve its stated aims. It will be difficult and costly to administer and lead to inconsistencies across the housing stock in terms of the standard and make of components used which may compromise the landlord's future planned repair and improvement programmes.

Take up is likely to be low but disproportionately high amongst well intentioned amateurs who may lack the skills and ability to carry out work to an acceptable standard. Most associations regardless of their size appoint contractors based on criteria such as performance, financial strength, rates & costs and having employees with appropriate qualifications and experience,

often living locally. With very few exceptions it is difficult to see how the majority of tenants could carry out the same job to an equivalent or higher standard and at less cost. In addition, rogue tradesmen would no doubt be quick to seize on this as an opportunity to make money from and exploit vulnerable people.

A disproportionately high number of the emergency calls we receive are from tenants living in mixed blocks where leaseholders who are responsible for internal repairs have arranged or carried out plumbing work that fails and leads to tenanted properties beneath being flooded. If similar rights are extended to social housing tenants who would be liable for the damage, what happens in the event of no insurance policy being in place and who would meet the cost of putting it right?

To sum up, take up is likely to be relatively low, the impact on the organisation's costs will be disproportionately high and the benefits (if any) minimal. There are so many potential pitfalls that the proposed scheme should not be pursued.

Question 7: Do the proposed revisions to the rent direction adequately reflect the introduction of Affordable Rent?

The guidance on rent setting is clear and the retention of the existing formula for traditional social rented homes is welcomed.

Question 8: Do you agree with the proposed revisions to the Quality of Accommodation direction to reflect the expiry of the original target date for compliance?

In practice, although it is a laudable aim, a fixed date by when landlords are expected to have met a national standard for all properties cannot be achieved. Some properties will always fail the standard at any given point as components age or fail. However, the well-established decent home standard is readily understood and accepted by all social landlords. In many cases future planned work programmes and business plan projections have been based on the work identified through stock surveys to meet the standard. There is no good reason for departing from the accepted national standard for social housing as a benchmark.

Question 9: Energy efficiency is implicit in the revisions to the Quality of Accommodation Direction; should we make it more explicit?

No – this is not necessary.

Patricia Shadforth
Chief Executive – Franklands Village Housing Association

g15 Group

Dear Sirs

G15 Response to Secretary of State's Directions to the Regulator

We are responding to the consultation on the Secretary of State's Directions to the Regulator from the g15 Group of London's largest housing associations.

We very much support and endorse the submission being made by the National Federation of Housing Associations and would wish to emphasise the following:

1. The proposals, as presently written, fly in the face of the Government's commendable de-regulatory stance of 'one in and one out'. These proposals introduce more regulation for our sector, and on a much more prescriptive basis.
2. The sector has consistently resisted attempts at 'policy passporting' and it is disappointing to see this practice resurfacing in this consultation paper.
3. In respect of the so-called 'tenant cash-back' proposal we would suggest that this should be an issue for Landlords and their tenants, rather than the subject of regulation or policy requirement. As presently described the proposal is ill-conceived and fraught with potential difficulties for both landlord and tenant, as exemplified by the complete absence of any cost/benefit analysis in the accompanying Impact Assessment.
4. The proposals also represent a significant increase in Ministerial influence over independent bodies, thus further advancing reclassification risk for our sector.

We hope these contributions, along with those of our trade body the NHF, will be given due consideration.

We are happy for our response to be made public.

Yours faithfully

Keith Exford
Chair g15

Gateshead Council

1. Direction on tenure

Question 1: Does the draft direction on tenure set out the relevant factors that registered providers should consider when deciding what type of tenancy they should offer and issue?

Response: Gateshead Council would generally prefer to continue to offer the most secure tenancy for households in social and affordable rent properties. However where properties are in particularly high demand e.g. large properties or adapted properties we may wish to give fixed term tenancies but with a longer fixed term than proposed, for example ten years.

Alternatively regular reviews that respond to changes in peoples circumstances would be the natural conclusion from the desire to return the stock to make best use of it. Of course regular reviews means more time/revenue expenditure to support the approach.

In regard to fixed term tenancies and anti social behaviour. Providers have an element of flexibility over tenants through current tenancy agreements and they are able to evict those tenants that break conditions when it is appropriate to do so. In addition the proposed mandatory power of possession for anti social behaviour may assist.

The introduction of fixed length tenancies will have major resource implications for councils in administering a system of end of tenancy review.

However If the directions to the Social Housing Regulator include offering less secure, fixed term tenancies, there should be stronger guidance to ensure that the type and length of the tenancy is suitable for the household's needs.

It could also be made more explicit that vulnerable tenants will not be offered a fixed term tenancy.

Question 2: Does the draft direction on tenure set out the right minimum requirements for a registered provider's tenancy policy?

Response: Subject to the reservations on vulnerable tenants, the answer is yes. Gateshead Council is currently consulting stakeholders and residents on the content requirement of a tenancy strategy and the content requirements of tenancy policies.

Question 3: Does the draft direction set out the right minimum protections for tenants of registered providers?

Response: For an existing tenant who is seeking a mutual exchange with a tenant on a fixed term tenancy, the position post exchange needs clarification. The current situation is that, following a mutual exchange, each tenant takes

on the other person's tenancy; this does not relate with the guarantee that a tenant choosing to move will not lose their existing security of tenure.

Gateshead Council currently exercises discretion in regard to succession for current tenants. Do members want to retain this approach in the light of the Government policy change for **new** tenants as the tenancy may be fixed term?

2. Direction on mutual exchange

Question 4: Do you agree with the principle and detail of our proposed direction on mutual exchange?

Response: It is felt that the wording on support for tenants could be expanded to make it clear that this includes assistance for people who may not be confident in using the internet.

Gateshead Council is already a partner with Tyne and Wear Homes which has an internet based mutual exchange system – HomeXchange. The Tyne and Wear sub-regional lettings partnership are already in the process of providing a link from the Tyne and Wear scheme to the national scheme.

Further details on cost implications would be beneficial.

3. Direction on tenant involvement and empowerment

Question 5: Do you agree with the principle and detail of our proposed revisions to the direction on tenant involvement and empowerment?

Response: Gateshead Council is supportive of greater tenant involvement and empowerment, and supports this section of the draft direction.

The change of emphasis from an external inspection to internal scrutiny by tenants' panels places a great deal of responsibility on active tenants. However the Council is supportive of the current development of an Independent Tenants Organisation in Gateshead.

Question 6: What type of models for involving social tenants in repair and maintenance services are registered providers likely to offer, how many tenants might participate in these and what costs and benefits might they result in?

Response: Gateshead Council will await the outcome of the pilot schemes and consider issues in regard to administering the scheme, accreditation of companies carrying out the work and guarantees on workmanship

4. Direction on rents

Question 7: Do the proposed revisions to the rent direction adequately reflect the introduction of Affordable Rent?

Response: The proposed revisions to the rent direction adequately reflect the introduction of Affordable Rent. However issues to consider are:

- differences in rent levels between areas.
- differences in levels of affordable housing provision across different areas.
- whether the affordable homes in each local authority area are owned by housing associations or local authorities.
- the nature of housing need in each area and local socio economic issues.

5. Direction on quality of accommodation

Question 8: Do you agree with the proposed revisions to the Quality of Accommodation direction to reflect the expiry of the original target date for compliance?

Response: Adequately reflects the expiry of the original target date for Decent Homes and the government's intention to allow temporary extensions where standards have not yet been met.

Question 9: Energy efficiency is implicit in the revisions to the Quality of Accommodation Direction; should we make it more explicit?

Response: As the proposal only reflects the Decent Homes requirement of "*a reasonable level of thermal comfort*", it is suggested that this be expanded to reflect current expectations on energy efficiency. A timescale to achieve current expectations on energy efficiency would need to be set and capital agreed.

Generate Group

Introduction

1. Before setting out this response, it should be highlighted that from a cultural perspective, part of the group would always prefer to use the term 'customer' rather than 'tenant'. However, to avoid any confusion and for the sake of consistency of the responses to the consultation questions asked, the term tenant has been used throughout this response.

2. The group feels it is important to submit a response to this consultation at a time when significant changes and challenges face the social housing sector. Parts of these are regulatory in nature, and concern not only the regulations themselves but also who carries out the regulatory role. It is also felt to be important for the group to submit a response to this consultation, not necessarily on behalf of its existing tenants who will be unaffected at this stage by some the proposals; but certainly on behalf of all new prospective tenants for whom it has significant implications.

Question 1: Does the draft direction on tenure set out the relevant factors that registered providers should consider when deciding what type of tenancy they should offer and issue?

3. The 'relevant factors' put forward in point 2(2) of the draft direction are ones which registered providers have always considered when determining what type of tenancies to be offered to their tenants/applicants. What can be supported is the flexibility that the new tenure regime will give to registered providers which should enable them to develop an approach to tenure that reflects their local circumstances and the needs of their tenants and communities.

4. Concerns exist surrounding:

- Cost of administering schemes that require review and 'move on' of tenancies
- Systems capable of 'flagging' the review period
- Skills of housing officers in monitoring and implementing 'move on'
- The effects this may have on tenants commitments to the property and area
- Cost of void turnover
- Potential increase in evictions
- Legal considerations - see point 6

5. To mitigate these risks it is important the Regulator fully understands the need for landlords to deliver this in the way that best reflects the individual needs of different organisations. The important point here is that the development of such an approach will need to be worked up in association with the provider's own tenants and stakeholders for it to work in practice.

6. It is becoming apparent that there may well be legal considerations that registered providers will need to take account of when deciding whether and/or how to offer fixed term tenancies. Such issues include:

- Tenancy agreements with terms of three years upwards having to be executed by deed, otherwise they take effect as equitable tenancies.
- Tenancies of seven years upwards having to be registered with the Land Registry, creating a significant administrative burden and cost.
- Long tenancies can create a liability for Stamp Duty Land Tax which, if it isn't paid, means that the tenancy agreement cannot be relied on in court.

Question 2: Does the draft direction on tenure set out the right minimum requirements for a registered provider's tenancy policy?

Commentary Q2

7. The requirements set out in point 2(3) of the draft direction should enable registered providers to develop appropriate tenancy policies to meet their circumstances.

8. The change in the text within this part of the draft directions that was announced in the Minister's letter of 28.7.2011 regarding the minimum term for fixed tenancies is especially welcomed. The points made in response to Q1 are equally relevant here.

Question 3: Does the draft direction set out the right minimum protections for tenants of registered providers

Commentary Q3

9. It is agreed that the draft direction does provide protection for tenants in some important areas, such as security of tenure on transfer, and during redevelopment work for all existing tenants.

10. There is clearly a decrease in positively encouraging more choice for tenants; e.g. via CBL / the move to co-regulation / Local Offers etc. Providers will now have much more choice regarding the offer of tenancy that they can present to the tenant. This seems to represent a marked shift in emphasis than is currently the case.

11. In addition, whilst it is acknowledged that the consultation document does set out arrangements for tenants, and prospective tenants to appeal against tenancy decisions (*Section 48, page 1*), it does not establish a uniform approach for such appeals. This section states that it is envisaged that tenants would normally be referred to their registered providers' complaints procedure. It then goes on to talk about statutory provisions for such appeals that are planned to be introduced for local authority landlords. It doesn't seem entirely equitable that an appeal on such an important issue, certainly from the tenant's perspective, may potentially not be dealt with in a consistent manner by all providers.

12. Another potential issue here concerns the property itself and if the term under which it is to be offered to the tenant/ prospective tenant are contested. Will there be any expectation that the property is put 'on hold' in some way on behalf of the appellant until the appeal has been resolved? If this is likely to be the case, there are obvious serious cost implications on rent loss here for registered providers as previously incurred before in homeless appeals.

Question 4: Do you agree with the principle and detail of our proposed direction on mutual exchange?

Commentary Q4

13. In an era of ever increasing demand for housing and ever lengthening waiting lists, the need to promote and do whatever is possible to try to achieve genuine social mobility is acknowledged. Consequently the principle behind the proposed direction is acknowledged and supported by the group.

14. What is in doubt is whether there is a need for the main delivery mechanism suggested by this proposed direction for mutual exchanges to be so prescriptive for registered providers and whether it will be effective in achieving this objective. Most landlords already actively promote mutual exchanges amongst existing tenants in a number of ways, including internet-based services, to try to relieve some of the pressure off waiting lists.

15. The proposals seem to presuppose that a large proportion of tenants are both willing and able to access IT-based solutions. Evidence seems to suggest that tenants without IT access or capability in many areas may still be in the majority.

16. The net effect of this may well be that for many registered providers – having signed up for an internet-based solution, if they haven't already done so – becoming heavily involved in ensuring the 'appropriate support' element for 'those tenants who do not have internet access' mentioned in point 25 of the consultation document to meet the requirements of the standard.

17. Creating a Regulatory requirement to act in a prescribed way in complete contrast to the view of moving to locally based decisions and solutions is difficult to equate with this particular issue as opposed to many other important issues for tenants.

Question 5: Do you agree with the principle and detail of our proposed revisions to the direction on tenant involvement and empowerment?

Commentary Q5

18. The group supports the principle and detail of the proposed direction as it relates to scrutiny of registered providers' performance via a tenant scrutiny panel or equivalent group; and that this is supported by the provision of timely and useful information to such panels by registered providers.

19. The group also agrees with the majority of the proposals for tenants to influence and be involved in the management of their homes, including the repair and maintenance services. There is a concern about that part of the proposed direction (sub-paragraph 4(2)(a)(v) which reflects the 'Tenant Cashback' model which is described in point 65 of the consultation document.

20. The concern is whether this will attract sufficient take up from tenants to justify the costs registered providers will no doubt incur in revising existing or

setting up new working arrangements regarding their repairs systems to allow such a model to work in practice. The outcomes from pilots will need to be considered carefully to ensure this does not conflict with the need to provide value for money across repairs services for all tenants.

Question 6: What type of models for involving social tenants in repair and maintenance services are registered providers likely to offer, how many tenants might participate in these and what costs and benefits might they result in?

Commentary Q6

21. It is not envisaged there is a cost effective solution to this at this early stage. Choice and options for tenants must be considered alongside the need to offer safe and cost effective repairs services to the whole of a landlords stock and tenants.

Question 7: Do the proposed revisions to the rent direction adequately reflect the introduction of Affordable Rent?

Commentary Q7

22. The group generally welcomes the proposed revisions regarding maintaining clarity for the annual review of rent on social rented properties to maintain funders confidence in the robustness of thirty years business plans. The mechanism for reviewing affordable rent will be manageable when stock contains lesser numbers of affordable rented properties but systems may require significant adaptations to cope with affordable rent increases and decreases based on uncertain market conditions.

23. The proposals confirming that the rent restructuring regime is to be extended beyond April 2012 should give registered providers some degree of confidence regarding financial planning moving forward.

Question 8: Do you agree with the proposed revisions to the Quality of Accommodation direction to reflect the expiry of the original target date for compliance?

Commentary Q8

24. The group agrees that it is sensible to reflect the fact within the proposed revisions that the original date for compliance with the DHS has now expired. The way of dealing with those organisations that have yet to comply by means of an extension system is also accepted.

25. Point 37 of the consultation document refers to some providers with less than 10% of their homes non-decent not receiving any further funding to complete their Decent Homes Programmes. Instead they are expected to accomplish this by more effective use of other resources and procurement efficiencies. This will obviously impact on the relevant providers who fall into this category, but potentially even more so for those tenants who are still currently living in these non-decent homes. The vast majority of tenants across the sector have benefited

substantially under the DHS over a number of years. It does not seem equitable for this small minority of tenants to face further uncertainty over when they can expect to receive the same benefits.

Question 9: Energy efficiency is implicit in the revisions to the Quality of Accommodation Direction; should we make it more explicit?

Commentary Q9

26. In view of the requirement that all landlords have to provide an Energy Performance Certificate as part of their relet procedures to new tenants, the group would support an increased emphasis upon energy efficiency within this Direction.

Other Comments

27. It is important not to lose sight of much published concerns surrounding flexibility of tenure and the resulting 'move on' proposals in relation to:

- Cost of administration
- Skills to manage 'move on' and where that move on property might be?
- Risk of increased eviction
- Legal challenges and the potential costs to landlords relating to Equality issues and Human Rights.

Gloucester City Homes

Question	Response
Direction on tenure	
Question 1: Does the draft direction on tenure set out the relevant factors that registered providers should consider when deciding what type of tenancy they should offer and issue?	Yes; we welcome the inclusion of sustainability as an important consideration when deciding on the use of flexible tenancies.
Question 2: Does the draft direction on tenure set out the right minimum requirements for a registered provider's tenancy policy?	Yes; we welcome the revised draft direction on tenancy policies, which provides for a minimum five year instead of the originally proposed two year fixed term, where flexible tenancies are used.
Question 3: Does the draft direction set out the right minimum protections for tenants of registered providers?	Yes; as above.
Direction on Mutual Exchange	
Question 4: Do you agree with the principle and detail of our proposed direction on mutual exchange?	Yes; At Gloucester we have been long-time participants in the national exchange scheme, and welcome this direction to require all registered providers to participate.
Question 5: Do you agree with the principle and detail of our proposed revisions to the direction on tenant involvement and empowerment?	Yes we fully support the direction on a Tenant Involvement Standard as we firmly believe tenants should have as much opportunity as possible to shape and scrutinise their services.
Question 6: What type of models for involving social tenants in repair and maintenance services are registered providers likely to offer, how many tenants might participate in these and what costs and benefits might they result in?	<p>We think that the Department should await the results the Hastoe pilot and publish and fully assess the its findings before pursuing this idea any further. We have significant concerns regarding the repairs cash-back proposals and fail to see what the benefits would be for providers or tenants.</p> <p>Landlords will be very concerned about the quality of repairs undertaken, and the potential risks which could arise from this; since they would retain a duty of care and statutory repairing obligation at law; these factors would also lead to</p>

	<p>potential insurance issues. Any schemes offered by providers would probably therefore involve low-risk repairs such as minor carpentry, plumbing and plastering work, rather than those carrying a significant risk, for example gas, heating, major plumbing, or structural repairs.</p> <p>Any anticipated benefit to local businesses who may be engaged by tenants directly in such work would be at the expense of the existing partners and operatives; in our case, the majority of the workforce are local people. We would also have to have regard for existing contractual arrangements with those partners; any scheme would have to be implemented following the expiry of those existing contracts, or would otherwise require re-negotiation with presumed financial penalties.</p> <p>Our current contracts have all been let following extensive procurement periods involving tenants at every stage, with a strong focus on quality and cost. We feel it would be highly unlikely that a tenant could find an alternative company themselves who could carry out the repair to the same standard but at a lower cost within the same timescale, and therefore would envisage take-up to be very low.</p> <p>Whilst the tenant may make an initial saving if they were to carry out a repair themselves, our costs, in terms of administering a repairs cash back scheme would increase as a result of the increased inspections and other controls necessary to ensure the work needed doing and was carried out safely to a satisfactory standard. Costs would also result from rectifying any inappropriate or poor quality work; any increased costs to us would be at the expense of planned investment work and/or other services.</p>
Direction on rents	
Question 7: Do the proposed revisions to the rent direction adequately reflect the introduction of Affordable Rent?	<p>Yes, although Gloucester City Homes, as an ALMO, is unaffected by Affordable Rents proposals at this time.</p> <p>In particular, we welcome the statement</p>

	that arrangements for the calculation of existing social rented housing rent increases will continue to be advised by the current rent restructuring arrangements; this will allow consistency and continuity for our tenants.
Direction on quality of accommodation	
Question 8: Do you agree with the proposed revisions to the Quality of Accommodation direction to reflect the expiry of the original target date for compliance?	Yes; We are one of the local authority linked companies to receive an extension until 2012, this was merely due to the fact the DH funding was not accessible to us early enough to achieve the original 2010 compliance date.
Question 9: Energy efficiency is implicit in the revisions to the Quality of Accommodation Direction; should we make it more explicit?	Yes; If it is not made more explicit it is left wide open to different interpretations, therefore less consistency regarding approach and outcomes.

Grand Union Housing Group

Dear Sir

Please find attached the Grand Union Housing Group's response to the consultation document.

The document was circulated to all Group and subsidiary Board Members and was presented at all Board meetings throughout September.

The DWP paper on Supported Housing and Benefit changes also went to the Group and subsidiary Boards as well as our tenant forums. Although you have not asked us to comment on specific policies but an overall consultation, we do feel that there are conflicting messages and policies within the two documents which fly in the face of your stated objectives. For example, the DCLG paper seeks to provide flexibility and promote exchanges between tenants whilst under-occupation rules and changes in security of tenure would provide powerful disincentives for tenants to swap homes.

Our Board have considered the National Housing Federation response to the DCLG document and with some additions from ourselves this is attached in Appendix 1 of this letter

Yours sincerely,

Paul Calland
Managing Director for South Northants Homes
on behalf of the Grand Union Housing Group

Appendix 1

Secretary of State's Directions to the Regulator

NHF draft response to consultation

Relationship between social housing providers and the state

Before addressing specific aspects of the consultation, we wish to tackle a fundamental error that informs the entire document. This error is demonstrated in the very first paragraph of the minister's foreword, in which he refers to social housing as a "publicly-funded" asset.

The description is not correct: at least, not without some very important qualifications.

As regards its relationship with the state, "social housing", as defined in s68 of the Housing and Regeneration Act, falls into three categories.

First, there is housing owned by local authorities. This, whether managed through an ALMO or directly by the authority, is clearly public in nature because a local authority is an emanation of the state.

Secondly, there is housing owned by providers that are registered with the Tenant Services Authority but are not local authorities. This category, known formally as private registered providers, consists chiefly of housing associations. Members of this group are not part of the state: they do, of course, fund their development partly by state grant but most of their development finance is raised privately; while their day-to-day running costs are met almost entirely from rents, paid under private contract by their tenants.

Thirdly and finally, there is sub-market housing let on the basis of need by a variety of unregistered housing associations, charities, and other public-benefit organisations. This is numerically the smallest category and it is outside the scope of the current consultation, but it clearly qualifies as 'social housing' under the statutory definition and its existence reinforces the point that social housing is not inherently public in nature.

We have gone into some detail on this point because the minister's misapprehension about the nature of social housing has led to a fundamentally misconceived approach to the draft directions. At several points, the directions set out very specific requirements on social housing providers. Such an approach would be entirely proper in dealing with true public bodies (although even there, it would arguably be unwise) but in the context of bodies such as housing associations, it gravely risks compromising their non-public status; to say nothing of undermining the Government's vaunted commitment to localism.

This is particularly disappointing in view of the minister's repeated commitments, both when he was in opposition and in his early months in government, to avoid "policy passporting": that is, the use of regulation to impose policy initiatives favoured by the minister of the day. Unfortunately, elements of the current direction – especially, on mutual exchanges and tenant cash-back – will go down as prime examples of "policy passporting".

Direction on tenure

In responding to this direction we shall also address the further proposal, and amended draft direction, outlined by the minister in his letter of 28 July.

The first point is that we do not accept the need for direction on this subject. This power is introduced in the Localism Bill and was not thought necessary at the time of the Housing and Regeneration Act 2008. Whatever the merits of the direction in policy terms (to which we turn below), the power to direct is inherently dangerous. Although it is being used on this occasion to liberalise regulation, there is nothing to prevent it from being used in the future in a far more restrictive sense, potentially seeking to micro-manage providers' lettings policies from Whitehall.

That said, the proposed direction, even in the light of the minister's letter, represents a significant liberalisation of previous rules. To that extent it is welcome, although this could have been achieved without a direction. The substance of the direction is to allow (but not require) the use of "flexible", i.e. fixed-term, tenancies. The initial version of the direction would have allowed providers to grant such a tenancy with a term as short as two years, although the minister's letter of 28 July announces a change to the draft direction so that the term should be at least five years other than in "exceptional circumstances".

The Federation supports this liberalisation of tenancy regulation. This is not because we think there is a general desire on the part of our members to switch to a fixed-term regime. On the contrary, we anticipate that many, probably most, of our members will continue to use lifetime tenancies (subject, if thought fit, to a probationary arrangement) and we welcome the fact that the direction permits this approach. However, a number of members favour a tenancy regime that allows a regular review of the tenant's circumstances, and a fixed-term regime will meet this requirement.

We support this flexibility because it allows registered providers, working in association with their tenants and other stakeholders, to develop an approach to tenure according to their own circumstances. We agree that this flexibility should be available in new tenancies generally, regardless of the level of rent: that is, we support the proposal to decouple rent level and tenure type.

Much of the commentary on fixed-term tenancies has concentrated on the supposed need to identify tenants whose financial circumstances have markedly improved since they were allocated social housing. Our view, however, is that although a fixed-term regime may occasionally be used in this way, its principal application will be not where a tenant's income has risen but where a tenant's household size has fallen; typically, because children have left home so the property is now under occupied. In such a case the landlord is likelier to offer the tenant a smaller property rather than seek to remove him or her from the social housing sector.

The argument for using a fixed-term regime to address under occupation is naturally strongest in areas of very high demand. We therefore expect use of this regime to be commonest in these areas, although doubtless practice will vary, and we stress the importance of allowing each provider to decide what form of tenure regime is appropriate.

We do not, however, detect any significant interest in the use of very short fixed terms. Most associations (if they wish to use fixed terms at all) envisage terms in the order of five or ten years. Accordingly, the change announced by the minister on 28 July is not necessary: in effect, it directs the sector to do what it was likely to do anyway.

This does not mean, however, that the change announced in the minister's letter is irrelevant. On the contrary, it is potentially harmful because it could

easily create the impression that the use of tenancies of five year's (or more) is the result of the direction; whereas in fact, landlords would almost all have used five-year terms even if the minister and the regulator had said nothing.

Although we expect a term of at least five years to be the norm, we do not exclude the possibility that in certain cases, an association may consider that a shorter term is appropriate. We are pleased that, even in its modified form, the direction recognises this possibility. We do not propose to speculate about what “exceptional circumstances” might give rise to a shorter term, and we urge the minister and the regulator to resist any temptation to prescribe rules about this. We anticipate, however, that fixed terms of less than five years will be very rare – and would have been in any event, irrespective of the modification of the direction.

We agree with the proposal to allow landlords to extend probationary periods from 12 months to 18.

Direction on mutual exchange

Enabling tenants to swap their homes with those of other willing tenants is an important way of increasing mobility in the social rented sector and making the best use of stock. Providers of mutual exchange schemes provide a useful service in connecting tenants who are looking to swap tenancies. For example, one provider – House Exchange – has 135,000 registered tenants and last year facilitated 800 exchanges per month.

Housing associations are already required, under the Tenant Services Authority's Tenancy Standard, to “participate in mobility schemes and mutual exchange schemes where these are available”.

The number of housing associations signed up to online home swap schemes has increased steadily, and in its summary of responses to the Local Decisions consultation, the Department for Communities and Local Government said “a large majority of respondents, as landlords, indicated they do already subscribe to a scheme”.

But despite the growing use of such schemes, the Government intends to use the Localism Bill (Clause 154) to direct the Regulator to replace the Tenancy Standard's required outcome with specific requirements on landlords to sign up to internet-based mutual exchange services that share data. To do this, the Government would have to add mutual exchange to the list of categories in relation to which the Secretary of State may direct the Regulator.

In its consultation, the Government said any direction should contain “the minimum amount of detail needed to achieve the desired goals”. However, the details of the draft direction on mutual exchange are over-prescriptive to the point of micro-management.

Under the direction, housing associations would have to subscribe to one of more providers of internet-based mutual exchange schemes that are part of a

new national scheme that would enable tenants wishing to identify a mutual exchange to see all available matches. Smaller associations may choose to pay the subscription fees of individual tenants on request, rather than paying for an association-wide membership.

The consultation says: "The intended outcome is that tenants should be able to access easily the details of as many available reciprocal matches as possible." The Direction would also compel housing associations to publicise the availability of mutual exchange services to tenants and to provide "reasonable support" to tenants who do not have access to the internet.

Moreover, the direction is worded in a way that could give rise to absurd results. Landlords are required to subscribe either to an exchange service that shares property data with other such services, or to "as many [schemes] as necessary to ... access ... as many ... properties as possible". Regarding the first element, there is no guarantee, of course, that any exchange service will exist that satisfies the data-sharing requirement; and regarding the second element, there is no saving provision to take account of cost or proportionality so that providers could be obliged to pay significant fees to subscribe to schemes that provide access to only a trivial number of additional properties.

The National Housing Federation supports mutual exchange schemes, alongside the wealth of other local initiatives by social landlords to boost mobility. We also welcome the fact that providers of online schemes are already taking steps to enable data to be shared. But we have strong concerns about plans to strengthen the Secretary of State's powers in this area, which would allow the government of the day to use the regulatory system to impose its policy initiatives. It is vital that regulation retains its purpose of supporting the sector to help those in housing need. We therefore believe, in principle, that the content of standards regarding tenancy exchanges should remain the preserve of the regulator, and oppose this draft direction.

In relation to mutual exchanges, we are restricted to commenting upon the direction, which talks only about the exchange information systems we must use. The point of cost and value for money highlighted by the Federation is a valid one. However there is an interesting point perhaps to be made in relation to mutual exchanges and the new "under occupation" rules that will soon apply in respect of Housing Benefit Entitlement. Previous guidance on exchanges, in order to facilitate the process in favour of tenants wishing/needing to move, presumed approval, unless the landlord could demonstrate that there were valid reasons for refusal. One such ground was that of under occupation. Previous Ministerial direction stated that under occupation by only 1 bedroom space was NOT a reason to refuse such a swap. This was a sensible and effective way to facilitate change for tenants, which has worked well. Why cannot such a rule be applied to the Housing Benefit rules for under occupation?

Direction on tenant involvement and empowerment

We note that the heading for this direction does not accord with the statutory authority, which refers only to involvement, not empowerment.

The Government's proposals for this direction fall into three parts.

Firstly, the Government proposes to strengthen the requirements of the existing direction in respect of resident engagement and scrutiny. To some extent, this represents a legitimate shift, compared with the previous version of the direction, to take account of the rebalancing of the regulator's role. The increased emphasis on tenant involvement in setting service standards, and tenant scrutiny, should be seen in this context, and the Federation agrees that this is a proper extension of the previous direction.

It is welcome that the direction recognises that tenant panels may not be appropriate in every case, and that alternative approaches are admissible.

We agree that the provision of timely information is implicit in any effective scrutiny: so much so, in fact, that it is hardly necessary for the direction to contain a stipulation to this effect. We agree that landlords should engage with their tenants about the form in which this information should be provided; and we do not think this process should be constrained by specifying a requirement about publishing an annual report, or the contents thereof.

We agree, in principle, with the second element in this direction: that tenants should have the opportunity to be involved in the management of their homes, which may include devolved management arrangements (among other approaches). However, the "Right to Manage", as a statutory scheme, is relevant only to local authority landlords.

The third element in the proposed direction relates to the so-called "tenant cash-back" scheme (although this expression is not used in the direction itself). We do not propose to comment on this part of the draft direction because we think it is without the relevant direction power (Housing and Regeneration Act 2008, s197(2)(c)), which applies to "involvement by tenants in the management ... of accommodation".

It is disappointing that the accompanying Impact Assessment for this scheme has not been able to estimate any costs or benefits and explains that any such estimates can only be made when the pilots have made sufficient progress, which may not be till next summer at the earliest. We consider it unhelpful for expectations to be raised by the publicity which this idea has received before any clear cost benefit evidence.

Direction on rent

The Federation welcomes the direction on rent.

The direction confirms the previously announced position that the current rent regime, which officially terminates on 1 April 2012, is to be extended. This allows associations a degree of confidence moving forward.

Tenant cash-back

The tenant “cash back” scheme is in its infancy. To issue regulation on something which has little detail as yet, and therefore no impact assessment either, is unwise, as suggested by the Federation.

Direction on quality of accommodation

We support this direction, which in substance reproduces the existing requirement.

Conclusion

While there are elements of the proposal that the Federation can support, the overall impact of the five new directions, taken together, is a significant increase in direct ministerial influence in the sector. In some cases it represents a return to the worst past excesses of micro-management and “policy passporting”: the direction on mobility is a text-book example.

The adverse consequences of this approach go far beyond that (as yet) relatively limited areas of landlords’ activities that are directly affected. This is because of return to needlessly detailed regulation, even if only in certain areas, unbalances and compromises the whole of the regulatory settlement embodied in the 2010 Regulatory Framework, which was notable for its careful avoidance of the kind of detailed stipulation embodied in the current draft directions.

It may be added that this approach also sets a bad example to the minister’s successors in office (of whichever political persuasion), who will be able to cite his actions as a precedent for the use of regulation to impose whatever initiatives or schemes they may have in mind.

National Housing Federation

29 September 2011

Great Places

Great Places general comment:

Whilst we appreciate that this consultation is based on the directions to the regulator, and we will have further opportunity to comment on the standards framework when the regulator makes the appropriate changes, we want to make a general comment about the nature of the directions. We feel that the proposals and directions in general are much more prescriptive than anticipated, and although they are intended to offer registered providers the flexibility to provide services as they see fit, the detail of the directions actually removes this with the inclusion of specific requirements on how providers will need to meet the standards. This is particularly true of areas such as Tenant Cashback and Mutual Exchange.

This indicates a distinct shift from the previous framework which stepped away from 'red tape regulation' and gave registered providers the flexibility to deliver the services that were a priority for their tenants. From these directions, we feel that there is a danger of stepping back to prescriptive regulation and a move from the co-regulation we have all been working towards over the last few years.

1. Does the draft direction on tenure set out the relevant factors that RPs should consider when deciding what type of tenancy they should offer and issue?

Great Places are comfortable with the factors that RPs should consider, and welcome the emphasis on providing support for vulnerable people. However we have significant reservations about the general use of tenancies with a time limit, and find the premise to be at odds with everything that we have been working to achieve in the past, such as providing homes to our tenants' not just houses and meeting the sustainable communities agenda. At Great Places we feel there are many other ways of promoting mobility without having to limit tenancy term and will concentrate our efforts on promoting these rather than reducing our tenants security of tenure, for example, promoting affordable home ownership options and downsizing initiatives.

2. Does the draft direction on tenure set out the right minimum requirements for a registered provider's tenancy policy?

Great Places has drafted a tenancy policy as part of our bid to reach a new supply agreement with the HCA. As well as covering the minimum requirements set out in the direction (how we will promote tenancy sustainment, tackle tenancy fraud, and how tenants can complain/appeal about tenancy decisions) Great Places has included specific information on the following:

- Tenure security – outlining that all tenants will be offered security of tenure
- Tenure choice – how we will offer choice to new and existing tenants

- Tenure mobility – the options in place to provide opportunities to move
- Tenancy charges – how social and affordable rents will differ
- The conversion plan – how properties are identified for affordable rent conversion
- Tackling overcrowding/under-occupancy – how we will remove disincentives to move
- Tenure change –developing options to target sales/disposals
- Affordability – how we will ensure rents remain affordable

3. Does the draft direction set out the right minimum protections for tenants of registered providers?

As mentioned above and in our previous response to the social housing reform consultation we do not feel that a fixed term tenancy offers enough security for our tenants and will not be conducive to sustainable communities. We feel that they will remove flexibility for our tenants and will undo some of the work that Great Places and other housing providers have put in to create mixed communities with homes for life.

We strongly agree that there must be a requirement for existing social tenants to move to another social rented home with the same security of tenure.

4. Do you agree with the principle and detail of our proposed direction on mutual exchange?

Great Places agree with the general principle of mutual exchange, and subscribe to the Homeswapper service. However we feel that a national mutual exchange scheme in reality will have a marginal role in promoting mobility across the country and as such the direction only skims the surface in encouraging mobility. There are many other things which we are already working on to achieve mobility for our tenants alongside publicising mutual exchanges, and we feel it is important for organisations to provide tenants with appropriate support and give them a rounded view of their housing options. Previous directions have encouraged registered providers to promote choice through housing options advice and linking in with CBL schemes. We feel that mobility is better encouraged through these schemes than through a scheme solely for mutual exchanges.

Finally, we feel that the direction to the regulator under the mutual exchange standard conflict with a light touch regime as they are very prescriptive. Providers should be given the flexibility to promote mutual exchange and other mobility options as they see fit, which for most will undoubtedly involve subscribing to a scheme like Homeswapper and therefore there is no need for specific direction to do so.

5. Do you agree with the principle and detail of our proposed revisions to the direction on tenant involvement and empowerment?

Great Places welcomes the emphasis on a wide range of opportunities for tenants but within the sector there is ambiguity about the concept of scrutiny, and, as such, we feel there is a need for a clearer definition and some direction about the relationship to governance structures. At Great Places we have a Tenant Services Committee who have delegated authority from our board to scrutinise policies and performance and to challenge where they see fit. We are currently unsure as to whether this would be viewed by the regulator as sufficiently independent.

We feel that the requirements around involvement with 'the management of repair and maintenance services' would be better placed under the home standard than under the tenant involvement and empowerment standard. In addition, we find the idea of the 'tenant cashback scheme' very prescriptive and are unconvinced about tenants undertaking repair tasks. Consultation with our Tenant Services Committee indicates that they too are uncomfortable with this idea as there would be no guarantee about the standard of work and there may be health and safety risks attached. We would be interested in seeing the outcomes of the pilots before commenting further on the detail of this standard.

6. What type of models for involving social tenants in repairs and maintenance services are RPs likely to offer, how many tenants might participate in these and what costs and benefits might they result in?

At Great Places we will set up a Repairs Service Improvement Group which will give tenants the opportunity to scrutinise the repairs service and make recommendations to improve the service they receive. We have had a Value for Money Service Improvement Group in place for around a year now that looks at various aspects of the service we offer to them, including repairs and maintenance, and their associated spend and quality, to ensure they are as efficient and effective as possible. Our tenant inspectors have a role in checking works on our void properties and ensuring that the service is providing value for money for us and our customers. Following our stock transfer from Sheffield City Council, tenants have been a key part of the Investment working group and have helped to select contractors, agree specifications and monitor progress on the programme. Finally, tenants are involved in monitoring our performance at the Tenant Services Committee and Local Area Forums, and complaints are monitored by our Complaints Learning Forum which has extensive tenant representation.

As such, we feel there are a variety of opportunities for tenants to be involved in the management of repairs and maintenance as required under the tenant involvement and empowerment standard and there is little need for a prescriptive direction around the tenant cashback scheme as providers should be given the flexibility to offer the most appropriate and effective involvement opportunities for their tenants.

7. Do the proposed revisions in the rent direction adequately reflect the introduction of Affordable Rent?

Yes, but we feel the direction does not outline the importance of transparency around tenancy charges with tenants.

8. Do you agree with the proposed revisions to the Quality of Accommodation direction to reflect the expiry of the original target date for compliance?

Yes. The proposed revisions are sufficient to ensure that RPs maintain their stock at the Decent Homes Standard now that it has been reached.

9. Energy efficiency is implicit in the revisions to the Quality of Accommodation direction; should we make it more explicit?

At Great Places we are committed to improving the energy efficiency of our homes to improve their sustainability and also to allow our tenants to realise savings in their fuel costs as a result.

As housing providers we are required to work to various green agendas, such as the environmental sustainability agenda, the code for sustainable homes and the affordable warmth agenda, and as such feel that we should be challenged on the work we are doing to meet these agendas. Therefore we feel that more explicit direction is needed to ensure that environmental obligations are being met.

Great Yarmouth Community Housing

Questions 1 & 2

We are happy that the draft directions on tenure set out the relevant factors for deciding on what type of tenancy should be offered and the requirements for a Tenancy Policy. We particularly welcome the fact that the Direction has the right balance between central prescription and local decision making.

Question 3

In general we are happy that the right minimum protection is given to existing tenants with the exception of clarification over what happens in the event of a current secure tenant exchanging with a tenant on a flexible/fixed term tenancy. At present tenants are expected to take on the tenancy of whoever they are exchanging with. In this instance the loss of secure tenancy for a current tenant may rule out mutual exchange as an option for a large number of tenants.

Question 5

We welcome the direction on tenant involvement in relation to opportunities for involvement, the ability to scrutinise information and the need for landlords to provide information to be scrutinised. In particular we welcome the flexibility that will allow landlords and tenants to come up with schemes and structures which best fit local requirements. However, we do have a number of concerns about the Tenant Cashback scheme. See question 6.

Question 6

We have recently carried out a fundamental review of our housing repairs service using a Systems Thinking methodology with the aim of improving the service for tenants whilst reducing waste. This involved studying and understanding the system from a tenant's point of view and designing a new system around only doing the work which has value in getting a repair done.

The work that we have carried out has not given us any indication that there is a large demand from tenants for a scheme of this nature. Similarly, in discussions with tenants on our Housing Board and Tenant Panels we have found more concern than support for the scheme.

In particular the concerns are that the Tenants Cashback scheme will mean that we will need to introduce a number of additional steps into repairs service, such as checking works prior to them being carried out to ensure that they are needed and to check them after they have been carried out to ensure that they have been completed and are of acceptable quality and making payments to tenants. This will not only cost tenants more, including those who are unable for various reasons to take part in the scheme and will reduce the size of any profit that tenants may gain from the scheme.

Additional costs may also come as a result of a poor standard of repairs having to be put right by the landlord whilst concern has also been raised about potential health and safety issues for tenants having the repairs carried out, their neighbours and for possible claims against the Council, again increasing costs.

There is also the requirement to comply with the Control of Asbestos Regulations 2006 which is largely currently carried by tradesmen as part of their visits to properties to carry out repairs. Visits to inspect or carry out repairs can also be used to build up information about the condition of the property to be used for future maintenance of the property. This would have to be done by separate visits, again adding to costs.

We are aware that many tenants are capable of carrying out their own repairs and indeed many already do. However, we are of the view that the cost implications of introducing a Tenants Cashback scheme outweigh the potential benefits set out in the impact assessment. We are also concerned that the potential benefits are as yet unproven by the pilots.

We have, however, for some time involved tenants in housing repairs, for example through having tenants on contract selection panels, setting up a Repairs & Maintenance Service Delivery Working Group and by involving tenants in estate inspections, specifying works and setting future repairs and improvement programmes. We will continue to develop tenants' involvement in repairs but would prefer that any decision to introduce a Tenants Cashback scheme be a matter for local decision making rather than being prescribed by the Regulator.

Great Yarmouth Community Housing Forum

Implementing social housing reform: directions to the Social Housing Regulator

Consultation response

Question 1: Does the draft direction on tenure set out the relevant factors that registered providers should consider when deciding what type of tenancy they should offer and issue?

The Tenants Forum welcomes the requirement to have a clear & transparent tenancy policy with key decisions made locally to suit local need. We also welcome the effective use of housing stock whilst maintaining the needs of existing tenants.

Question 2: Does the draft direction on tenure set out the right minimum requirements for a registered provider's tenancy policy?

In establishing a tenancy policy, the Tenants Forum would prefer that a clear appeals process is set out with a separate complaints process incorporating the democratic filter.

The policy should take into account the needs of vulnerable people and demonstrate how support will be provided with clear and concise methods of communications.

Question 3: Does the draft direction set out the right minimum protections for tenants of registered providers?

The guarantee for existing tenants, should they choose to move, is welcomed and must be maintained.

The use of introductory and flexible tenancies should be decided locally depending upon the need within the local area.

Question 4: Do you agree with the principle and detail of our proposed direction on mutual exchange?

Yes, in particular the need for support to be provided to those tenants who are unable to access the internet within their own homes. We would, however, require clarification on whether a secure tenant who exchanges with a tenant with a flexible tenancy would retain their secure tenancy.

Question 5: Do you agree with the principle and detail of our proposed revisions to the direction on tenant involvement and empowerment?

We have already begun the process of improving tenant scrutiny with our landlord.

Question 6: What type of models for involving social tenants in repair and maintenance services are registered providers likely to offer, how many tenants might participate in these and what costs and benefits might they result in?

The proposals for this scheme are vague in nature and there are no obvious benefits to tenants.

In particular the concerns are that the Tenants Cashback scheme will mean that we will need to introduce a additional steps into the repairs service, such as checking works prior to them being carried out to ensure that they are needed and to check them after they have been carried out to ensure that they have been completed and are of acceptable quality and making payments to tenants. This will not only cost tenants more, including those who are unable for various reasons to take part in the scheme and will reduce the size of any profit that tenants may gain from the scheme.

Additional costs may also come as a result of a poor standard of repairs having to be put right by the landlord whilst concern has also been raised about potential health and safety issues for tenants, e.g. asbestos, their neighbours and for possible claims against the Council, again increasing costs.

We have been developing work with our landlord to be involved in the repairs system. We currently sit on panels that choose successful tender applicants and take part in telephone surveys of customers who have requested repairs.

Question 7: Do the proposed revisions to the rent direction adequately reflect the introduction of Affordable Rent?

No comment

Question 8: Do you agree with the proposed revisions to the Quality of Accommodation direction to reflect the expiry of the original target date for compliance?

The Tenant Forum is concerned that those landlords who did not meet the decent homes target have been awarded additional time and finance to complete the work where landlords who met the target have not been

awarded additional funds, despite having projects that could improve homes further.

Question 9: Energy efficiency is implicit in the revisions to the Quality of Accommodation Direction; should we make it more explicit?

The Tenant Forum believes that the Direction should be more explicit with achievable goals and a minimum standard of energy efficiency.

Greater London Authority

I am grateful for the opportunity to comment on behalf of the Mayor of London on the government's social housing regulation proposals.

The Mayor has been clear that he recognises and supports the case for reform of social housing. In the GLA's response to the Fairer Future for Social Housing consultation, we welcomed the government's commitment to devolution, to localism, to flexibility for landlords, and to a fairer system for those in need. To this end, the GLA has been working with the government to create a better and fairer system.

The role of regulation in this new system will be a crucial one. In London, work is underway to establish an effective working relationship between the GLA and the social housing regulator, including drafting memorandums of understanding. In doing so, our principle aims are to:

- ensure that both agencies assist each other in carrying out our statutory responsibilities where we have a common interest; and,
- pursue our shared outcomes; namely, building sustainable communities and continuing to ensure the delivery of affordable housing in London.

To achieve these aims, it is important to ensure that social housing regulation takes full account of the Mayor's role in London and London's unique circumstances in terms of policy and delivery. This should include representation on the new regulatory committee. The Mayor's existing powers and responsibilities are soon to be significantly extended as a result of the Localism Bill, with full responsibility for the housing and regeneration functions of the Homes and Communities Agency and London Development Agency being wrapped into the GLA from April 2012. Part of the rationale for this devolution was the recognition that London represents a single housing market, but one that has the most pressing need for affordable housing of any area in the country. The social housing regulator, though operating within its national remit under directions from the Secretary of State, should also have due regard to the Mayor's role and responsibilities in London. We will continue to work closely with government and the regulator to achieve this.

The majority of the proposals and accompanying consultation questions are clearly aimed at local authorities and social landlords, so we will not be providing a question-by-question response. However, we do have comments regarding how some of the proposals will impact on London as a whole, specifically in three areas: tenure, mutual exchange, and rents.

Tenure

The Mayor welcomes the government's amendment (issued on 28 July 2011) to the proposed tenure direction that makes clear that the majority of new social housing tenancies should be granted for periods of at least five years. The Mayor also supports the government's indication (p. 18) that statutory

provisions for appeals of tenancy decisions will be introduced. The content for these should be published as soon as possible.

However, the Mayor believes that there is a strong case that registered providers' tenancy policies should have more than a "regard to" local housing authority tenancy strategies. This is especially important in London due to the number of registered providers in each borough that will be setting their own tenancy policies, with the consequent potential for confusion and inconsistency across the capital. It is our view that the regulator should have a role in ensuring that registered providers' tenancy policies more fully reflect local housing authority tenancy strategies, where these are in general conformity with the Mayor's housing objectives as set out in his statutory London Housing Strategy. In this regard, it should be noted that the strategy, before adoption, is subject to potential Secretary of State direction, which should provide comfort to Ministers that any such provisions are reasonable and proportionate.

Mutual exchange

The Mayor is strongly committed to enhancing choice and mobility for London's social tenants. His proposals for a revised London Housing Strategy set out a number of measures that will enable London's social tenants to move around or out of the capital – prioritising those who are underoccupying their current home, seeking to move for work or training, or to provide care for family or friends. Mutual exchange is an important part of this agenda and the Mayor supports the government's national mutual exchange initiative.

The direction, though welcomed, could be broadened out to include all the mechanisms that might promote mobility. For example, the GLA is working with boroughs and housing associations in London to establish a pan-London mobility scheme, based on each partner contributing a proportion of their lettings to a pan-London pool. We believe that, where a scheme such as this is in place, the social housing regulator should ensure that registered providers participate.

Rents

The Mayor will take on direct responsibility for affordable housing delivery in London from April 2012. Therefore, the regulation of social housing rents is a particularly important issue for London.

The GLA is concerned that there is no requirement in the proposed direction for the regulator to satisfy itself that Affordable Rents have been set at levels that do not exceed 80% of the estimated market rent. While this will be covered at the registered provider level through GLA quarterly monitoring, we believe that it is the responsibility of the regulator to monitor Affordable Rent levels and to provide assurance that they are being set at a scheme level in accordance with the proposed rent direction.

It is also our understanding that the new CORE form for social housing lettings will include rent levels but not rent as a percentage of market rent, thereby making it more difficult to consider the profile of Affordable Rent levels by geography, registered provider or unit size for new lets and relets of Affordable Rent properties. Again, while some of this will be covered in the quarterly review meetings with registered providers, we believe that the regulator should also ensure that information relating to the profile of Affordable Rent levels on an ongoing basis is available to the GLA and other stakeholders through the CORE form.

In summary, we would wish to make clear the Mayor's support for the government's overall approach and for most of the proposals contained within this consultation. The GLA hopes that the points we have raised above will be taken on board to create a more effective regime for social housing regulation.

Yours sincerely

Alan Benson
Head of Housing

Greenfields Community Housing

Greenfields is a Community Gateway Association with more than 8,000 homes in Braintree District in the East of England. As a Community Gateway Association we put tenants and leaseholders at the heart of our organisation, offering them an exciting opportunity to help us build, develop and deliver a service that is genuinely shaped to their own needs and requirements.

This consultation response has been put together by Greenfields' Board, staff on our Joint Leadership Team, residents from our established resident groups and previously non-involved residents who have recently mutually exchanged.

Question 1: Does the draft direction on tenure set out the relevant factors that registered providers should consider when deciding what type of tenancy they should offer and issue?

- We agree that the draft Direction on tenure sets out the relevant factors that should be considered by registered providers when setting tenancies.
- Greenfields welcomes the current flexibility offered by the proposals, which will allow providers to deal with situations in different ways to suit local and personal needs, including being able to issue lifetime assured tenancies. However, the wording in the current Direction suggests that having fixed-term tenancies is the expectation. We suggest that the wording is amended to reflect the flexibility of the system.

Question 2: Does the draft direction on tenure set out the right minimum requirements for a registered provider's tenancy policy?

- As a Community Gateway Association, we support the Direction as set out. Our residents told us that housing providers should have very clear policies to set out their approach in a fair and transparent way to make sure it is applied consistently and to avoid discrimination against certain households. During consultation we were asked if the DCLG has completed an equality impact assessment of the proposals? It is important that an equality impact assessment is done before policies are set and on an ongoing basis to make sure that no group is disadvantaged.
- Our residents told us that the approach to successions should be flexible so that additional succession requests can be considered.

Question 3: Does the draft direction set out the right minimum protections for tenants of registered providers?

- Our residents told us they have concerns over registered providers having the ability to offer two year tenancies for new tenants even in extreme cases.

- Greenfields supports having probationary tenancies. However, we consider that having the flexibility to extend probationary tenancies to up to 18 months, followed by a fixed term, may have a negative impact on people keeping to their tenancy conditions. If a tenant keeps to their tenancy conditions, overall they could have a shorter tenancy (six years) than someone who does not and has their probation period extended (six and a half years). This appears to be a negative impact that has not been considered.

Question 4: Do you agree with the principle and detail of our proposed direction on mutual exchange?

- We are a member of the sub-regional choice-based lettings scheme (Gateway to Homechoice), working with the seven district/borough councils and local housing associations that make up the Greater Haven Gateway to manage the common Allocations Policy. It is intended that this will grow in the future. We were previously part of a national mutual exchange scheme but withdrew due to lack of demand from our tenants (no one moved using this service in the time we subscribed). All other organisations in the Greater Haven Gateway also chose to withdraw due to lack of demand. Our staff and tenants consider that all registered providers together with their residents should be able to decide the type of scheme suited to their locality, in line with the proposal for smaller housing associations rather than be forced to subscribe to a national scheme.
- Residents said that any site used must be simple and user-friendly. They emphasised the importance of access, especially in rural areas where broadband is not as available. We agree that support should be made available to assist with use of this service and our residents suggested we could provide a drop-in service at our area offices to assist with this.
- We also suggest that a minimum set of national standards is needed to provide consistency and guidance about the way mutual exchanges are undertaken nationally to protect a landlord's assets.

Question 5: Do you agree with the principle and detail of our proposed revisions to the direction on tenant involvement and empowerment?

- As a Community Gateway Association we fully support the principles of tenant involvement and empowerment. We are proud of what we have achieved already and invite the DCLG to visit us to see how this works for us in practice.
- Some clarity is required about having a 'designated person' for the purpose of referring complaints to the Housing Ombudsman. We consider that this proposal is adding extra bureaucracy to the process and foresee a number of difficulties arising. Tenants told us they are happy with our current way of dealing with complaints and feel that it is

a robust and fair process. At Greenfields if a complaint is not resolved to a tenant's satisfaction at Stages 0–2 the tenant can request a Stage 3 Panel Review. The voting members of this panel are the Chairman or Vice Chairman of the Board, a second Board member and the Chair or Vice Chair of the Community Gateway Group (our resident scrutiny panel). If a person is not happy with the results of this Panel Review they are provided with information about the next stage, which is to contact the Housing Ombudsman. We consider that this approach works well in our locality. We have found training is essential for our panel members to assess and judge each case fairly. Such training would be important for any 'designated person' responsible for referring complaints if this is to be done consistently nationally. There is a potential political conflict if a councillor or MP is the 'designated person' and this could lead to inconsistencies in the nature of complaints referred.

Question 6: What type of models for involving social tenants in repair and maintenance services are registered providers likely to offer, how many tenants might participate in these and what costs and benefits might they result in?

- We support option 2 in principle. Although ideas have been discussed in our response, at this stage we are unable to supply details of how we would approach this Direction at Greenfields. We would need to consult fully with our residents and other stakeholders before implementing any model.
- Our current system provides the first steps towards more tenant involvement in repairs, as our annual repairs statements give information to tenants about the number and cost of repairs to their homes that year. This could be built on to migrate to a new model where residents can choose to do their own repairs at a lower cost and share in savings made. However, this would be a gradual process over a period of years rather than months.
- As a Community Gateway Association we already have residents involved in our repairs service. Residents sit on tender panels and job interviews, and are part of our Asset Management Group. We have a Value for Money Steering Group comprising entirely residents who are involved in monitoring the value of the services that we provide, identifying savings and prioritising where these savings are reinvested. Our Greenfields Resident Inspector Team (GRIT) inspect our services across the organisation and report back on their findings.
- Generally, residents at the Working Group support having flexibility to do a defined selection of repairs and share in savings made, although a number of people said they would not choose to do this as they prefer having the skills and security of the Greenfields labour force. They support money going back to the community where savings have been

made. However, staff and residents have identified a number of issues for consideration when setting our approach. These include:

- Would our lenders take a view if repairs to our assets are being done by tenants?
 - What assurance would we have from residents doing their own repairs? What would happen if a repair is not done correctly and what if it costs more than we would have spent on it? What if a person opted to do a repair themselves and then needed Greenfields' staff to assist them? We may need to refuse certain people the right to make repairs if historically they have caused damage to their homes through DIY attempts?
 - How would this be monitored and what checks and balances would we need? Would all repairs need to be inspected by staff? We would have to be quite prescriptive to make sure we are able to maintain a tap, for example, if a resident fits it and then moves out and parts are needed for that model.
 - How would we facilitate transfer of information, for example, about asbestos in a property? We need to be very aware of health and safety issues and would have to limit repairs being done, for example, to avoid gas and electrical work.
 - How many residents would want to do this? We would encourage residents to get involved but think that numbers would be low in our area. There may be a negative impact on people who are not capable of doing repairs themselves as they will potentially miss out on savings made depending on how these are spent.
 - How would a 'community' be defined?
- We would like to explore this approach further with residents. One option is to have an incentive scheme for residents, giving them ownership and responsibility and rewarding them for the work they already do in their homes. We could build on our current Right to Compensation for Improvements Policy for tenants who make improvements to their homes, extending it to day to day repairs where practical. This could work well for decorating services. Another option is setting up social enterprises in particular areas, swapping skills and time banking for the work they do. However, there are elements that we would want to exclude, for example, electrical work.
 - We have a basic repairs training programme for multi-skilled staff. This is something tenants could also benefit from in this scheme.

Question 7: Do the proposed revisions to the rent direction adequately reflect the introduction of Affordable Rent?

- We support the Direction as set out.

Question 8: Do you agree with the proposed revisions to the Quality of Accommodation direction to reflect the expiry of the original target date for compliance?

- Our staff and residents support having a rolling programme of improvements to keep our stock to a level that is 100% decent.
- However, the changes to this Direction would have an impact on our Business Plan. When all properties are 100% decent, failures will be dealt with as they arise. With this new model we would have to be proactive, completing the next two years' work in one year to get ahead of the programme and be more forward thinking in our approach.
- Repairs being done by residents may have an impact on keeping our stock 100% decent.

Question 9: Energy efficiency is implicit in the revisions to the Quality of Accommodation Direction; should we make it more explicit?

- We feel that it is not necessary to be more explicit as this information is contained elsewhere. However, we do think you should link in with the new Warmer Homes, Greener Homes Standard to underline the importance of this priority.

Greenoak Housing Society

The following comments are from Greenoak Housing Society, a SE based housing association, in response to the consultation paper dated July 2011.

Q 1: Does the draft direction on tenure set out the relevant factors that registered providers should consider when deciding what type of tenancy they should offer and issue?

The introduction of flexibility in the tenure offered by moving away from the traditional requirement for 'the most secure' form is generally welcome and offers landlords greater flexibility in the use of their stock but we feel that the revised recommended minimum term of 5 years is important.

Q 2: Does the draft direction on tenure set out the right minimum requirements for a registered provider's tenancy policy?

As the consultation document states most, if not all, associations will already have in place appeal and complaint procedures. Provided they are properly established and clear, the procedures will protect the interests of landlord and tenant so further direction is unnecessary. The current proposals actually put another barrier between a tenant and redress from the Ombudsman.

Q 3: Does the draft direction set out the right minimum protections for tenants of registered providers?

See above.

Q 4: Do you agree with the principle and detail of our proposed direction on mutual exchange?

The principle is sound and nobody could reasonably argue that encouraging and facilitating tenants to exchange homes where they choose and want to do so is not worthwhile. It makes best use of the available stock and at little or no cost to the landlord. However prescribing how landlords are to do this is an unnecessary and bureaucratic measure that is contrary to the ministers' foreword which describes giving landlords the freedom to run their own businesses and giving tenants control over the decisions they make about their lives.

If introduced, the regulatory requirements would have no impact on us since we already subscribe to the national Homeswapper system which provides free access to tenants. We also assist tenants with their applications and enquiries. We believe that this is best left to associations to manage as they see fit by agreement with their tenants and are opposed to it becoming a regulatory requirement.

Q 5: Do you agree with the principle and detail of our proposed revisions to the direction on tenant involvement and empowerment?

We agree that landlords should encourage resident involvement and take their views into account. However it will not always be practical and there may be no desire on the part of tenants to form a panel. The most popular and best received means of communicating with tenants is by text, email and personal contact. For smaller landlords with a dispersed stock it will be difficult for residents to take part in such a panel and for any such panel to be truly representative and have a meaningful role.

Annual tenants' reports already include performance information and comparative figures to demonstrate how the landlord is performing compared to peers. This is a current regulatory requirement.

The consultation paper states:

'We believe that the publication of information about repair and maintenance budgets will help tenants to judge whether local schemes are sufficiently ambitious.'

Information on the amount spent, the average cost of work and resident satisfaction with the repairs service is reported already either in performance information or the association's accounts. There is no need for further regulatory direction.

Question 6: What type of models for involving social tenants in repair and maintenance services are registered providers likely to offer, how many tenants might participate in these and what costs and benefits might they result in?

Under current law the landlord has obligations to keep the property in good repair and condition. Tenants have the right to repair legislation to call upon where the landlord fails to meet their repairing obligations and a separate right to compensation for certain improvements they have carried out at their own expense when they vacate. This makes the obligations of both parties clear. The proposals will cause extra administration, issues about quality of work and may adversely impact on planned asset management.

We would hope that the outcome of pilot schemes is evaluated before a decision is reached.

Q 7: Do the proposed revisions to the rent direction adequately reflect the introduction of Affordable Rent?

The guidance on rent setting is clear and the retention of the existing formula for traditional social rented homes is welcomed, however, we are unclear of the latest directions to Local Authorities relating to rent harmonisation within social housing, which is highly relevant in areas where Local Authorities (not LSVTs) continue to hold stock. Large variations cause unnecessary tenant dissatisfaction. We hope that harmonisation is still the intention within a short period of time.

Q 8: Do you agree with the proposed revisions to the Quality of Accommodation direction to reflect the expiry of the original target date for compliance?

There is no need as the well-established decent home standard is readily understood and accepted by all social landlords. In many cases future planned work programmes and business plan projections have been based on the work identified through stock surveys to meet the standard.

Q 9: Energy efficiency is implicit in the revisions to the Quality of Accommodation Direction; should we make it more explicit?

No – we do not feel that this is necessary.

September 2011

Greensquare Group

GreenSquare strongly supports the response that the National Housing Federation has put forward:

<http://nationalhousingfederation.cmail2.com/t/ViewEmail/y/737A657776DCE9DA/0549AD68755A151981176E9AA71FFAE9>

We believe that the proposed legislation is overly prescriptive in its detail, which seems to work against a key principle of localism and the 'Big Society' agenda which should support and encourage housing associations to work with its residents to decide what's best at the neighbourhood level. The proposals will increase our overall risk profile and weaken our future financial capacity because of the impact of higher levels of void properties and most significantly of rent arrears. A second round or continuation of the new affordable housing model would exacerbate this, and we question whether it will get the same level of take-up as the first round as the approach lessens the financial capacity and strength of most associations in the short to medium term.

Length of tenure: it is useful to have an alternative to lifetime tenancies, so that this can be used sensitively to further the aims of creating sustainable communities. However, any attempt to be prescriptive about how this flexibility should be used will be counter-productive.

Affordable rents: the system of using affordable rent and disposals to finance development is over complicated. For this to work, direction and pressure will be needed to deal with section 106 and other mechanisms (grant funding, covenants etc) that can block rent conversion and disposal, or reduce the gains from disposals.

Decent homes standard: we would prefer that the Government does not move to set a new higher standard, but rather to encourage the provision of genuine local choice for residents as to what happens above the base standard.

Tenant involvement in management of repairs and maintenance: This is obviously an important area, bearing in mind that tenants tend to value the repairs service that they receive above all others. In general tenants at GreenSquare are already involved in just about every level of the repairs and maintenance service: setting strategic priorities, choosing contractors, setting programmes, choices for materials and they give feedback on the quality of just about every piece of work carried out. We know that the biggest issue for our tenants is to have more choice about how we spend money on improving their home, by focusing on what individuals would like and would suit their family life, rather than "standard" improvement programmes and this would be our focus over the coming years.

We do have some reservations about the "tenant cashback" approach, where residents are involved in procuring their own repairs, if this is how this

direction manifests itself. Generally, residents are very satisfied with the repairs service that we provide, and are unlikely to welcome the complication of trying to sort this out for themselves.

- It will increase costs: we already have tenants who complete their own repairs, but receive no financial compensation; and we would need to budget for pre- and post-inspections to check that the work needs doing in the first place, and is done correctly when completed.
- The cost of most of what we do is already extremely competitive due to economies of scale and long term contracts and profit margins are low
- Tenants are not likely to be able to find a quicker service in the private sector, particularly for emergency repairs, without this costing them significantly more. It is also doubtful if many contractors would be willing to carry out repairs at a tenant's request on the basis that the housing association will pay for it when completed
- There is concern about how health and safety requirements would be satisfied

Guildhouse

Overview and Introduction

Guildhouse is a property development, management and investment organisation specialising in Public Private Partnerships. We act as principals on a wide variety of projects with values up to £350m. We undertake work on our own or through joint ventures and partnership. In all cases, we take the lead in the finance and management of each project. Our previous projects have ranged across a number of sectors including commercial, residential, leisure, retail, mixed-use and health.

As property developers we are responsible for the entire process, from the identification and assembly of sites, through funding and design up to the letting, commissioning and sale of the completed buildings. We have recently secured an allocation of £3.3m to build 89 homes in London, as part of the 2011-2014 Affordable Homes Programme. Once the homes are completed, Guildhouse would select the most appropriate managing registered provider from a list of major Registered Social Landlords depending on location and their capacity.

This response sets out the context of our work on the Livinhome project, which will form our contribution to the Affordable Homes Programme, and then answers the specific questions set by the Government on the impact of the Directions to the Social Housing Regulator.

The Livinhome project

Livinhome is a series of homes designed to allow for changes in people's circumstances in later life. Livinhome properties are based on an adaptable core which can be easily customised with different designs to reflect personal choice and life changes. Various exteriors and interiors can be fit onto a number of standard chassis, reflecting the design choices of the owners. For example, a Livinhome is designed to be able to change between a house, a duplex or a series of apartments more than once, without the need for structural changes. Homes can also be built with the possibility of adding extra bedrooms as families grow, or can easily take additional adaptations to enable the disabled, long term sick or elderly to remain at home

The house is designed to integrate with changes in the delivery of healthcare and other social services. The overall design exceeds Lifetime Homes Standards and through a combination of technology integration and spatial planning the house can facilitate for example, the treatment and management of a broader range of illness in the home. This allows occupants to remain at home (rather than being transferred to a nursing home/hospital) and be more easily supported by family and friends.

The fact that there are a number of external designs also means that the homes can be designed to complement local requirements and help to create integrated, sustainable communities. Homes are designed to be accessible

and energy efficient. Designing new homes to be energy efficient is not only desirable, but is essential for a sustainable future. Livinhome ensures that Code Level 4 for Sustainable Homes can be achieved as a minimum in all homes.

Response to Consultation Questions

1. Does the draft direction on tenure set out the relevant factors that registered providers should consider when deciding what type of tenancy they should offer and issue?

No – not all the relevant factors are set out. For new affordable housing, specific reference should be made to the requirements of the private funding required to deliver such units.

2. Does the draft direction on tenure set out the right minimum requirements for a registered provider's tenancy policy?

We welcome the additional flexibility offered by the standard five year tenancy, as this should allow the maintenance of a greater level of social housing stock, and could potentially help unlock the full potential of the flexibility to Livinhome.

The draft direction to the regulator requires that registered providers will grant tenancies that “as far as possible are compatible with the purpose of the accommodation, the needs of the household, the sustainability of the community and the efficient use of the stock”.

The Government should consider in this direction the impact on the ability of registered providers and new entrant registered providers to raise private investment to secure new affordable housing, especially given the high proportion of private finance involved in such schemes. The minimum protection to the tenant needs to be compatible with the ability of the registered provider to raise the funding to deliver homes with a very limited grant.

3. Do you agree with the principle and detail of our proposed direction on mutual exchange?

Yes we agree with this provision – though this is something which Guildhouse would want to delegate to the managing registered provider.

5. Do you agree with the principle and detail of our proposed revisions to the direction on tenant involvement and empowerment?

To avoid costly double scrutiny, where a registered provider delegates management to another registered provider, it should be allowed to delegate this aspect of the requirements to the managing provider. We would appreciate further clarity on this point.

6. What type of models for involving social tenants in repair and maintenance services are registered providers likely to offer, how many tenants might participate in these and what costs and benefits might they result in?

Again, we would appreciate clarification on whether such requirements can be delegated to the managing register provider. There is a possibility that the tenants' right to manage provisions may upset some private funders, and this will need to be taken into account.

7. Do the proposed revisions to the rent direction adequately reflect the introduction of Affordable Rent?

In our view, the proposed revisions to the rent direction do adequately reflect the introduction of affordable rent. However, increases are limited to RPI +0.5. Our understanding is that as the rent is reset with every new letting, if market rents fall, so do affordable rents – could you provide clarification on this? Has the Government considered that this may prove a concern for investors if they are not able to guarantee a reasonable return?

8. Do you agree with the proposed revisions to the Quality of Accommodation direction to reflect the expiry of the original target date for compliance?

In our view, the proposed revisions to the Quality of Accommodation direction seems to weaken the requirements – there is only the need to have regard to Decent homes, and there is flexibility in when compliance will be required.

9. Energy efficiency is implicit in the revisions to the Quality of Accommodation Direction; should we make it more explicit?

The Quality of Accommodation Directive appears more focused on the standard of facilities and their state of repair. Any requirements on energy efficiency should be made more explicit.

**Guildhouse
September 2011**

Harlow Common Residents Forum

Tenure Reform

- Flexible tenancies must be agreed locally, between Local Authority landlords and their tenants. [Local Standard]
- Existing secure tenancies **must** stay as secure, with all existing rights, and, all future rights must meet the needs of existing secure tenants.
- Flexible tenancies must be structured to not only allow LA landlords to make better use of their housing stock but build stronger communities that are better able to stand on their own two feet and require less support from the state
- Communities need to feel that secure tenancies are earned not just given away to those who know how to play the system
- Monthly renewable tenancies for one year then six-month renewable tenancies for two years and assured tenancies for two more years, these are then converted to secure on completion of the five years without problems [rent arrears-*not technical arrears* and ASB etc]
- A rent deposit of 3months average rent, paid in cash. Paid back towards rent after one year. No guarantors just cash and no refund if vacating the property, but can be transferred to a different property under the same LA landlord
- A repairs deposit of 3months average rent, paid in cash, paid back towards rent after two years. No guarantors just cash and no refund if vacating the property, but can be transferred to a different property under the same LA landlord

Mutual Exchange

- Full tenant history must go with the tenant/move
- Both existing and new landlords may agree to transfer rent deposit. But repairs deposit to be used for any void work

Tenant Involvement

- To strengthen LA landlord accountability to their tenants and support the cash back model, right first time, sustainable communities, and value for money etc
- Make it a **right** for tenant groups [maybe register groups with TSA] to be fully involved in their housing management services
- **Commission tenant involvement groups to inspect their own housing services [LA landlord]**
- Tenants have already been involved in producing the latest KLoE,
- Who better than users of a system to tell you where it is going wrong
- The biggest obstacle to good tenant involvement and responsive council housing services is the very high cost of getting rid of officers/staff that are under adequate, it needs to be brought in line with the private sector – 12months max redundancy payments , no exit payments and why has the government not raided public sector pensions the same way they did ours in the private sector

Rents

- The affordable rent model is a joke, affordable for whom, just put it against what the government thinks a retired couple can live on and it puts it into prospective.
- The real affordable rent of a typical two bed council house should be £20/week. Think of all the housing benefit you would save plus the cost of the thousands of staff that administer it
- Why are council housing rents chasing housing association rents. Housing Association and private tenants get the same housing benefit as council tenants but the difference is its all profit whereas with council tenants it all goes back to the government so why do it. **Why are we subsidising housing associations.**
- Why are the government paying housing benefit to home owners they are adults and took on the mortgage so why did they not take out protection insurance
- Why are we subsidising housing associations when council tenants are now being told that they must pay the government for their homes over a thirty year period. Cleverly but wrongly called HRA self financing.

Quality of Accommodation

- The real reason that council housing has not been brought up to the decent home standard, is the government.
- The government keeps too much of the rents and allows just the minimum back for repairs and decent homes.
- The decent home standard is only just adequate, but its better then most private lets as the government subsidies them with housing benefit should not they also be made to conform
- The government needs to make up its mind are LA the landlords or is the government the landlord and LA just the letting agent
- If the LAs are the landlord then the government should stop interfering and let us [tenants and their landlord] get on with it
- Government should go back to funding council housing new build or buy back, let's move this on and stop messing around.

Harvest Housing Group

Dear Sirs

Implementing social housing reform: Directions to the Social Housing Regulator – Consultation

I write in response to the request for responses to the above consultation paper.

Harvest Housing Group is a not for profit group of housing associations and housing companies. We own and manage over 18,000 affordable, high-quality homes and provide a range of housing, community and regeneration services across the North West of England and beyond. Responsive to our customers' and market needs and focused upon our neighbourhoods, we work with our partners, including over 30 local authorities, to provide a wide range of services and housing options.

As a group of registered social landlords, Harvest Housing Group welcomes the ability to comment on the proposals set out in the paper and to actively support the Government's commitment to ensuring that tenants of social housing receive a high quality service from their landlords which responds to their needs and provides them with an appropriate level of choice, involvement and influence.

I can positively respond on the Group's behalf to each question raised as follows:

Question 1: Does the draft direction on tenure set out the relevant factors that registered providers should consider when deciding what type of tenancy they should offer and issue?

Yes - we recognise the separate letter from Grant Shapps confirming that the standard tenure should be 5 years and providers should use shorter periods in exceptional circumstances.

We welcome the extension of the use of probationary tenancies up to 18 months, which now allows registered providers to be consistent with local authorities.

We welcome the recognition that the tenure should reflect the local circumstances and also take into account families and tenants that may be vulnerable.

Our approach is to adopt a tenure based on the above.

Question 2: Does the draft direction on tenure set out the right minimum requirements for a registered provider's tenancy policy?

In many of the areas in which we operate, we have a strong working relationship with the Local Authority/ District Council, particularly our former LSVT organisations, and we welcome the requirement to have due regard to these policies and we also welcome a degree of independence in setting our own tenancy policy.

Question 3: Does the draft direction set out the right minimum protections for tenants of registered providers?

As outlined previously, we welcome the recognition that the tenure should reflect the local circumstances and also take into account families and tenants that may be vulnerable and we consider this flexibility an essential element to the direction on tenure.

Question 4: Do you agree with the principle and detail of our proposed direction on mutual exchange?

As a Registered Provider we agree with the principle of promoting national mutual exchange schemes and in assisting tenants with access to online services to aid mobility. Promotion of such schemes assists us in making best use of housing stock and contributes to our business objectives in reducing void turn around time and void spend, where a successful outcome for customers can be achieved through exchange as opposed to transfer through housing registers.

Harvest has included the promotion of Homeswapper national mutual exchange scheme to assist tenants to move house/area as a core service offer on allocations under the tenancy standard. We actively promote the service currently through our website and through designated Homeswapper super users within our Quality Circle on Allocations. Future Service plans include the implementation of a person centric housing options service to Harvest customers where a full range of options will be discussed and actively promoted including Homeswapper.

We also consider that with the revisions to the welfare benefit system, the increased importance on under occupancy of properties also raises the need for providers to support customers to find suitable alternative accommodation within the sector and hence a national scheme is supported.

We also see the need to develop CBL systems that automatically identify matching applicants who could then be advised that mutual exchange is an option.

We welcome the recognition of the need to support both vulnerable tenants and those who do not have access to the internet, or need assistance to access the web based service.

We consider that customers require wider support than just assistance with the internet to fully engage in the process and think that Register Providers will need to consider other support mechanisms including a Tenancy Support

Worker role and potentially offering financial support and incentives for customers. This will assist in dealing with under occupation and housing demand vs. supply issues and also minimise any impact on the loss of rental income for Registered Providers via the proposed Welfare Benefit reforms.

Question 5: Do you agree with the principle and detail of our proposed revisions to the direction on tenant involvement and empowerment?

We support the amendments to ensure that landlords enable their customers to scrutinise performance and make recommendations as to how performance might be improved and we specifically welcome the requirement for providers to offer a 'wide range of opportunities' however we recognise that the term 'wide' may be interpreted differently across the sector.

We fully support the inclusion of the requirement for providers to support the formation and the activities of tenant panels 'or equivalent' and the need for Registered Providers to respond constructively and in a timely manner to them.

We recognise that this is further embedded by the requirement to provide timely and relevant performance information in a form agreed with customers.

Harvest Housing Group has developed a range of customer involvement mechanisms that enable both us and our customers to follow the principles set out in the proposals. This includes customers being Tenant Scrutiny Panel Members and having clarity on the responsibilities of that role. Customers have developed our annual report and customer involvement is now a core element of our contract procurement process.

We fully support the requirement to include repairs and maintenance performance data within the annual report.

Question 6: What type of models for involving social tenants in repair and maintenance services are registered providers likely to offer, how many tenants might participate in these and what costs and benefits might they result in?

We are aware that there could be a range of potential issues and practical problems with the proposed tenant cashback scheme and are interested to see the findings/ results of the pilots to enable us to better understand the implications and work through the problems/ practicalities. Key considerations for any scheme that we would highlight include:

- Training customers to enable them to complete basic repairs
- Appropriate insurance to complete the work
- What repairs would be 'in scope' of the scheme?
- Potential increase in the number of disputes between the tenant and provider
- Potential Health and Safety issues linked to the skills of customers
- How will the work be valued?

At Harvest we enable our customers to be involved in the repairs and maintenance services in the design, procurement, contract mobilisations, implementation and scrutiny of the performance of the repairs services. We also involve customers via our support of SME's and offering apprenticeships.

We recognise the need for Registered Providers to consider how they can improve their repairs service and optimise the funds available to benefit all their customers and we consider that whilst the Tenant Cash back scheme is one option, there are other ways that can be considered to achieve the desired outcomes including:

- House MOT's to carry out any necessary repairs. Customers will receive basic DIY advice as well as free energy saving light bulbs and potentially a basic tool kit;
- Incentives for the appropriate* use of the repairs service for the following 12 months following the Home MOT check – *all repairs required for health and safety and emergency purposes would need to be excluded when applying the definition;
- Contacting customers who have not used the service in the past 2 years to ascertain if there are any vulnerability issues.

Identifying opportunities for VAT savings e.g. Direct Labour Organisations and joint employment – whereby the savings get recycled into our properties or neighbourhood interventions which meet the agenda set by the Big Society.

Question 7: Do the proposed revisions to the rent direction adequately reflect the introduction of Affordable Rent?

The proposals cement our current practice and therefore do not give cause for comment.

The only exception is paragraph 7(c) which states that a new valuation will be required each time accommodation is let to a new tenant or re-let to the same tenant. We would highlight that in some areas, we have a high turnover and conceivably one property could be let twice within a 12 month period. We would therefore prefer the statement to be amended to reflect that a new valuation is required each time accommodation is let to a new tenant (after a period of 12 months from the previous let)

The more administration or bureaucracy that Registered Providers are required to undertake will result in more costs being incurred by Providers which ultimately is taken from tenants rents and prevents wider investment in the local community infrastructure.

Question 8: Do you agree with the proposed revisions to the Quality of Accommodation direction to reflect the expiry of the original target date for compliance?

Yes – we have no further comments to make.

Question 9: Energy efficiency is implicit in the revisions to the Quality of Accommodation Direction; should we make it more explicit?

Yes – we would welcome clarity as energy efficiency is increasingly important from both a climate and customer fuel poverty perspective. We welcomed the previous Government's proposals to set a minimum SAP rating of 70 by 2020 and consider that explicit requirements will help drive improvement for customers across the sector.

In all the events and customer involvement we have undertaken with residents, they continue to highlight the issue of increasing fuel costs and the impact on their limited budgets. We as a Registered Provider therefore consider that the direction from Government and our regulator should include explicit requirements to address fuel poverty and energy efficiency.

In summary therefore, we do consider that the proposals presented in this paper positively develop the regulatory framework within which we work and support the future role and influence of tenants across the sector.

Yours sincerely

Paul Seymour

Director – Moorlands and Service Development

Hastoe Group

Hastoe is a rural specialist and the country's leading developer of affordable, sustainable rural housing with a development programme of more than 300 rural homes per annum.

Hastoe welcomes the greater flexibility the directions will allow. In general we consider they cover all relevant factors and will support local decision-making and accountability. Several aspects, noted below, though appear to us to be overly prescriptive and we have made suggestions for modifications to the final draft.

1. Tenure reform: *to allow social landlords to issue flexible tenancies, subject to conditions, to make better use of existing and future stock. In implementing these reforms, we will respect the rights of existing secure and assured tenants.*

Question 1: Does the draft direction on tenure set out the relevant factors that registered providers should consider when deciding what type of tenancy they should offer and issue?

Yes, all relevant factors are set out. We agree that Hastoe's tenancy policy should be based on 'the needs of individual households, the sustainability of the community and the efficient use of our housing stock.' Hastoe expects that this will mean that lifelong tenancies will continue to be granted for the majority of tenants. We trust that the Tenure Standard and/or enforcement actions taken by the future regulator do not undermine the implicit local autonomy in the draft directions by giving preference to one form of tenancy over another.

Question 2: Does the draft direction on tenure set out the right minimum requirements for a registered provider's tenancy policy?

Yes, the minimum requirements are set. We welcome the liberalisation of regulation here with the use of flexible tenancies. It was never our intention to use very short fixed terms so we support the change announced by the minister on 28 July.

Question 3: Does the draft direction set out the right minimum protections for tenants of registered providers?

We agree with and welcome the proposal to allow landlords to extend probationary tenancies from 12 to 18 months.

2. Mutual exchange: *to require landlords to enable access to internet-based mutual exchange schemes allowing tenants who want to move the best possible opportunity of finding a match, making the scheme truly national for the first time.*

Question 4: Do you agree with the principle and detail of our proposed direction on mutual exchange?

Hastoe fully supports the aim to make it easier for tenants to exchange properties with other tenants across the country as this will promote social and geographical mobility and make the best use of the national social housing stock. The requirement for landlords to sign up to internet mutual exchange services is in our opinion unnecessarily prescriptive.

Hastoe believes that internet services are an important tool for promoting social mobility. But the very specific nature of this direction may prevent registered providers adopting the solution that best suits its tenants and may lead to unnecessary costs and unintended consequences. Being this specific could inhibit the development of alternative, more innovative and possibly more cost effective methods. One only has to look at the speed of change in social media sites to see the potential for these requirements to be rapidly overtaken by events.

These very specific requirements may also allow some registered providers to comply with the letter of the standard without necessarily promoting the ability their tenants to exchange homes in the best, most cost effective way. Hastoe would welcome directions that were less prescriptive and promotion of the use of internet services by other means available like providing encouragement or inducements to the private sector to include social housing on existing or newly developed and established sites.

3. Tenant involvement: *to strengthen landlord accountability to tenants and support the Tenant Cashback model, providing new opportunities for social housing tenants to get involved in commissioning repair and maintenance services for their homes.*

Question 5: Do you agree with the principle and detail of our proposed revisions to the direction on tenant involvement and empowerment?

Hastoe welcomes the proposals to strengthen the requirements of the existing direction in respect of resident engagement and scrutiny. Providing the opportunities for influence and involvement set out in the direction – and more – has been a big priority for Hastoe in recent years and we are encouraged that the tenant involvement standard will be strong and meaningful.

We also welcome that the direction recognises that tenant panels may not be appropriate in every case. Hastoe has a progressively evolving menu of options for involvement and scrutiny that we feel best suits the interests and

capacity of our residents and geographical spread of rural stock. We have an active Facebook group for example and this year we piloted an online scrutiny panel. We are particularly proud of our three regional committees, which report directly to our board, where the residents have been actively engaged in influencing policy and scrutinising performance for some years. We therefore welcome the absence of a single 'one size fits all' specification for involvement.

We understand that a 'Right to Manage' would not apply to Hastoe as a registered provider and would ask for this to be clarified in the final version of the directions.

Question 6: What type of models for involving social tenants in repair and maintenance services are registered providers likely to offer, how many tenants might participate in these and what costs and benefits might they result in?

Hastoe is piloting the *Tenant Cashback* scheme and will report our findings and relative costs benefits later in the year. This is a scheme that we feel particularly suits our younger tenant profile with many tenants already taking responsibility for aspects of their own repairs and the skills and capacity to undertake a wider range of work.

4. Rent: *to make changes to reflect the introduction of the Affordable Rent model.*

Question 7: Do the proposed revisions to the rent direction adequately reflect the introduction of Affordable Rent?

Hastoe welcomes the proposed direction on rent. The confirmation that the current rent regime will continue after 1 April 2012 provides us with greater certainty in our business planning.

Yes, Hastoe considers the direction to adequately reflect the introduction of Affordable Rent.

5. Quality of accommodation: *to clarify that providers are expected to maintain their stock at a decent level.*

Question 8: Do you agree with the proposed revisions to the Quality of Accommodation direction to reflect the expiry of the original target date for compliance?

Hastoe welcome these proposed revisions. Having achieved the decent homes standard ahead of target we see maintaining safety, decency, and comfort as the minimum required standard for the condition of our homes.

We trust the regulator will take common sense view on defining and enforcing this standard and has the needs and views of the tenant paramount. It is in

the nature of asset management over the long term that some components expire or technically become 'non-decent' at points within a year before but not materially affect the quality of the tenants accommodation. In normal circumstances though we would always expect to maintain 100% compliance with the decent homes standard at 31st March each year.

Question 9: Energy efficiency is implicit in the revisions to the Quality of Accommodation Direction; should we make it more explicit?
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Hastoe welcomes inclusion of 'thermal comfort' within the direction but we do not believe that this will require registered providers to achieve the sustained improvement in energy efficiency the government is aiming for in its targets on carbon reduction and tackling fuel poverty.

If the government considers inclusion of an explicit requirement to achieve standards for energy efficiency to be inappropriate – and we can see there may be drawbacks in doing so – there should be a requirement for providers to set and achieve stretching, measurable targets for improving the energy efficiency of their stock.

Havebury Housing Partnership Tenants' Forum



The Havebury Housing Partnership, Havebury House, Western Way, Bury St. Edmunds, Suffolk IP33 3SP

Social Housing Directions Consultation
Department for Communities and
Local Government
Zone 1/A4, Eland House
Bressenden Place
London SW1E 5DU

My ref: SN/SAC
E-mail: sandra.norris@havebury.com
Date: 27th September 2011

Dear Sir/Madam,

Implementing social housing reform: directions to the Social Housing Regulator

The above consultation document was discussed at Havebury Housing Partnership's Tenants' Forum meeting on 15 September. The Forum represents Tenants' interests and views on all matters relating to housing services provided by Havebury Housing Partnership (a stock transfer Association with properties across Suffolk). The following comments were made and, as Chairman of the Tenants Forum and I would appreciate you giving consideration to them.

Tenure:

The Forum recognise that there will be four "products" from April 2012 (social and affordable rent for traditional and fixed term tenancies). We understand as a Forum that there will be circumstances where the landlord may want to only offer fixed term tenancies, for example, where they want to be able to tackle under occupation. We feel that a minimum term of five years is about right and would not want to see "social" housing facing some of the problems of the private sector where shorter tenancies can result in less community spirit.

We agree with the proposal that for new tenants, a flexible tenancy may be preceded by a probationary tenancy. We also agree with the proposal that private registered providers can extend probationary tenancies to up to 18 months. In fact, the general feeling of the Forum was that we would be open to this period being up to 24 months.

We strongly agree with the draft direction where it says that the Standard must include a guarantee of a tenancy of no less security for existing social tenants who choose to move to another social rent home. We would also want it stressed that existing social tenants who do not move should not see any less security.



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Chief Executive: Karen Mayhew Registered office: Havebury House, Western Way, Bury St. Edmunds, Suffolk, IP33 3SP
A company limited by guarantee Registered in England and Wales Registered number: 4147468 Registered charity number: 1092077 Tenants Services Authority registered number: LH4339

We agree that the draft direction does set out the right minimum protections for tenants. We will be working with staff at Havebury Housing Partnership as they develop their tenancy policy.

Mutual Exchanges:

The Forum did not feel that any additional directions are required as sufficient options are available already. A comment was made by one of the Forum members that it is important that whichever schemes Housing Associations subscribe to, that the system is resilient, for example to IT issues as they arise.

Tenant Involvement and Empowerment:

As a Forum we agree with the opportunities specified for tenants to be involved, for example, through the scrutiny of our landlord, Havebury. We feel that we already have these opportunities and would not want the direction to be too prescriptive. We have developed a wide range of ways in which we are working with and scrutinising Havebury and would want flexibility as to how we do this in the future. One aspect of the direction that we are not convinced by is the proposal for a Tenant Cashback model. There were several aspects of this that may cause us concern, for example, we feel that it may create more work to administer it than for the actual work being carried out. Whilst we would not want to rule out some form of Tenant Cashback scheme, we would want this to be an option and for the nature of any possible scheme to be something that is relevant to and wanted by Havebury tenants.

Quality of Accommodation:

We agree with the proposed revisions to the Quality of Accommodation direction.

I hope that these comments are useful and that you will give consideration to them as part of your consultation process.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Sandra Norris', with a long, sweeping underline.

Sandra Norris
Chair of Havebury Tenants' Forum

Hexagon Housing Association

Question 1: Does the draft direction on tenure set out the relevant factors that registered providers should consider when deciding what type of tenancy they should offer and issue?

The proposed outcome at the start of direction states 'that registered providers offer and issue tenancies which are compatible with the purpose of housing, the needs of individual households, the sustainability of the community and the efficient use of their housing stock.'

We agree that the factors listed are relevant to decisions about the type of tenancy to be offered. At the same time, it is difficult to see how this new required outcome itself would necessarily produce any significant changes to the sorts of tenancies currently issued by housing associations.

We do note that additional discretions and freedoms will be available via this guidance, which we generally welcome.

Question 2: Does the draft direction on tenure set out the right minimum requirements for a registered provider's tenancy policy?

Yes, we think this is adequate.

Question 3: Does the draft direction set out the right minimum protections for tenants of registered providers?

We note that the policy direction on this has changed to include a 5-year minimum tenancy. We believe that the 5-year minimum is an improvement on the previous proposal of 2 years.

Question 4: Do you agree with the principle and detail of our proposed direction on mutual exchange?

We would be happy to subscribe to an internet based mutual exchange service which enabled tenants to register the details for a mutual exchange in search for reciprocal matches. We are also happy to proactively promote the option of mutual exchange to tenants. We already do both.

Question 5: do you agree with the principle and detail of our proposed revisions to the direction on tenant involvement and empowerment?

We agree with the principle, but believe the detail is inappropriate. Our understanding of the reform of social housing regulation is that consumer regulation will in future focus on setting clear service standards, with the regulator's monitoring and enforcement powers only used where necessary to address failures against those standards that give rise to actual or potential serious detriment to tenants (or potential tenants).

In that context, the introduction of the Government's Tenant Cashback Scheme seems inconsistent with that objective, as it is a directive that focuses on operational detail.

The scheme itself is lacking in detail, and therefore likely to lead to confusion amongst tenants and landlords.

We are very supportive of the emphasis on extending tenant scrutiny of landlords' performance. This includes the development of residents' scrutiny panels which Hexagon already has in place.

We also currently devolve total responsibility for repairs, including all budgets, direct to tenants. This applies to about 10% of our housing stock and is done via management agreements with housing co-ops.

However, effectively mandating national participation in a largely untested Tenants' Cashback model for all tenants is both premature and completely out of keeping with the remainder of the document, which quite rightly, focuses on providing a balance between flexibility and prescription.

To be clear, we would be very supportive of efforts to share best practice in this area and we are open minded to hear how such a programme might work, and to consider what the costs and benefits might be. However we feel strongly that the Direction as outlined will be counter productive, and the Department should therefore remove this from the Directive.

Question 6: What type of models for involving social tenants in repair and maintenance services are registered providers likely to offer, how many tenants might participate in these and what costs and benefits might they result in?

This is a very large question relative to the consultation, but to provide some context, as described above, Hexagon is involved in a range of models including providing approximately 10% of our residents the opportunity to carry out repair and maintenance services directly by the complete devolution of maintenance budgets to resident groups such as co-ops.

We also follow a range of other models of participation including for example, giving residents the opportunity to select contractors. Our residents' scrutiny panel provides scrutiny of the key performance indicators of our repairs contractors and provides regular feedback to the Board.

Costs and benefits are annually summarized for our Board in a Resident Impact Assessment and this process informs those models we pursue and those which we don't.

Question 7: Do the proposed revisions to the rent direction adequately reflect the introduction of Affordable Rent?

Generally yes. However, on a point of detail, we think that section 7 (a) of the actual directive, should be amended to read “rent for accommodation (inclusive of service charges) is *initially* set at a level.....”. This would clarify that there are circumstances where the initial rent may exceed 80% of the market rent at some point in the future, without breaching the directive.

Question 8: Do you agree with the proposed revisions to the Quality of Accommodation direction to reflect the expiry of the original target date for compliance?

Yes.

Question 9: Energy efficiency is implicit in the revisions to the Quality of Accommodation Direction; should we make it more explicit?

If the Government wish to achieve any specific energy efficiency objectives, then more explicit guidance might help, but as these objectives are not outlined, this is a difficult question to answer. Hexagon has already set our own targets which we believe are affordable and achievable.

Hightown Praetorian & Churches Housing Association Ltd

Direction on Tenure

Question 1: Does the draft direction on tenure set out the relevant factors that registered providers should consider when deciding what type of tenancy they should offer and issue?

The direction as drafted appears to set out the relevant factors.

Question 2: Does the draft direction on tenure set out the right minimum requirements for a registered provider's tenancy policy?

The minimum requirements set out in the draft direction are appropriate. The expectation of a minimum five year term is welcomed as this accords with our response to the earlier consultation on fixed term tenancies.

Question 3: Does the draft direction set out the right minimum protections for tenants of registered providers?

The draft direction appears to set the right level of minimum protections and flexibilities available to the provider to enhance these.

Our residents' comments

Our residents welcome the intention to include a guarantee of a tenancy of no less security for existing social tenants who choose to move to another social rent home and when returning to settled accommodation after redevelopment works. They also welcomed the intended flexibility in allowing providers to use their discretion to grant lifetime tenancies outlined at 53 in the 'Commentary on Proposed Directions' section of the consultation paper. **The wording at Tenure 2. - 4(c) should perhaps explicitly state this flexibility.**

Our residents strongly support the use of starter tenancies (probationary tenancies) and are in agreement with the direction in this area.

Direction on Mutual Exchange

Question 4: Do you agree with the principle and detail of our proposed direction on mutual exchange?

As we already subscribe to an internet based mutual exchange service which enables tenants to register their details for a mutual exchange and search for reciprocal matches we agree with the proposal; however **we have some concerns that, given the limited number of providers of such services, landlords may lose negotiating power over the price of subscriptions once it becomes a requirement to subscribe.**

As for many years mutual exchange has been the only option for tenants who wish to move we have proactively promoted the option of mutual exchange to

our tenants, including access to a service that we have subscribed to on their behalf. We also already provide the type of support for tenants who may not have access to a computer or may not be able to use a computer without assistance, as suggested in the consultation. **We agree that the way support might be offered should not be prescribed.**

Our Residents' Comments

Our residents feel that we already meet the requirements in this section and therefore agree with the direction as drafted.

Direction on Tenant Involvement and Empowerment

Question 5: Do you agree with the principle and detail of our proposed revisions to the direction on tenant involvement and empowerment?

We agree with the proposals to enable tenants to scrutinise their landlord's performance and make recommendations about how performance might be improved. This has long been our approach to tenant involvement.

As we have provided an annual report to tenants for many years we have no problem in agreeing that this should become a regulatory obligation.

Our Residents' Comments

Our residents feel that we already have arrangements in place that could be considered the equivalent of a Tenant Panel. They felt strongly that there should be no prescription of what a Tenant Panel or equivalent should look like and that this should be arrived at locally.

Though not in the direction itself, but referred to in the commentary, there were mixed views on the provision in the Localism Bill for a referral system to the Ombudsman. Some felt that by having a filter it might save the Ombudsman time, others felt that the stages in a provider's complaints process were enough of a filter.

As residents are already involved at stage 3 of our current complaints process they do not see the need for duplication by introducing Tenant Panel involvement before someone can take their case to the Ombudsman. They raised concerns about the potential staff time and cost that might be taken up providing detailed information to several MPs and Councillors whilst a complainant tried to find someone who was prepared to refer their case for them. They also raised issues of confidentiality as complaints can involve sensitive information about someone's financial, medical or family situation and it was not felt appropriate for this to be aired again in front of a Tenants Panel.

Question 6: What type of models for involving social tenants in repair and maintenance services are registered providers likely to offer, how many tenants might participate in these and what costs and benefits might they result in?

Our current model is to involve residents in the selection of contractors, in suggesting and prioritising areas for budget spend and in monitoring performance. It is difficult to quantify how many residents may take up any new opportunity offered such as a Tenant Cashback scheme. It is likely though that tenants who currently carry out their own minor repairs with no expectation of reimbursement would take part in any such scheme so, far from making savings, costs would be likely to go up.

A lot of the repairs given as examples on page 17 of the *Tenant Cashback Scheme Impact Assessment* are already the responsibility of tenants under the terms of their tenancy agreements, such as changing light bulbs and internal decorations, so the basis upon which expected savings have been calculated may be flawed and the scheme may not make the savings envisaged.

It should be remembered that an assessment of the value for money of repairs costs should take account of life time costings, not just the initial cost of carrying out the repair.

Though we do NOT agree that it would be appropriate to issue the direction as worded on this very specific area of '*commissioning and undertaking a range of repairs*', if the Government is minded to continue with this initiative we welcome the expectation that schemes will be arrived at with tenants rather than be prescribed centrally.

Before arriving at a model we would like to understand the lessons learned from pilot organisations but we would be likely to consult with our residents on an approach that offers a menu of common repairs and the average amount we pay under our existing arrangements so that tenants can take a view on whether they could find a local contractor to carry out the repair at a lower cost, or do the repair themselves within that price to the same quality, including the cost of the compulsory follow up inspection.

Our Residents' Comments

Residents did not feel that there should be a direction on '*commissioning and undertaking a range of repairs*'. They felt that there was a misunderstanding at Government level about how involved tenants already are at local level with housing associations on commissioning repairs; and that the proposal seemed to have been put together by people who are not involved in the management of or living in social housing.

They felt there was huge potential for abuse and fraud in claims being made through collusion with local contractors, family or friends to submit bills with additional amounts; or unscrupulous local contractors knocking on people's doors 'trying to make a fast buck.'

They wondered if there would be insurance cost implications.

Residents stated that people currently take on gardening or minor repairs out of a sense of pride in their home or community and if people started to expect payment for these then costs to the Association would actually go up.

Residents are concerned about the potential additional costs in checking that work is being done properly.

They raised concerns that good practice built up over the years might go out of the window if this was introduced and the Association might not be able to maintain their high standards with 'a patchwork of Mickey Mouse repairs'.

They felt it would be time consuming for the Association to set up a scheme which may then be dropped by a future Government. They gave the demise of the TSA as an example of this.

Whilst empowerment is generally welcomed a suspicion was expressed that the idea was being introduced as a step towards forcing tenants in the future to carry out repairs for themselves.

Direction on Rents

Question 7: Do the proposed revisions to the rent direction adequately reflect the introduction of Affordable Rent?

The revisions seem to adequately reflect the introduction of affordable rent. **It is suggested that to help to keep costs down periodic rebasing when void should only be a requirement where a void occurs 12 months or later after the initial rebased letting.**

Our Residents' Comments

As the consultation is not on whether affordable rents should be introduced our residents had no specific comments

Direction on Quality of Accommodation

Question 8: Do you agree with the proposed revisions to the Quality of Accommodation direction to reflect the expiry of the original target date for compliance?

The wording 'so far as possible' is crucial here as it will not always be possible to be 100% compliant with the decent homes criteria where unforeseen issues arise, for example where dry rot is found in a building, or when homes are subject to a reasonable asset management strategy. These one off properties should not have to be subject to an exemption request of the regulator as this would become bureaucratic and unwieldy.

Question 9: Energy efficiency is implicit in the revisions to the Quality of Accommodation Direction; should we make it more explicit?

No comment.

Our Residents' Comments

No specific comments

Hillingdon Borough Council



Social Housing Directions Consultation
Department for Communities and Local Government
Zone 1/A4
Eland House
Bressenden Place
London
SW1E 5DU

23rd September 2011

LS/FG/161

Dear Sir or Madam

CONSULTATION RESPONSE : IMPLEMENTING SOCIAL HOUSING REFORM – DIRECTIONS TO THE SOCIAL HOUSING REGULATOR

Thank you for the opportunity to comment on the draft directions proposed to be given to the Social Housing Regulator as part of the implementation of the Government's planned reform of social housing.

We have considered the questions set out in the consultation document and give our response below to meet the consultation deadline of 29 September 2011.

1 Does the draft direction on tenure set out the relevant factors that registered providers should consider when deciding what type of tenancy they should offer and issue?

The proposed draft direction on tenure seeks to be outcome based rather than prescriptive. In doing so it fails to give guidance about the weight of relevant factors in considering the tenancy type and length of tenancy to be offered. As a result there are insufficient safeguards in the draft direction relating to vulnerable tenants and how registered providers should consider their needs when granting and reviewing tenancies.

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INVESTOR IN PEOPLE

2 Does the draft direction on tenure set out the right minimum requirements for a registered provider's tenancy policy?

The draft direction needs to be more specific about requiring registered providers to include in their tenancy policies the safeguards they will have in place for vulnerable households and how the offer and review process will consider the households' needs alongside other factors. The draft direction should also explicitly state that registered providers need to take account of the Local Authority's policy on tenancies.

3 Does the draft direction set out the right minimum protection for tenants of registered providers?

Clarification is needed on the position of existing tenants who do a mutual exchange with a tenant on fixed term tenancy. As an exchange is an assignment, the tenants take on each other's tenancy. On this basis existing tenants would lose their security. Going forward, this and the fact that moves to affordable rented property mean that existing tenants will lose their security will potentially limit mobility options for this group.

4 Do you agree with the principle and detail of our proposed direction on mutual exchange?

Levels of internet usage amongst social housing tenants are lower than those for the general population. The direction should make specific reference to the need for registered providers to provide support for those who are not confident in the use of the internet.

5 Do you agree with the principle and detail of our proposed revisions to the direction on tenant involvement and empowerment?

We agree with the principle of the proposed revisions. We would however observe that to deliver this shift to local tenant scrutiny requires registered providers to strengthen the work they do to capacity build amongst their tenant population to ensure that effective scrutiny can be carried out. This is perhaps understated in the direction.

6 What type of models for involving social tenants in repair and maintenance services are registered providers likely to offer, how many tenants might participate in these and what costs and benefits might they result in?

It is our experience that generally tenants expect their landlord to provide and manage services and the desire for doing it themselves is very limited. Those that are willing quietly get on with it and do not seek payment. Introducing a right to be paid may therefore increase the landlord's cost rather than decrease them. The administrative burden that the scheme might introduce, arising from the need to inspect repair requests beforehand and to make quality checks afterwards, will also add to costs - our in-house repairs team currently undertakes work without additional checks.

Our average cost per responsive repair is about £100 - if the scheme is intended to cover planned maintenance as well, that raises questions about the dilution of financial benefits

from undertaking work to a whole street or estate, and difficulties in keeping asset management systems accurate. The arguments around the training or experience required to carry out successful repairs and the safety issues associated with doing work have been well rehearsed in the housing press. We welcome the opportunity to find new ways of involving our tenants in the repairs and maintenance service but we do not believe that the scheme in its present form will add value to the way repairs and maintenance services are delivered.

7 Do the proposed revisions to the rent direction adequately reflect the introduction of Affordable Rent?

The revisions to the rent direction do adequately reflect the introduction of the affordable rent regime.

8 Do you agree with the proposed revisions to the Quality of Accommodation direction to reflect the expiry of the original target date for compliance?

Hillingdon completed its Decent Homes programme in 2008 and continues to maintain its stock to that standard. Self financing should allow that position to continue. However, removal of the decent homes compliance date fits well with the context of different circumstances in different areas.

9 Energy efficiency is in the revisions to the Quality of Accommodation Direction; should we make it more explicit?

We believe that responsible landlords are addressing energy efficiency through their asset management plans - for the benefit of tenants by reducing fuel poverty and for the environment by reducing greenhouse gas emissions. The energy performance of the social housing stock is already much better than that of the private rented and owner occupied stock. It is therefore not necessary to be more explicit in the standard. Individual landlords should have the freedom to address energy efficiency in their stock in the way that fits best with their asset management plan i.e. relative to stock and tenant profile.

Please contact Sheila Cawthorn, Housing Commissioner, on 01895 277451 if you have any queries about this response.

Yours faithfully



Linda Sanders
Corporate Director
Social Care, Health and Housing

Hinckley and Bosworth Borough Council

Key responses to the consultation.

- Inequalities of tenure length need to be addressed to avoid pressure on registered providers offering lifetime tenancies, which will be more attractive to tenants.
- Social rented stock (which includes all of the council's stock) may become the tenure for the least well off and highest need tenants, and more desirable than the higher affordable rented properties.
- Flexible tenancies will impact on sustainable communities. People may not have a commitment to their community or locality if they are only there for a short time.
- Tenant cashback schemes may jeopardise Decent Homes standards if repairs are not completed to a high standard.
- It is not clear whether the introduction of tenant panels is mandatory or whether existing tenant involvement structures can incorporate the activity of a tenant panel function, nor how this will integrate with member scrutiny roles.
- Affordable rent will lead to a loss of housing for the least well off as housing in the higher priced/ family housing will be converted to affordable rent. Affordable rent will soon become unaffordable in a rising market and will not necessarily result in new housing in this Borough.

Responses to the individual questions.

Question 1: Does the draft direction on tenure set out the relevant factors that registered providers should consider when deciding what type of tenancy they should offer and issue?
Officers comments: The introduction of flexible tenancies gives registered providers an opportunity to manage their stock in response to tenants changing circumstances. The draft direction sets out the relevant factors but does not give any indication as to how much weight should be given to each factor. There is no direction on how any inequalities of tenure length between different registered providers should be addressed. As a stock holding local authority, there are implications for the authority if it is decided not to offer flexible tenancies when RSL partners choose to offer them as it will make the Council's secure tenancies more desirable and increase pressure on our stock. Whilst the ability to convert tenancies to shared ownership assists those tenants who aspire to owner occupation, there is concern as this will remove a property from the rented sector. It should therefore be a requirement that any conversion to shared ownership should require a new rented property to be provided within the same local authority area.
Question 2: Does the draft direction on tenure set out the right minimum requirements for a registered provider's tenancy policy?
Officers comments: No. There should be a clear requirement for registered providers to set out the rights of appeal and the appeal procedures for those whose fixed term tenancies will not be renewed. There is no direction on how the complexities of different tenure lengths and

different rented products should be explained to potential tenants to ensure that they are able to make an informed decision about the possible implications for them in bidding under Choice Based Lettings processes. There is no direction on how these changes will impact on sustainable communities. The effect of shorter term tenancies on communities where flexible tenants have no long term commitment or buy in to the local community could be immense and could affect staffing requirements for registered providers both in housing management terms, dealing with potential increases in anti social behaviour and in administrative terms in carrying out assessments to review those tenancies coming to an end. This may also have a “knock on” effect on housing options teams in local authorities who have to deal with a greater number of homelessness enquiries, particularly if there is no right of appeal against a tenancy end. These issues should all be addressed in a tenancy policy but need a steer from central government as to which of the potentially conflicting policies should be given priority.

Question 3: Does the draft direction set out the right minimum protections for tenants of registered providers?

Officers comments: The direction on probationary tenancies is clear and brings consistency of approach by registered providers. If the Government wishes to encourage the ability of tenants to move, for example to take up work opportunities, they should guarantee that any exchange or transfer should be on their existing security of tenure and not exclude affordable rent from this process.

Question 4: Do you agree with the principle and detail of our proposed direction on mutual exchange?

Officers comments: Yes. Although it would be administratively less complex if the mutual exchange provider worked on the same basis as Homebuy agents - that is, that one agent is appointed for a region or area and handled all applications for that area.

Question 5: Do you agree with the principle and detail of our proposed revisions to the direction on tenant involvement and empowerment?

Officers comments: Opportunities for increased involvement by tenants in scrutinising the work of the council builds on work already begun in this authority. The guidance is unclear whether it will be mandatory for registered providers to have tenant panels, or whether there is discretion to use existing or alternative structures. It is not possible therefore to judge how much change this will impose on existing tenant involvement mechanisms within the organisation, nor how much extra staff capacity will be required to implement the tenant panels.
It is unclear how tenant panels would complement/ conflict with members scrutiny panels.

Question 6: What type of models for involving social tenants in repair and maintenance services are registered providers likely to offer, how many tenants might participate in these and what costs and benefits might they result in?

Officers comments: The opportunity for savings to the council on its repairs bill under tenant cashback would be welcomed. The authority is currently working towards bringing its repair service in house, and this initiative clearly has implications for the negotiation of contracts, as it is uncertain how popular

this initiative will be. It is not anticipated that there will be high levels of take up from local authority tenants as the local authority has high customer satisfaction with its repairs service, and can achieve economies of scale which make it very competitive with maintenance costs. However there are concerns of the administrative burden this will place on registered providers both in the need to provide guidance and quality standards for tenants, and in the follow up after completion of repairs as it is expected (at least initially) that this will involve 100% inspection of repairs carried out under this initiative to ensure the work is carried out to a satisfactory standard. There is no guidance for what happens if despite repeated attempts a repair fails to come up to a satisfactory standard. This would have financial and staffing considerations for dealing with such situations.

The Council is concerned that should tenant cashback not reach the high standards of council repairs it could compromise the ability of the council to maintain its Decent Homes level, and affect the council's asset base.

Question 7: Do the proposed revisions to the rent direction adequately reflect the introduction of Affordable Rent?

Officers comments: They reflect the process but have no guidance or consideration of the impact of affordable rents. The assumption by Government seems to be that people who are going to apply for affordable rents will be working, which means that social rented properties will again become the tenure for the least well off /highest need people. The Borough Council has not applied to be a development partner with the HCA and therefore will not be able to charge affordable rent on its stock, therefore this revision would increase pressure on the Council housing stock and on housing management staff who have to manage tenants with high needs. It is uncertain how RSLs intend to implement their affordable rent charges, but areas with higher market rents will be more attractive to conversion by RSLs, as will larger properties with higher rents. This may adversely affect the availability of social rented properties in the Borough by more family housing or housing in rural areas being targeted for conversion to affordable rent, putting additional pressure on Council stock. In some areas of the Borough where market rents are very high affordable rents will quickly be unaffordable for social housing tenants and therefore will not increase the rental options for our least well off tenants. Without a robust evidence base to support the need for affordable rent the council is currently not accepting affordable rent properties on section 106 sites.

The additional borrowing generated by affordable rent does not have to be spent in the Council area that the affordable rent charge is made, so they may not contribute to an increased supply of affordable housing in the Borough. There are indications that partners with no intention of developing in the Borough are considering converting properties within the area to affordable rent, which means a loss of a social rented property with no gain for the Borough. The imposition of affordable rent therefore leads to an inequitable outcome for the Borough which has high levels of affordable housing need.

Question 8: Do you agree with the proposed revisions to the Quality of Accommodation direction to reflect the expiry of the original target date for compliance?

Officers comments: As the local authority has already met its target it has no comments on this issue. See however concerns raised in question 6.

Question 9: Energy efficiency is implicit in the revisions to the Quality of Accommodation Direction; should we make it more explicit?

Officers comments: This issue is adequately covered by the current direction.
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Home Group

Home Group is one of England's largest registered providers of affordable rented housing. We house over 110,000 people in our general needs and supported housing stock. Our vision is to help our customers and clients to open doors to new opportunities and healthy lives. Our role is to provide choice and high quality, customer and client driven housing, care and support, and neighbourhood services and products.

We will know that we have succeeded when:

- Our customers, clients and regulators tell us that we are consistently delivering good value, high quality products and services, with choice and tailoring which meets the needs of individuals and communities' specific circumstances;
- Our customers and clients tell us that we have helped them improve the quality of their life or helped equip them to take advantage of more or new opportunities; and
- The communities in which we operate are healthy and vibrant.

We therefore welcome the freedoms and flexibilities that the reform of social housing offers to meet local needs and local priorities; make better use of resources; promote fairness; and ensure that support is focused on those who need it. We are keen to ensure that the way in which the reforms operate meets our promise to put customers and clients at the heart of everything we do; create opportunities for individuals and families; and build strong, healthy communities. Our response reflects these priorities.

1. Does the draft direction on tenure set out the relevant factors that registered providers should consider when deciding what type of tenancy they should offer and issue?

We welcome the flexibility that the draft direction on tenure gives and the focus on creating sustainable communities.

Security of tenure has been for large numbers of households the foundation which has allowed them to rebuild their lives, focus on getting back into work and get their children into stable education. If, through the introduction of flexible tenancies, our role becomes one of provider of temporary accommodation, a place from which those who are able are expected to move on, and only the most vulnerable will stay, this could seriously undermine all efforts of building sustainable neighbourhoods. We therefore welcome the flexibility that the draft direction gives for providers to decide how to deliver the outcome, which focuses overtly on ensuring that the sustainability of the community as well as the needs of individual households are taken into account. We will work closely with local authorities to consider fixed term tenancy options where there is local support and clear demand evidenced through discussions with local authority partners.

2. Does the draft direction on tenure set out the right minimum requirements for a registered provider's tenancy policy?

As a leading provider of care and support services we recognise the difference that appropriate and stable housing can make to vulnerable clients. We therefore welcome the fact that the draft direction on tenure aims to ensure that tenancy policies take into account the needs of those households who are vulnerable by reason of age, disability or illness, and households with children, including through the provision of tenancies which provide a reasonable degree of stability. However, the explanatory notes state that there is an expectation on providers to pay particular regard to vulnerable tenants and children, for example through the provision of tailored interventions where tenancy conditions are not being met and by providing additional support through any complaints or appeals process. In our opinion this needs to be more clearly stated in the draft direction and suggest the following amendment:

“2(f) their policy on taking into account the needs of those households who are vulnerable by reason of age, disability or illness, and households with children, including through the provision of tenancies which provide a reasonable degree of stability *and the support that will be available to help people sustain these tenancies.*”

3. Does the draft direction set out the right minimum protections for tenants of registered providers?

Home Group aims to create opportunities for individuals and families that help them to improve their quality of life. We believe that ensuring that existing secure and assured tenants are guaranteed a tenancy with no less security should they choose to move to another area, for example, to take up offers of work will empower people to take up new opportunities as they will have the knowledge that their housing situation is relatively protected. However, clarification is needed about the situation for tenants seeking a mutual exchange. Currently, following a mutual exchange each tenant takes on the other person's tenancy. This does not accord with the guarantee that a tenant choosing to move will not lose their existing security of tenure.

4. Do you agree with the principle and detail of our proposed direction on mutual exchange?

Home Group sees the introduction of the mutual exchange standard as a positive step in helping social tenants to move locally and across the country.

Home Group sees the introduction of the mutual exchange standard as a positive step in helping social tenants to move locally and across the country. We welcome the recognition in the direction that providers will need to take reasonable steps to signpost people to the scheme via accessible channels and that support must be provided to those who do not have access to the internet. However, we believe that the direction could go further to make it clear that registered providers must provide support to all those current and potential customers wishing to access and use the mutual exchange service. This would not only include providing access to the internet but also, for

example, housing officer support to register and search for matches where people do not feel confident about using the system.

5. Do you agree with the principle and detail of our proposed revisions to the direction on tenant involvement and empowerment?

As a social enterprise Home Group is in a strong position to help the government deliver some of the concepts underpinning the 'Big Society'.

Home Group's vision is to help our customers to open doors to new opportunities and healthy lives. Our 'Opening Doors' strategy sees Home Group doing what it can to assist in the gradual creation of a society characterised by stronger links between individuals and within communities - a society with greater levels of cohesion, equity between individuals, less reliance on state based solutions to provide support and above all the encouragement of greater social mobility. As a social enterprise Home Group is in a strong position to help the Government deliver or make concrete some of the concepts underpinning the 'Big Society', which is very much aligned to our wider community based ethos. We want to offer our customers the opportunities to make more choices about their homes, care and support services of their neighbourhoods. We also want to work with them to raise aspirations, helping to empower them to take up new opportunities that will increase social mobility.

We therefore aspire to more than the existing direction on tenant involvement and empowerment sets out and believe that the proposed revisions go some way towards achieving our vision, recognising as they do the need to give tenants opportunities to be involved at all levels of decision making as well as being involved in managing and running services. However, the draft direction is very explicit in mentioning that tenants should be given the opportunity to influence and be involved in:

"4(v) the management of repair and maintenance services, such as commissioning and undertaking a range of repair tasks, as agreed with landlords, and the sharing in savings made"

We believe that this direction is too specifically focused given that the feasibility of the Tenant Cashback scheme has yet to be fully tested. Instead, we propose that the direction should refer to giving tenants a range of opportunities to be involved in the development, management and running of services in a way which equips them with the living circumstances, supportive community, personal skills and opportunities that they need to become more self reliant.

6. What types of models for involving social tenants in repair and maintenance services are registered providers likely to offer, how many tenants might participate in these and what costs and benefits might they result in?

The concept of creating customer and community capital through encouraging customers to undertake basic repairs and maintenance of their home and neighbourhood in return for rewards will go live in a series of pilots run by Home Group in the autumn. There will be 75 homes in each pilot area and customers will opt in to take part on a voluntary basis. Participants will be required to take out contents insurance and not be in arrears with their rent. Each of the three areas will run a different model:

- **Pilot 1** takes the form of a rent holiday. If the customer follows the terms and conditions as agreed, they will be rewarded with a rent holiday of four weeks.
- **Pilot 2** offers a cash reward in advance. If the customers follow the terms and conditions they will receive a payment in advance then six months later they will receive a further payment.
- **Pilot 3** offers a cash reward in arrears. Again if the customers follow the terms and conditions they will receive a payment after six months and then another payment six months later.
- A fourth area will form a control sample.

For the cash pilots, payment will be made either via BACs or in-kind through a B&Q card. The success of the pilots will be measured on the basis of improvements in the property, cost to repair and customer satisfaction. The types of repairs and maintenance that customers taking part on the pilot will be expected to carry out include fixing leaks and unblocking drains, internal painting and decorating and fixing door handles and locks and other fixtures and fittings. They will also be responsible for some external maintenance – for example, ensuring even paving within their grounds. Home Group is partnering with B&Q and offering training to customers taking part.

We believe that this scheme will offer a number of benefits to customers:

- Enable tenants to save reasonably significant sums of money – which could be used for example to help them pay a deposit on a property, buy a vehicle to help them find employment, fund a business start-up or access training.
- Help encourage and reward positive tenancy behaviour, helping to instil pride in communities – currently we penalise tenants for infringements of their tenancy agreements but do not conversely offer any incentives for people who do look after and care for their home and neighbourhood.
- Help provide tenants with transferable skills and training which in turn could help them access employment or start businesses – this in turn would help move people away from the benefits trap.

7. Do the proposed revisions to the rent direction adequately reflect the introduction of Affordable Rent?

The changes to the direction on rent are minimal and we believe that they adequately reflect the introduction of the Affordable Rent model.

8. Do you agree with the proposed revisions to the Quality of Accommodation direction to reflect the expiry of the original target date for compliance?

We agree with the removal of the fixed date for compliance with Decent Homes from the Quality of Accommodation direction and with it being replaced with the idea that landlords will now instead be required to maintain properties at that standard provided that this is consistently monitored. This is the minimum that customers should expect and we aspire to improve the quality of our stock yet further to a minimum 'Home Group Standard'. However, we believe it is right that any future direction on quality of accommodation should be set by the regulator in consultation with tenants and landlords and that the proposed directions are therefore simply a reaffirmation of the Decent Homes Standard.

9. Energy efficiency is implicit in the revisions to the Quality of Accommodation direction; should we make it more explicit?

We believe that the Quality of Accommodation direction should be explicit about energy efficiency.

The regulations as drafted are familiar to registered providers through the Decent Homes Standard and ensure residents have a base level of thermal comfort through adequate insulation etc. However, with fuel poverty growing and energy prices continuing to rise we believe that they could go further and include explicit reference to energy efficiency. This will not only improve our customers' quality of life but also ensure that the housing sector keeps up its focus on contributing to the Government's ambitious carbon reduction targets through involvement in initiatives like the Green Deal, Renewable Heat Incentive, Feed-in Tariffs and Energy Company Obligations.

Housing Law Practitioners Association

Question 1 : Does the draft direction on tenure set out the relevant factors that registered providers should consider when deciding what type of tenancy they should offer and issue?

1. The factors set out in the draft directions particularly at 2 (2) and 3 (g) are, in general terms, those that should be considered. However, we suggest that more detail would be helpful ie spelling out what is meant by “tenancies which are compatible with ...the needs of individual households”. For example that where a flat in a block is being let, that a family including babies or infant children would be let on the ground floor, particularly where there is no convenient lift access, or that taking into account the needs of vulnerable households could include the availability of particular services or facilities as day care or a social centre.
2. As the relevant part of the Consultation Paper (para 48) and the draft direction 2 (3) refer to “preventing unnecessary eviction “ at this point, we would also expect the Regulator to make it clear, in setting the Tenure Standard, that possession proceedings should only be used as a last resort, after the registered housing provider has failed, through working with the tenant, to resolve any difficulties that have arisen. Registered providers should be required to comply with the relevant protocols as the Protocol for Possession Claims based on Rent Arrears, and any relevant Government guidance. In the context of anti-social behaviour the *ODPM's Anti-Social Behaviour Code of Guidance 2004* (which does not at present apply to private registered providers other than Housing Action Trusts) @ para 4.10 gives examples of the range of actions social landlords can take. Relevant policies of the provider should also be complied with. Possession should not be sought where it would be disproportionate to do so – applying to *Manchester CC v Pinnock [2010] UKSC 45* (Judgment 3/11/10) and *LB Hounslow v Powell [2011]UKSC 8* (23/2/2011. Registered providers should be encouraged to make inquiries to establish the personal circumstances of the tenants and their families which could be relevant to proportionality.
3. The standards should also require registered providers to apply the same considerations to any decision to evict following a possession order being obtained, namely at the time that a warrant for possession is sought.
4. In the context of unnecessary eviction also, the standard should also restrain private registered providers from using Ground 8 Schedule 2 Housing Act 1988 (mandatory possession order where the tenant is in 8 weeks arrears of rent (weekly tenancy) or 2 months (monthly tenancy) both at the date of service of notice of seeking possession and the hearing), particularly where arrears are low and/or are the result of delay in processing housing benefit claims. The effect of such a standard would be to require any social landlord to justify any eviction on grounds of rent arrears as being proportionate (An Amendment to the Localism Bill has sought to remedy this to some extent but it is not known at present whether it will form part of the Bill).

Question 2 Does the draft direction on tenure set out the right minimum requirements for a registered provider's tenancy policy?

5. We note the revised draft tenure direction sent out by the Minister by letter dated 28/7/2011, essentially to the effect that a flexible tenancy is ordinarily to be of 5 years duration save in exceptional circumstances to be identified in the Tenure Standard. We observe that HLPAs in its earlier response did not agree with the flexible tenancy proposal (para 19). We also note the following from the DCLG's summary of the consultation responses titled "Local decisions: next steps towards a fairer future for social housing: Summary of responses to consultation" :- "A large majority of respondents expressed the view that two years [the Government's proposed minimum term] would rarely or never be enough for a general needs social tenancy" (para 3.24).
6. The main reasons given by respondents were concern about stability for the individuals, social cohesion and the administration costs for landlords. There was a significant degree of consensus in favour of five years although many respondents wanted to have the option of two year fixed terms in appropriate circumstances (paras 3.25/6).
7. We welcome the Government's response to these concerns.
8. Under this question we comment on the use of the term "probationary tenancy" (paras 50/51 Consultation Paper, draft direction 2 (4) (a) (b)). Probationary tenancy is not a legal term. In the local authority sector introductory tenancies and in the housing association sector assured shortholds perform the probationary role. For the sake of clarity we suggest that the term "probationary tenancy" should be defined in the Tenure Standard.

Question 3 Does the draft direction set out the right minimum protections for tenant of registered providers ?

9. We agree that where existing social housing tenants move they should not retain their existing security of tenure. We note that the phrase "social housing tenants" is not defined. We have no additional comments

Question 4: Do you agree with the principle and detail of our proposed direction on mutual exchange.

10. We have no comments on the principle. On detail we note that the only reference to the assistance of those without access to the internet is that they be provided with "reasonable support" and that the examples given in para 58 of the consultation paper refer to access to computers in public buildings or the housing officer acting for the tenant. We suggest that para 2 (d) could be strengthened by the addition of the words "to ensure that all tenants have an equal opportunity to participate in mutual exchange"

services". Registered providers should also be reminded of their equality duties

11. Those without such access will include vulnerable people. We think the importance of providing them with assistance is emphasized. How that can be done should be spelt out and examples given – including paper applications, if necessary.

Question 5: Do you agree with the principle and detail of our proposed revisions to the direction on tenant involvement and empowerment

Question 6 : What type of models for involving social tenants in repair and maintenance services are registered providers likely to offer, how many tenants might participate in these and what costs and benefits might they result in?

12. We welcome these proposals to set standards by which tenants are given a wide range of opportunities to be involved in the formulation of their landlord's policies, decision making and management and their landlords are to support them in doing so.
13. We emphasise that in carrying out those functions, the provision of information to tenants or their representative panels is vital. While we welcome the reference to an annual report on repair and maintenance budgets (draft direction 4 (1) (b)(iii)) we consider there should be a requirement of regular (say 3 or 6 monthly) reports with relevant information on all the issues identified at 4 (2) (a)

Question 7 : Do the proposed revisions to the rent direction adequately reflect the introduction of Affordable Rent

14. We have no additional comment

Question 8: Do you agree with the proposed revisions to the Quality of Accommodation direction to reflect the expiry of the original target date for compliance

Question 9 Energy efficiency is implicit in the revisions to the Quality of Accommodation Direction: should we make more explicit ?

15. HLPAs would view with concern any exemption from complying with the Decent Homes Standard. If there is to be such, then that must be for specific and pressing reasons, eg substantial backlog, with no current reasonable prospect of compliance, and any period of exemption must be specific as to what it relates to (eg as to the particular standards being relaxed), the length of the period and as short as can reasonably be required
16. Energy efficiency is an important issue and should be made explicit.

Conclusion

17. We hope these comments are helpful.

David Watkinson,
Barrister, Garden Court Chambers
29th September 2011

Housing Partners

9th September 2011

12 SEP 2011

Grant Shapps MP
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Dear Grant,

I share your aim of increasing mobility in social housing. I genuinely do not believe that the approach being taken is the right one.

Direction to the Housing Regulator that requires social landlords to provide a good quality mutual exchange service is completely sensible. What makes little sense is attaching a rider that puts a regulated market in place and closes a working and effective open market. This is what TenantXchange will do.

The voluntary commercial agreement that underpins TenantXchange creates a commercial but unregulated group that, by one member one vote, can do whatever it wants to do in the future. This commercial group will not be under the control of Central Government or the Regulator yet all social landlords will be required to use its services. A commercial quango is being created to replace a working and open marketplace. I do not understand why you want to do this?




I continue to work with the CLG on this scheme but my concerns are being put to one side in the rush to push this through which is dangerous to the whole scheme in my view.

Firstly, I'm concerned that the wording and meaning of the Direction to the Regulator on Mutual Exchange is unclear and therefore the outcome of consultation on this point will be profoundly unsatisfactory.

Secondly; the agreement behind TenantXchange has moved away from that which we agreed when we met and a voting mechanism has been added. This makes the new agreement dangerously flawed as the small players can eject the large.

To make matters worse the latest clarification I have from the CLG makes it clear that the intention of the Direction to the Regulator is, in effect, to introduce a ban on using services other than those signatories to TenantXchange. My choice then becomes to agree in a hurry, or lose my business and that is an unfair position in which to be put when my concerns are fair and reasonable and when I have contributed a very significant amount of time and resources to make this a workable and sustainable scheme.

Housing Partners Ltd, Evesham House, Whittington Hall, Whittington Road, Worcester WR5 2ZX
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Further, I believe that the Direction to the Regulator as it currently stands amounts to government regulation by the back door. Government regulation however it is disguised may well be seen to be an infringement upon my civil liberties and all that entails including compensation payments.

I will return to the debate with the officials in the hope they will listen. My observation to you is that this has not been thought through thoroughly and its flaws will quickly be picked up by social landlords, their member organisations and the housing press. In its present form the agreement is more likely to damage the mobility marketplace rather than enhance it.

Our shared objective is to make the marketplace for mutual exchange more effective. The current measures create a mechanism for putting the largest and most successful provider of social housing mobility out of business and that is counter to your aims.

I look forward to your reply.

Yours faithfully,

John Carthew
Housing Partners Limited

Housing Plus

Question 1: Does the draft direction on tenure set out the relevant factors that registered providers should consider when deciding what type of tenancy they should offer and issue?

The proposed new definition is helpful in that it provides flexibility for making best use of stock. However, this is a big change to the original Standard and there is a concern regarding the lack of mention of security of tenure, particularly for existing tenants. This could cause confusion and concern amongst tenants, particularly the elderly and vulnerable.

It may be sensible to make a stronger reference to the use of tenure for linking to, or taking account of, wider tenancy strategies. This could help with developing partnership approaches to housing issues.

Providers will need to take account of local housing needs and supply in their decision making. It is important that other Government consultations that may influence this decision making (such as the proposals around identifying housing need and undertaking Housing Market Assessments in the draft National Planning Policy Framework) are taken into account and that these proposals are not developed in isolation from other policy developments.

Question 2: Does the draft direction on tenure set out the right minimum requirements for a registered provider's tenancy policy?

The emphasis on clarity and transparency of policy are positive, although many providers operate in this way as a matter of course. Appeals are important and these can be dealt with via existing complaints processes but this should not "swamp" the service to the detriment of other complainants. A clear policy should reduce appeals and more could be made of this.

It is very important to consider the needs of vulnerable people in the tenancy policy. It needs to be recognised that intervention or tailored support is vital to prevent problems escalating and such services should be encouraged. However, it is important that other Government consultations that may influence this (such as the proposals around changes to Housing Benefit for supported housing) are taken into account and that these proposals are not developed in isolation from other policy developments.

Question 3: Does the draft direction set out the right minimum protections for tenants of registered providers?

As discussed above in the response to Question 1, we would like to see some specific security for existing tenants, particularly the elderly and vulnerable.

The extension of some probationary tenancies for a further six months should be seen as an exception and linked to specific improvements in behaviour, interaction with agencies etc. Bluntly put, if behaviour is not good enough after

twelve months it is not likely to improve in a further six unless given some guidance and incentive to change.

Question 4: Do you agree with the principle and detail of our proposed direction on mutual exchange?

The concern with the suggested approach is that by non ICT literate tenants may be excluded or not be able to take full advantage of the scheme. Providers are encouraged to help, and many do, but there are often problems with access to suitable ICT infrastructure in rural areas where there is no high speed broadband for example. Additional costs for support and providing infrastructure will need to be met by providers and ultimately tenants.

A subscription based service is fine in theory but the size of any fee will be an issue as an additional cost to providers, particularly those with higher turnover of property which will mean higher usage fees.

There may be data protection issues if some tenants do not want to have their personal information made available individually or collectively to a computer system for mutual exchanges. This will need to be managed carefully within any new system.

Question 5: Do you agree with the principle and detail of our proposed revisions to the direction on tenant involvement and empowerment?

The strengthening of scrutiny is welcome and many providers are already developing their own approaches to this in partnership with their tenants.

More details are needed for the “right to manage”, particularly what is seen as “appropriate”. Many tenants do not want to manage their own homes and are clear that they pay a provider to do this.

The suggested wording of the Directions seems to be concentrating more on tenant involvement via management than other involvement activity. The word “empowerment” has also been dropped.

Question 6: What type of models for involving social tenants in repair and maintenance services are registered providers likely to offer, how many tenants might participate in these and what costs and benefits might they result in?

It is too early to say and we would like to see the results of the pilots before commenting further. It may be worth a further round of consultation once the pilot results are known and the impacts can be properly thought through and assessed.

Question 7: Do the proposed revisions to the rent direction adequately reflect the introduction of Affordable Rent?

These proposals only apply to housing associations and there is no “level playing field” with local authorities.

There needs to be a clear definition of inflation (RPI or CPI) so that providers can make accurate estimates of rental income to help with their budgeting and business planning.

Rents at 80% of the market level are unlikely to be affordable. Any proposals in this area must take account of the planned changes and restrictions to welfare benefits, particularly Housing Benefit. There does need to be a “joined up” approach in this area.

Question 8: Do you agree with the proposed revisions to the Quality of Accommodation direction to reflect the expiry of the original target date for compliance?

In principle, yes. However, there needs to be a definition of “decent”: is this still a national standard (as with the Decent Homes Standard) or one to be agreed locally with tenants? The proposed wording of the Direction is vague (for example, “reasonably modern” and “reasonable state of repair”) and there needs to be clarity about the categories of hazard with a link to the HRSS rating system or equivalent).

The commentary on the proposed definition at paragraph 71 also suggests that extensions are only for local authorities. If this is the case, it needs to be made clear but is again an example of an “unlevel playing field”.

Question 9: Energy efficiency is implicit in the revisions to the Quality of Accommodation Direction; should we make it more explicit?

Yes, this will emphasise the importance of energy efficiency. It may be sensible to widen this out to “sustainable housing” to include alternative power sources, micro generation, solar panels etc.

Hull City Council

Consultation with staff, tenants and elected members has informed this response.

Draft direction-tenure

1. Does the direction set out the relevant factors that should be considered when deciding what type of tenancies should be offered?

- We welcome the flexibility that the draft directions provide for local circumstances to be taken into account.
- We consider that, except in exceptional circumstances, lifetime tenures should be the normal tenure in this area which has low average household incomes and for a high proportion of the population market housing is not affordable.
- Flexible tenancies are not likely to promote social cohesion and sustainable neighbourhoods
- We feel that short term tenancies do not facilitate investment by tenants in their own homes and neighbourhoods as short term tenancies do not promote a perception of security.
- The direction on the “efficient use of stock “ could be subject to different interpretations

2. Does the direction on tenure set out the right minimum requirements for a tenancy policy?

- Yes, but the timing of new tenancy policies should follow the publication of local tenancy strategies.
- We recognise that for national private registered providers with homes in different geographical areas that this may pose difficulties. National providers will need to develop a range of tenancy models and agree to apply them to new lettings in specific local areas based on local requirements as set out in the Tenancy Strategy for the area.

3. Does the direction set out the right minimum protections for tenants of registered providers?

- Greater clarity is needed on the level of security that an existing secure tenant will have if they choose to move as the text in the direction is ambiguous.
- It is assumed that preservation of security of tenure for protected tenants who choose to move only applies to transfers within their landlord’s stock (or any successor landlord on stock transfer). We do not think it should apply to people applying to another landlord or moving a result of a mutual exchange.
- The direction that tenants who have been moved as a result of redevelopment works should have a tenancy with no less security when they return to their original home is supported

4. Do you agree with the principle and detail of our proposed direction on mutual exchange

- We agree with this and already subscribe to a web based service in Hull - House Exchange.
- The landlord or mutual exchange service provider should provide information about other mutual exchange systems to tenants so they can choose whether to pay to subscribe to additional services.
- An implication of tenants with different tenancies mutually exchanging is that this may produce an inequitable result, if for example, a tenant with a lifetime tenancy exchanges with someone with a flexible fixed term tenancy. There should be a duty of care on the landlord to counsel tenants on the implication of mutual exchanges and any changes in tenancy conditions.
- Consideration should be given to some form of declaration of any known problems or disputes similar to that required of a seller of a house to a potential buyer.

Draft direction- tenant involvement and empowerment

5. Do you agree with the proposed revisions to the direction on tenant involvement and empowerment?

- The proposals are supported. They reflect Hull City Council's current tenant involvement model.
- We are working with tenants to establish an Independent Review Panel and good progress is been made regarding terms of reference

6. What type of models could there be for involvement in repairs and maintenance, how many tenants might participate and what costs/benefits might they result in?

- Our current tenant involvement model provides tenants with opportunities to influence repairs and maintenance policies and to scrutinise the quality of repairs.

Cash back schemes

- A cash back scheme will be complex to introduce requiring changes to tenancy conditions and consultation of all tenants
- The benefits of the economies of scale that a large landlord can negotiate will not be available
- Hull City Council can reclaim VAT for repairs but tenants would not be able to do so
- There will be legal implications in respect of existing repair contracts and contracts will need to be varied and potentially damages paid
- It will require a system for checking quality of repairs which will result in additional costs.

- If the quality is unsatisfactory, the repair will have to be redone by the landlord in some cases, due to the need to maintain the safety of the stock.
- It is anticipated that rents might actually need to rise as a consequence of funding a cash back scheme.
- If tenants fit non standard components this will result in increased maintenance costs to the landlord
- It potentially could result in housing benefit payments being reduced as a result of a cash back payment and this would be to the tenant's detriment.
- Our initial discussions with tenants suggest that there is little demand for a cash back scheme
- Opportunities exist already for tenants to carry out improvement works with permission to tailor their home to meet their own preferences.
- Tenant involvement options can also extend to maintenance of the local environment such as communal gardens if tenants and landlords wish to pursue such options
- Consideration could be given to negotiating discounted options for tenants from local DIY stores etc to assist tenants to adapt their home to meet their own tastes
- The results of the pilot cash back schemes are awaited with interest and will inform the council's thinking in this respect

Draft direction-rents

7. Do the proposed revisions to the rent direction adequately reflect the introduction of the Affordable rent?

- It would appear to adequately reflect the introduction of the new Affordable Rent tenure. We note it applies only to private registered providers in the direction.

Draft direction: quality of accommodation

8. Do you agree with the proposed revisions?

- Revisions are agreed to be minor. We aim to maintain stock at the decent homes standard

9. Should the reference to energy efficiency be explicit?

- Addressing fuel poverty needs to take into account a wider range of actions from a range of partners
- The direction should direct social landlords to aspire to best practice in addressing energy efficiency

Hyde Group

Introduction

- 1 The Hyde Group (Hyde) is one of the largest housing associations in England. We own or manage more than 46,000 properties across London, the Midlands, the East and South East of England.

Question 1: Does the draft direction on tenure set out the relevant factors that registered providers should consider when deciding what type of tenancy they should offer and issue?

- 2 The draft direction on tenure does set out the relevant factors registered providers should consider when deciding what type of tenancy to offer.

Question 2: Does the draft direction on tenure set out the right minimum requirements for a registered provider's tenancy policy?

- 3 The draft direction on tenure sets out the right minimum requirements for a registered provider's tenancy policy.

Question 3: Does the draft direction set out the right minimum protections for tenants of registered providers.

- 4 The draft direction does set out the right minimum protections for tenants of registered providers.

Question 4: Do you agree with the principle and detail of our proposed direction on mutual exchange?

- 5 We accept the principles and details of your proposed direction on mutual exchange. Hyde already subscribes to internet based mutual exchanges services and provides support to tenants without internet access.

Question 5: Do you agree with the principle and detail of our proposed revisions to the direction on tenant involvement and empowerment?

- 6 Whilst we agree with the majority of the principle and detail of the proposed revisions to the direction on tenant involvement and empowerment, we are concerned by the introduction of the 'Tenant Cashback scheme' into the draft directions.
- 7 We do not object to the principle of the Tenant Cashback Policy, but are wary of its introduction in the draft directions. We do not believe registered providers should be subject to regulation on this policy. 'Policy passporting', such as this, is inappropriate and goes against the intentions of the 'directions to the regulator' established by the Cave Review.

Question 6: What type of models for involving social tenants in repair and maintenance services are registered providers likely to offer, how

many tenants might participate in these and what costs and benefits might they result in?

- 8 Hyde tenants are already involved in repair and maintenance services through formal involvement structures. Residents have input into contract specifications and can be involved in the recruitment and selection of contractors.
- 9 We are unable to say what a 'Tenant Cashback' scheme will look like. We await the findings of the pilot projects with interest.

Question 7: Do the proposed revisions to the rent direction adequately reflect the introduction of Affordable Rent?

- 10 The proposed revisions to the rent direction adequately reflect the introduction of Affordable Rent.

Question 8: Do you agree with the proposed revisions to the Quality of Accommodation direction to reflect the expiry of the original target date for compliance?

- 11 The Quality of Accommodation direction should provide a fixed date each year for landlords to comply with the Standard. It should also recognise that the Decent Homes Standard is not a fixed property attribute and the state of repair and modern facilities elements are age-related. If landlords are required to meet the Standard in every home at every moment, they will have to undertake a great deal of inspection and corrective work earlier than sensibly necessary.
- 12 It would be more efficient to allow some tolerance for compliance, for example by allowing 5% of the stock to fail at any one time, with no single property failing for more than a year. This tolerance would allow landlords to use their surveying and works resources more effectively. However, HHSRS category 1 hazards should not be included: if found these need immediate rectification.

Question 9: Energy efficiency is implicit in the revisions to the Quality of Accommodation Direction; should we make it more explicit?

- 13 The Quality of Accommodation Direction should be more explicit in its focus on energy efficiency. The current energy efficiency elements in the Decent Homes Standard are extremely low and do not adequately deal with homes with poor energy efficiency that cannot easily be improved. A minimum SAP rating should be used to assess the energy efficiency of stock rather than specify energy requirements for individual elements. The Hyde Group has set itself a target that all of its rented homes will achieve a minimum SAP rating of 60 (using RDSAP2005) by March 2016, which requires the worst-performing homes to be tackled. This will have the greatest impact upon those tenants in poorly-performing homes struggling to afford affordable warmth.

- 14 Few landlords have SAP ratings for their entire stock, so if a minimum-SAP approach was taken, it would need to be phased in.

Incommunities

Overall comments

Incommunities welcomes the publication of 'Implementing social housing reform: directions to the Social Housing Regulator' as part of the debate on developing social housing.

Incommunities is working collaboratively with the council and other landlords (both housing association and private sector) to make the best use of stock and meet housing needs.

We are keen to find pragmatic and workable solutions to the issues arising from a growing need for a relatively scarce resource (social housing).

We welcome the ability to use the flexible tenancy regime where appropriate, but believe that registered providers should be given discretion as to what policy and criteria they adopt with regard to the use of flexible/fixed term/periodic tenancies.

Ending the tenancy of those who gain employment or otherwise improve their situation is a disincentive to work and risks creating concentrations of residual housing. This has negative implications for creating and maintaining balanced, sustainable communities and will reduce stability and security for individual households and families.

Social housing is a key part of the housing landscape and should continue to play an integral role in the mixed housing economy. It is important that social housing is not seen purely as a 'stepping stone' or transient tenure, but is also a valuable tenure in its own right. For many tenants it is the most appropriate form of tenure in the long term.

Our response

This response is from Incommunities' Executive Management Team and Board Members.

Question 1: Does the draft direction on tenure set out the relevant factors that registered providers should consider when deciding what type of tenancy they should offer and issue?

Registered providers (RP) have flexibility in statute to offer a range of tenancies; fixed term assured, periodic assured short-hold and fixed term assured short-hold can all, strictly speaking, be used for the same purpose as a flexible tenancy. RP's are however constrained by the Regulator's standards. The current standard requires RP's to 'offer and issue the most secure form of tenancy compatible with the purpose of the housing and the sustainability of the community'. This means that the majority of tenancies granted are periodic assured tenancies. The proposed change to the direction removes the requirement for RPs to offer the most secure tenancy.

However it is vital that RPs retain the freedom to create long-term/periodic tenancies to respond effectively to the diverse range of tenant's needs and the local housing market. As the Government has emphasised, these are decisions that are best taken at a local level and should not be imposed.

The use of fixed length tenancies will have major resource implications for RPs in administering such a system. One alternative is to legislate for a statutory ground in the tenancy agreement for a flexible tenancy. This is a clearer and simpler method which could be subject to a test of reasonableness in court and provides effective protection of tenant's rights in a way that current proposals do not. It can be enforced as the need arises, instead of the RP having to predict at the outset what length of tenancy is required. It will be cheaper to administer and avoids wasteful and expensive administrative processes for renewing fixed terms over time for a tenant whose circumstances don't substantially change.

Should the use of fixed term tenancies be enforced, it is essential that they are well managed so that stability and security that tenants currently benefit from is not removed. Security and stability allow tenants to put down roots in a community, find employment and act as a platform for households to realise their aspirations. There is clear evidence that changing schools and having education disrupted can lead to poor educational outcomes. We also have vulnerable tenants who have in many cases had a long series of temporary and insecure homes. Facing continuing insecurity will do nothing to assist recovery and the rebuilding of lives.

For Incommunities there will be a requirement to agree any policy on tenure with the local authority as the Stock Transfer Agreement contains a covenant requiring us to issue assured tenancies in the current format. This may be the case for other LSVTs.

The tenure proposals also have a range of legal implications:

- The ability to grant fixed term tenancies (as opposed to assured tenancies for life) could call into question the position of Charitable RPs.
- The law currently requires tenancies for over three years to be under seal and over seven years to be registered at HMLR. The Bill includes provision to reverse these rules in relation to leases of up to twenty-one years.
- There are knock on effects for legislation such as the Section 11 L&TA repairing obligation which only applies to leases of less than seven years; legislation will be required to preserve this.
- There may be SDLT payable if the threshold is reached. SDLT is payable on an NPV calculation of the value of the rent over the term of the lease.
- Section 13 HA 1988 rent increases only relate to periodic tenancies. All rent increases in a fixed term tenancy would therefore need to be set out in a rent increase contractual provision in the tenancy agreement and not through Section 13.

Question 2: Does the draft direction on tenure set out the right minimum requirements for a registered provider's tenancy policy?

The draft direction identifies the main points that need to be addressed on an RPs tenancy policy. We welcome the flexibility to determine safeguards and criteria at a local level. However developing an approach which has appropriate regard for the Local Authority's Tenancy Strategy will be problematic for RPs with stock that is dispersed throughout the country.

Question 3: Does the draft direction set out the right minimum protections for tenants of registered providers?

We are fully supportive of protecting the security of tenure of existing social housing tenants but believe this security should also be protected if an existing social housing tenant moves from a social rent property to an affordable rent property.

Question 4: Do you agree with the principle and detail of our proposed direction on mutual exchange?

In principle the mutual exchange direction is positive but there are some concerns about the detail. The focus on internet based schemes will disadvantage those that have no internet access or are unable to use a computer. Our experience with CBL self service has shown that many of our customers are not IT literate and the resources needed to provide support can be burdensome. Thought should be given to offering a paper based option alongside this scheme.

We would also question whether in the current economic climate if we should be putting additional resources into supporting moves where there is no substantive reason.

Question 5: Do you agree with the principle and detail of our proposed revisions to the direction on tenant involvement and empowerment?

We are supportive of greater tenant involvement and empowerment and support this section of the draft direction and have already developed a wide range of successful and creative opportunities for involvement which suit our tenants. The narrow focus on the selected mechanisms of tenant's panels and cash-back for repairs would appear to do little to facilitate greater involvement, particularly of those with diverse support needs.

Question 6: What type of models for involving social tenants in repair and maintenance services are registered providers likely to offer, how many tenants might participate in these and what costs and benefits might they result in?

Whilst we understand the concept of enabling tenants to carry out their own repairs and have control over their own budgets, we have grave concerns about the practicality of this. Any repairs that were carried out would need to be checked, from a health and safety/quality control perspective and in terms of value for money. If we were to put in place a process for this, the costs are likely to be over and above the current cost of quality control. Clearly costs of rectification may also be substantial for poor work. There are also issues of the control of demand and spend when this potentially results in a perverse incentive to increase repairs demand through cash incentives for customers; repairs could potentially be generated through deliberate damage and there is a wider issue of controlling improvements as opposed to repair. The only

method possible to deal with this is probably through the introduction of a wasteful and bureaucratic pre-inspection and permission system, increasing the establishment at the expense of repairs on the ground, and even then there is no guarantee that this will establish deliberate damage from genuine repair. It is highly likely that this system will increase demand and expenditure on responsive repairs and squeeze out planned programmes, making decent homes impossible to deliver.

There is a chance that tenants themselves may carry out repairs, which could lead to significant health and safety problems. All properties will have tenants subsequent to the current ones and they will have to live with the impacts of any repairs carried out beforehand. Operatives carrying out work undertake a range of training on health and safety, risk assessments, use of tools etc and in most cases have years of experience. Most tenants have no such experience or training.

A lot of effort has gone into establishing current contract arrangements, whether these are delivered by in-house teams or private contractors and achieving economies of scale. We are concerned that this will be undermined by a piecemeal approach to repairs and maintenance. Tenant representatives are already involved in how most contracts are drawn up and providers are selected.

Tenant Cashback in its current form will not add value to the repairs and maintenance service. The Government should wait for the outcomes of the pilots before issuing regulation in this area, and also keep the wording loose enough to allow landlords to consult with their tenants about how they want to be involved in repair and maintenance, rather than there being a requirement.

Question 7: Do the proposed revisions to the rent direction adequately reflect the introduction of Affordable Rent?

Yes, the proposed revisions adequately reflect the introduction of affordable rent.

Question 8: Do you agree with the proposed revisions to the Quality of Accommodation direction to reflect the expiry of the original target date for compliance?

We are supportive of the revisions to ensure that compliance with Decent Homes Standard is part of the Regulator's standards in the same way as other standards. But it does risk creating a directly enforceable right which considerably extends the section 11 and contractual repairing obligation.

Question 9: Energy efficiency is implicit in the revisions to the Quality of Accommodation Direction; should we make it more explicit?

The proposed direction states that the Regulator must have regard to the Decent Homes Guidance in setting the Quality of Accommodation Standard. This guidance is already clear about what is required; therefore energy efficiency does not need to be made more explicit in the revisions to the Quality of Accommodation Direction. It would be possible to link this in with the Government's new Green Deal scheme, but it is difficult to comment in advance of the secondary legislation which is due this Autumn.

Islington Council

Islington welcomes the opportunity to respond to the consultation paper “Implementing social housing reform: directions to the Social Housing Regulator “.

In our response to the consultation paper on “**Local decisions: a fairer future for social housing**” we made clear our opposition to ending lifetime tenancies – the choice should be for the tenant to decide how long they want to remain living in community and the tenure - not landlords. The move to different types of tenancies will put at risk the sustainable communities we seek to create as families may not be afforded the same opportunities to settle in local communities and feel secure.

We do not accept that providers should offer different types of tenancies to different household types. A distinction between different groups of tenants implies some are more deserving than others, when all have already been assessed to be in substantial housing need. Having a consistent standard of secure, lifetime housing is much easier and fairer to deliver without the complications caused by exception and varying length. The existing tenancy standard should not, therefore, be changed.

The council as a landlord will therefore, continue to provide secure lifetime tenancies for new as well as existing tenants as we think this is the best way to ensure social housing continues to help future residents achieve their aspirations in Islington.

Having made these general, but very important, points we recognise that other social housing providers may be planning to issue different types of tenancies and would, therefore, like to respond to the particular questions posed in this new consultation document. Our responses are set out below linked to the questions to which they are related.

Question 1: Does the draft direction on tenure set out the relevant factors that registered providers should consider when deciding what type of tenancy they should offer and issue?

This council is in opposition to ending lifetime tenancies. We do not accept that providers should offer different types of tenancies to different household types.

Issuing different lengths of tenancies to different household types is potentially divisive and could create real or perceived unfairness in the allocations system.

There will also be added complication when properties are advertised through choice based lettings systems.

The key issue for providers in developing their tenancy policies is the weighting ascribed to the different factors. The importance of weightings highlights the complexity for providers in developing tenancy policies. This

seems to add an extra layer of bureaucracy and confusion for vulnerable tenants to manage, after they have already gone through the often complex process of local authority housing registers.

Question 2: Does the draft direction on tenure set out the right minimum requirements for a registered provider's tenancy policy?

As indicated in our response to the previous question we think that the introduction of different tenancy lengths has the potential to be confusing for tenants and there is a risk that it will be perceived to be inequitable. For this reason it is very important that providers produce tenancy policies that clearly set out how tenancy decisions will be made and applied. It is essential that residents and prospective residents are involved in the development of these tenancy policies. In our experience tenants are very interested in these areas and as part of tenant scrutiny arrangements providers should fully consult on and regularly review their tenancy policies. This requirement should be set out in the standard.

We support the inclusion of tackling tenancy fraud and preventing unnecessary evictions in the requirements for a registered provider's tenancy policy. We also support the explicit expectation that providers will offer tailored intervention for their most vulnerable residents. We also support the inclusion of setting out how tenants can appeal or complain about tenancy decisions to ensure processes are as transparent as possible.

Tenancy policies also need to be clear about how decisions will be made whether to extend tenancies at the end of the fixed term period. There is a risk that flexible tenancies are used as a means to resolve tenancy issues by simply not renewing tenancies at the end of a fixed term period. The best way to mitigate this risk is through effective housing management through the duration of the tenancy.

The directions should include the requirement that tenancy policies also set out providers' approach to keeping rents affordable, which is particularly important in high-rent areas like Islington.

Question 3: Does the draft direction set out the right minimum protections for tenants of registered providers?

The draft directions do not offer sufficient protection for tenants of registered providers. Whilst we appreciate the amendment to the draft directions that states two year tenancies should only be used in exceptional circumstances we do not think this goes far enough. We would prefer to see this enshrined in legislation.

The effective minimum tenancy duration of five years is still insufficient for the vulnerable residents who are likely to require long-term access to social housing. Tenants need to be protected by secure life time tenancies.

We do appreciate that the flexibility around the length of tenancy offered has been retained, as this ensures the council can continue to issue secure tenancies. We also support the expectation that tenancy policies should explain how providers will take account of the needs of vulnerable households – including through the provision of more stable tenancies. However, as explained above everyone who is granted a social tenancy is in housing need, and all would benefit from longer or secure tenancies.

We support the guarantee of no less secure tenancy for existing tenants moving within the social housing sector. This is very important to ensure mobility is not constrained by the new flexibilities around tenancy length, and is essential to support our work on making the best use of the housing stock to help tackle overcrowding and under-occupation.

Question 4: Do you agree with the principle and detail of our proposed direction on mutual exchange?

Islington supports the requirement on providers to provide their tenants with access and support to use mutual exchange databases. It is also vital that registered providers pro-actively promote mutual exchanges and we are pleased that this expectation is included in the directions. Online mutual exchange membership is a service we already offer in Islington and last year we facilitated more mutual exchanges than any other local authority in London. We recognise that there is more scope to get tenants moving the more registered providers are proactively involved.

We also welcome the requirement to support tenants who do not have access to the internet, particularly as this is more likely to be the case with older people who are more likely to under-occupy larger accommodation. Again, this is something we already offer but appreciate the difference that the requirement for our RPs to do the same could make. However, we would be concerned about consistency and level of support to be offered by individual providers and what, if any, test will be applied to ensure this requirement is being met. The support should also be provided directly rather than through signposting to statutory or voluntary sector organisations unless financial or other resources are made available for this purpose.

We think that the focus on online mutual exchange databases could limit success and that there is the potential for exploring the use of texting and other interactive services as a way of promoting mutual exchange. Given the need to encourage social mobility, the maintenance of face-to-face advice, use of paper systems and locally held registers remain important due to the numbers of people who do not have access to the internet. We recommend that the direction is expanded to include promotion and development of these services rather than just online databases.

The scope for mutual exchanges is limited and there is an urgent need for a more extensive national mobility scheme to remove the current discrimination against social housing tenants who are unable to move to another area unless

through mutual exchange. All social landlords should be required to participate in a mobility scheme.

Question 5: Do you agree with the principle and detail of our proposed revisions to the direction on tenant involvement and empowerment?

We agree that with the end of external regulation resident scrutiny offers the best local strategy to balance the risks and opportunities granted by the new localism freedoms. Resident scrutiny can ensure that providers remain accountable to their residents and that services continue to improve.

In Islington elements of resident scrutiny are already embedded in our resident involvement structures, for example our performance management committee which gives residents the opportunity to scrutinise and challenge contractors' and our ALMO's performance. We are committed to further developing the level of resident scrutiny in Islington and fully support the requirement on other registered providers to do the same. We appreciate the flexibility in this direction to develop a 'best fit' locally for resident scrutiny and agree that tenant panels should be able to choose whether they want to fulfil the function of a designated person for the purpose of referring complaints. We have some concern that the proposed 'democratic filter' in the complaints process will mean some complainants will have an additional step to go through before their complaint is considered by the Ombudsman. This may be frustrating for residents.

We also support the principle of feeding back on performance to tenants. However, we question whether an annual report is the best format in which to do this. There may be more innovative, cost effective ways to do this that are more likely to engage residents. The level of prescription in this area seems to go against the principle of localism which underpins the directions.

Question 6: What type of models for involving social tenants in repair and maintenance services are registered providers likely to offer, how many tenants might participate in these and what costs and benefits might they

We do not currently offer tenants the option to carry out or commission their own repairs and receive a share in any savings. We have not fully researched or consulted on this model and therefore cannot give a full response on the implications for the service at this stage.

Previous consultation with residents has raised issues about the equity of such an approach. We have previously consulted with our residents on providing additional repairs (above and beyond the agreed policy) to tenants at an additional cost. The proposal set out in the direction is similar in that it would provide a reduced service at less cost (because residents would share in the savings). Our residents gave very clear feedback that they would not support this policy because of the equity issues for tenants, particularly vulnerable tenants, such as those with disabilities or older tenants, who may find it more difficult to undertake their own repairs and therefore would have

no choice but to pay more for the service. A full equality impact assessment must be completed before a requirement to offer this should be included in the directions.

In addition, there are potential housing management risks around inviting tenants to carry out their own repairs. The cost of identifying the repair as 'day-to-day', and ensuring that the repair has been carried out may actually negate any savings from not actually carrying out the repair. The expectation that tenants would share in any savings could also be costly to administer. Tenants carrying out their own repairs could also result in complications around insurance and other liabilities as their repair work may not have any guarantee or warranty attached to ensure quality and compliance with any health and safety requirements and therefore could not be recalled. We already experience many repair problems resulting from unsafe and poorly carried out works and alterations made to our properties without our knowledge or approval. This often results in repair problems experienced by neighbouring residents and significant additional repair costs for us to put things right. We would have concerns that this problem may increase if tenants are encouraged to tackle repair tasks themselves or make inadequate arrangements for others to carry out work on their behalf in order to claim cash-back on the repair component of their rent charge. Detailed work would need to be done to assess risks and mitigate against these risks in the development of a local policy to implement the standard. For this reason, we would support flexibility around if and/or how this should be implemented and would want to consider the level of success of the pilots before being required to comply with this direction. We would welcome further clarification of the expected timeframes for providers to get schemes up and running.

Question 7: Do the proposed revisions to the rent direction adequately reflect the introduction of Affordable Rent?

The revisions to the rent direction are in line with the amendment to the rent element of the tenancy standard. However, we do not support the introduction of affordable rents because rents at up to 80% of open market are not affordable to those who we have a duty to help in Islington.

Question 8: Do you agree with the proposed revisions to the Quality of Accommodation direction to reflect the expiry of the original target date for compliance?

We are on target to complete the Decent Homes programme by the end of the year and based on proposed terms of the HRA the self-financing settlement projections are confident that we can continue to maintain our homes to this standard going forward. We support the retention of the extended deadline for registered providers who have not met the standard. We also support the flexibility to discuss the application of the standard to certain sections of a provider's stock.

A local authority provider's ability to maintain its stock to the Decent Homes standard is dependent on the funding available. It should also be recognised

that even under self-financing there will not be a level playing field between local authority and private registered providers which will impact on the ability to raise funds to invest in housing stock.

In the future, we think that the focus on the standard of accommodation should shift from Decent Homes to decent neighbourhoods. Providers should be given the freedom to make rational asset management decisions based on the cost of maintaining accommodation, or on the area as a place to live, rather than on the age of internal components. This would ensure that social housing can compete as a tenure of choice going forward.

Question 9: Energy efficiency is implicit in the revisions to the Quality of Accommodation Direction; should we make it more explicit?

In line with the theme of flexibility and localism which runs through the directions we support principles around improved energy efficiency requirements. Islington has been and continues to be at the forefront of energy efficiency improvements to reduce fuel bills for residents. However, when resources are constrained it is important not to place too many burdensome requirements on registered providers. Rather than introduce a target around energy efficiency perhaps the directions could introduce a more general duty on providers to take steps to maximise the energy efficiency, and reduce fuel poverty of their properties wherever possible.

Isos Housing

Question 1: Does the draft direction on tenure set out the relevant factors that registered providers should consider when deciding what type of tenancy they should offer and issue?

The draft direction reflects the Government reforms by confirming the 'move away' from the traditional requirement for 'the most secure' form of tenure.

It is clear that RSLs may offer different types of tenancy according to *'the purpose of the accommodation, the needs of individual households, the sustainability of the community, and the efficient use'* of the stock.

Question 2: Does the draft direction on tenure set out the right minimum requirements for a registered provider's tenancy policy?

The direction clearly outlines the key points to be included in a tenancy policy. Importantly, social landlords have flexibility in decision making. Choices can be made to reflect local and individual need e.g. we can still offer lifetime tenancies if we wish.

Question 3: Does the draft direction set out the right minimum protections for tenants of registered providers?

It is important that we continue to have the ability to offer the most appropriate forms of tenure as possible, especially with regard to our more 'vulnerable' residents.

As we can now offer longer 'starter' tenancies, this is beneficial for both landlord and tenant.

The draft direction sets out clearly the circumstances in which our existing tenants are guaranteed the same level of security if they wish to move home.

Question 4: Do you agree with the principle and detail of our proposed direction on mutual exchange?

We believe that mobility and choice of accommodation have become increasingly important, especially due to the current global financial crisis and the associated impact on employment and public services.

Isos already operates best practices in the field of mutual exchange. We participate in several internet based mutual exchange services linked to sub regional Choice Based Lettings (CBL) schemes.

Overall, we recognize the importance of mobility within the social housing sector. Mobility is key in facilitating the creation of strong, healthy, sustainable communities and buoyant local economies. Isos is fully committed to both participating in any new national home swap scheme and enhancing existing transfer and mutual exchange mechanisms.

Question 5: Do you agree with the principle and detail of our proposed revisions to the direction on tenant involvement and empowerment?

We agree with the principles in the direction and believe that tenant involvement and empowerment in decision making is key to the functioning and success of Isos.

Perhaps a specific direction by central Government is not required as tenant involvement and scrutiny is 'best practice' throughout the sector. For example, the Isos Board of Management includes tenant representatives and we have established two 'Area Panels' linked to the Board that provide customer involvement in decision making.

Question 6: What type of models for involving social tenants in repair and maintenance services are registered providers likely to offer, how many tenants might participate in these and what costs and benefits might they result in?

It is our belief that the Government does not need to direct the Housing Regulator (and in turn RSLs) regarding how to manage repair and maintenance services and whether tenants should be involved in this process.

The wording of the direction does not explicitly refer to the 'Tenant Cashback' scheme, but Isos feels that for reasons of financial viability, there should be limits to resident involvement in this area.

Isos encourages tenants to be active, either as individuals or as groups. Tenants have a vital role to play in designing and managing repair and maintenance services.

Through completing repair satisfaction surveys, tenant feedback helps us to improve our housing stock and repairs services. Tenant involvement makes sure repairs services offer best value (both planned and responsive maintenance).

Tenants already have influence over many planned maintenance works such as colour choices for flooring and walls in communal areas. In addition, residents have the choice of the style of replacement kitchen they want.

In future our tenants are likely to influence decision making with regard to housing stock improvements and repairs policies, procedures and practices.

Best practices could involve tenant involvement in key areas such as (this list is not exhaustive):

- Selection of materials and components that are used e.g. the type of kitchen units, bathroom fittings and wall tiles.

- The level of planned maintenance to be done, such as how many kitchen units are fitted, where power points are located and whether tenants have showers over baths.
- The way a contractor's performance is to be measured.

Question 7: Do the proposed revisions to the rent direction adequately reflect the introduction of Affordable Rent?

This direction reflects the guidance we have already received concerning how we will have to amend our policies and practices regarding setting and offering Affordable Rent properties following the introduction of the new Affordable Homes Programme Framework.

Question 8: Do you agree with the proposed revisions to the Quality of Accommodation direction to reflect the expiry of the original target date for compliance?

We feel this direction reflects what is happening currently in the sector. The main difference in this direction seems to be that RSL homes must 'contain no category 1 hazard'. This is not necessary to include in a direction as RSL lettable standards already place health and safety as a 'top priority'.

Question 9: Energy efficiency is implicit in the revisions to the Quality of Accommodation Direction; should we make it more explicit?

There is no need to make the direction more explicit. RSLs develop and maintain homes that are far more energy efficient than those in the private sector. The thermal comfort of tenants is a priority.

Our planned maintenance programmes ensure that improvements are made to the fabric of buildings (often above Building Regulations requirements). Where funding is available, Low and Zero Carbon (LZC) technologies are introduced to dramatically increase the energy performance of buildings. An increase in the energy efficiency of a home also helps tackle the problem of fuel poverty.

Jennifer Kelley (Tenant of Harrogate Borough Council)

Question 1

The draft direction on tenure does set out the relevant factors that registered providers should consider when deciding what types of tenancy they should offer and issue.

The paragraph on page 24 of Annex A, 2.2, that the Regulator, now the TSA, but soon to become the HCA, must set the tenure standard with a view to achieving, as far as possible that registered providers issue tenancies which are compatible with the purpose of the accommodation, the needs of individual households, the sustainability of the community and the efficient use of their housing stock, is very significant. There could be many pitfalls here in that every registered provider is different in their needs and requirements.

2.3 is also significant and the end result of all the listed tenure standard requirements must be monitored. I feel very strongly that because of the proposed 'flexible tenancies' we could have a situation where the people compelled to move on after 2 years may find themselves homeless again. Yes we may be giving more homeless people a chance of accommodation, but ultimately this may not have a long-term satisfactory outcome.

In the foreward to the consultation document Grant Shapps states that in implementing the reforms on Tenure we will respect the rights of existing secure and assured tenants. In annexe A there is no specific statement to this effect and therefore one should be added.

Question 2

The draft direction on tenure sets out the the minimum requirements that the government believes are appropriate for a registered provider's tenancy policy

However, dependent on the registered providers requirements, it is indeed hoped that the tenancies granted are compatible with the tenant/tenants concerned. I am of the opinion, as with all government-led institutions, the desire for a 'blanket approach' to solve long-term problems never works - that said there is an opportunity for registered providers to use their discretion in granting flexible tenancies and it is hoped that they do exercise this. Where vulnerable groups are concerned great care should be taken in assessing their needs and requirements. This cannot be done quickly and officers of the council should be mindful to approach these assessments sensitively and in depth before a decision can be taken.

Question 3

Although the draft direction stipulates the minimum protections for tenants of registered providers as published by the Regulator for them to participate in affordable rent it is debatable whether this will be successful. Although 80% of the market rent as set is less than for private-rented accommodation it is

still a large increase on previously and due to the reduction in housing benefit within the government reforms this will undoubtedly cause problems.

Question 4

The principle and detail of the proposed direction on mutual exchange is adequate, but care must be taken on the part of registered providers to support tenants, particularly where there is a lack of internet access.

Question 5

The principle and detail of the proposed revisions to the direction on tenant involvement and empowerment is appropriate, but whether this will work in practice remains to be seen and to this end I would suggest an PIR is carried out 1-2 years after the commencement of this regarding each registered provider.

It is important that the registered providers do give support to the new groups which are formed in order to implement empowerment and furthermore it is also essential that the correct information is supplied to those groups by the registered providers so that they are able to scrutinise the services on behalf of tenants. Officers should be supportive and mindful that several problems can arise as with anything new and empowering tenants does not mean that they should not support them in every way possible and they should seek to consult with groups during and after each training session if training is given.

The regulator should be aware that although empowerment is encouraged by some providers (we are fortunate here in Harrogate that this is the case), that not all providers do encourage this. With this in mind monitoring should be carried out with a report required from each provider stating what measures have been offered to tenants to empower them.

Question 6

In the document Tenant Cashback Scheme, downloadable as a PDF document, offered with this consultation document, several options are suggested and option 2 is the one most favoured by the regulator at the present time. However, in Option 2, page 22, it does state that it could result in added expenditure to the provider for running tenant cashback schemes. I believe that although in principle the idea is appropriate perhaps in order to implement it would result in expenditure in excess of the savings. This is because there is such a difference in tenants' views and capabilities on something like this to implement it could be expensive because of the time incurred on the part of the officers concerned. There needs to be consultation in depth with tenants about this generally and to this end I would suggest focus groups offered by each provider to assess how tenants feel. There may be a thought that if the tenant is putting time and money into the property, even if savings are given, they may feel they want more of a 'right to buy' the property concerned. Again, as before, this type of scheme may not be appropriate for some groups of tenants - vulnerable and elderly for instance -

it is not just about the age and type of the property.

In the document Tenant Cashback Scheme it is suggested that a PIR takes place 3-5 years afterwards. This is too far ahead and should be implemented 1-2 years following the commencement.

Question 7

The proposed revisions to the rent direction appear to adequately reflect the introduction of affordable rent, as this standard only applies to private registered providers. This measure has been long overdue and hopefully this will mean that there are more accessible properties available, bringing rents more 'in line' with other registered providers.

Question 8

The proposed revisions to the quality of accommodation do adequately reflect the expiry of the original target date for compliance.

Now the date of compliance for the 'Decent Homes' Standard has expired it is reasonable to expect every registered provider to meet this requirement. In the consultation document it does state that an exemption would only be granted to local authorities with a backlog of work now and then only in exceptional circumstances in the future - this statement refers to Annex A in which it mentions in 6.4 that an exemption may be granted in certain cases.

Question 9

The Regulator should indeed be more explicit in its revisions concerning energy efficiency to the Quality of Accommodation Direction. The revisions should reflect an assessed energy efficiency reading for each property, as with privately owned property.

John Selway (River Fusion)

Preamble

I am a Private Accredited Landlord operating in the Sandwell area where my family have been letting for over 60 years. For almost three years, and up until recently, I was a member of the Executive Board of Sandwell MBC Strategic Housing Forum but following a major reorganisation which involved staff redundancies all representation from the private sector was removed. This, for the foreseeable future, will have the effect of removing all private sector input at strategic level even though the private sector will be providing by far the vast majority of accommodation for those requiring it. The comments are necessarily short in view of the limited timescale from my receiving a copy of the report to the latest date for submission to the officers involved. I can quote quite a number of actual instances that have framed my views. I am forwarding a copy of these comments to Sandwell MBC and Sandwell Homes which is an arms length management organisation.

My intention with these comments is to create the environment acceptable to both sides which joins up the empty properties with those prospective tenants that want them. I consider this document to be only the start as there is much work to be done to achieve this objective but with full and open co-operation from all sides the present situation can be substantial improved – it is an alert to resolve the issues involved.

General Observations

The provision of housing between the social and private sectors is out of balance and this factor does not help to resolve the housing problem, in fact it makes it far worse. The imbalance is caused by two main reasons: firstly, the private sector cannot match the rents in the Social Housing Sector in that they are often 50% below those in the private sector and, on average, are for better accommodation (Social Housing Providers have been able to receive grants to bring their houses up to a “Decent Homes Standard”). Secondly, the vast majority of properties within the Private Rented Sector (PRS) were built before 1940 and, as such, their maintenance and the work necessary to bring them up to “Decent Homes Standard” costs substantially more (for which no grants are available). If the Government is seriously wishing to engage the PRS then there must be a level playing field with the Social Housing Providers, particularly in relation to the two main problems outlined above. Over recent months Local Authorities have attempted to set up a Choice Based Letting Scheme to include the Private Sector but, without redressing this imbalance, it has little chance of success; indeed the present schemes are not working. Prospective tenants, even with funds, will always choose the cheapest, and the option of a “right to buy” discount will always win over the properties offered in the private sector.

These problems between the public and private sectors need to be addressed as a matter of urgency in that housing, like all things, is more likely to work when in balance. For too long now the housing problem in a particular area

has been regarded as two separate sections, ie public and private, and in many respects it is. However, I firmly believe that this should come under one heading and must be treated as such. Social housing should be for those who genuinely cannot afford to rent/buy their own home and a system must be designed to encourage tenants to follow a natural progression from social housing to the private sector. This should be an attempt and means of encouraging people to stand on their own two feet: this will hopefully in time re-invent a sense of achievement whether it be by renting or some form of purchase – such a system must encourage this natural progression.

Presently there is a surplus of rented accommodation available in my area due to a shortage of funds to enable prospective tenants to access private accommodation and consequently rents have, over some years, remained static and in some cases even reduced – this in turn is putting more pressure on the social housing providers. There are far too many tenants on the social housing lists for the wrong reasons – I have recently lost a tenant who openly admitted that the family was moving solely because they could buy the Local Authority house after four years at a large discount and pay half rent in the meantime. Conversely, I had a prospective tenant apply for one of my houses but would only take a tenancy if they could buy my property after four years for the same discount! There are three further points which need to be addressed. Firstly, Local Authorities must make more effort to bring a large number of bad landlords and agents back into line, secondly, in general, persons on benefits do not look after properties so well as those in work – Insurance companies have recognised this problem for some time and have increased their premiums accordingly and, thirdly, each private landlord caters for a different type of letting of which the main categories are as follows – families (non-housing benefit), professional lets/new apartments, housing benefit (a declining minority), all groups including single people, homelessness and vulnerable people, student lets (non-housing benefit) and asylum seekers/refugees/care leavers, and this will have a bearing on the type of tenant each landlord is willing to accept.

As regards the insurance of properties for occupation by housing benefit recipients, the number of such companies offering this cover is reducing – I have an email from an insurance broker who approached ten companies to cover me for benefit recipients but all declined. Insurance companies are now introducing other major restrictions in this direction; each of these items will have an impact on accommodation of benefit recipients in the private sector (whilst I can now accommodate tenants on benefits my present insurance has a clause to exclude tenants nominated by Local Authorities. I think this will become a feature of many more insurance policies and is in response to the number of bad tenants in the market).

I think the introduction of changes to the benefit system will have a major impact on the provision of accommodation in both sectors as prospective tenants will always chose the cheapest option. Once priority allocations have been taken out of the social housing pool, it will leave few properties available to the majority of people on the waiting list. Because of the lack of accommodation in the social sector many more tenants will have to look to the

private sector and because the majority of those on social housing lists are on benefit they will have less benefit money due to changes in benefit rules, it will therefore leave them having to top up a private rent without the means to do so. The key to this problem is the lack of jobs in that far too many prospective tenants have no full-time employment and therefore no income apart from benefits which are being substantially reduced – without cash being available they will not be able to access properties in the private sector as private landlords have to produce a net return of between 4% and 8% to make their investment viable and do not welcome prospective tenants who may build up rent arrears. The majority of new jobs being created are on minimum wages and are part time and as such do not provide enough money for families to pay for rents in the private sector.

My Comments on your Paper are as follows.

Foreword – No comment.

Scope Of Consultation – No comment.

Basic Information – No comment.

Introduction – No comment.

Context

Regulation of Social housing 7/10 – No comment.

Reform of social housing regulation 11/14 – No comment.

Delivering regulatory reform 15/16 - No comment.

Reform of social housing 17/19 – See my comments in response to your paper “Local Decisions : a fairer future for social housing”. The essence of my comments is that registered providers in general would never be able to satisfy the demand for low cost housing as prospective tenants will always choose the cheapest option for their circumstances. As mentioned in my Preamble above, there should be a hierarchy in the properties supplied by registered providers. In doing this it would provide for a continuing flow of properties for those that genuinely cannot afford economic rents. As mentioned in Sections 27/31 below, those that are able to afford properties in the private sector should be encouraged to leave their subsidised properties and go into private accommodation and the way of achieving this is to charge rents which could be above economic rents, ie 120% of the market rents in a particular area. This additional 20% over the parity with the private sector would, I think, be sufficient to encourage tenants to move into the private sector, thus allowing more properties to become available for those that are the bottom end of the income bracket. Registered providers should be allowed the full freedom to develop this system.

Tenure Reform

20/22 – No comment.

23 – Registered providers should have the essential power to tackle problem tenants whether it be by interventions or removal from their accommodation. The private sector has had these problems for many years and for any landlord there must be sufficient powers to remove problem tenants from their property.

Mobility 24/26 – I think this is admirable and is absolutely essential for tenants who can follow employment opportunities in all parts of the country. As employment becomes more difficult such a system must be continually monitored to ensure that labour is able to be moved from one part of the country to another.

Affordable Rent 27/31 - See my comments in 17/19 above. The maximum of 80% of local market rents will always lead to tenants remaining in registered providers accommodation and therefore those tenants who are receiving sufficiently high incomes should be encouraged to seek accommodation in the private sector, otherwise they will never leave and the lists of those requiring such accommodation will increase indefinitely. I think it is absolutely essential that tenants should be means tested as over the years I have had experience of tenants in the social sector receiving a substantial income by operating businesses from their registered providers' accommodation. Therefore, by having a rent in excess of the average in the private sector for that area, would encourage them to go to that cheaper accommodation.

Tenant Cashback 32/35 – Whilst the idea of tenant cashback on the surface appears to be a reasonable choice I think it is fraught with difficulties. In my local area the moment a tenant leaves all previous tenant improvements to the property are removed by the registered providers under the guise of Health & Safety problems, even though some are excellent and up to reasonable modern standards. This leads to two things, waste of money and delaying the release of the property back into the market whilst bringing the property back to registered providers' standards (for which funds are not always available which means the property lies empty until such funds become available) which are, on many occasions, inferior to the alterations carried out by the tenants. It has also been very galling to see excellent previous tenants' alterations being consigned to skips outside the registered providers' accommodation. Many tenants have carried out these works without the need for a cashback and I see no reason why this scheme should be introduced as the more money available within the sector can be directed to fulfilling more urgent needs.

Decent Homes Programme 36/38 – I see no problems with these targets as all such homes should meet the "Decent Homes" standard. The registered providers seem able to access funds easily for this purpose and locally "Decent Homes" account for something like 90% of their

properties so I see no reason why the target set should not be achieved: however it is very galling that, as the majority of private rented accommodation was built before 1940, there is no assistance to the private sector to bring their homes up to “Decent Homes” standard and many are declining in condition because many landlords and private owner/occupiers do not have the available funds to spend on their property and therefore the general condition of those properties is already falling behind. This, in turn, is persuading prospective tenants to go the registered providers rather than the private sector which in my area has a substantial number of vacancies. Older type properties are never going to match up to the standards provided by the registered providers even though, structurally, the older properties are better built and therefore more durable.

Localism Bill : Changes to direction powers 39/41 – No comment.

Commentary On Proposed Directions

General Principles 42/55 – I am not clear of the intentions of this section as I cannot see why there should be a difference between accommodation provided by registered providers, vis-à-vis others, ie Local Authorities.

Direction of Tenure 46/49 – No comment.

50/54 – In general no comment but in regard to probationary tenancies there should be a system to make sure that tenants do not become bad tenants after the expiration of the probationary period as very often seemingly good tenants go to pieces.

Direction on Mutual Exchange 55/60 – In general no comment but the idea of mutual exchanges is very good.

Direction on Tenants Involvement and Empowerment 61/65 – In general no comment but see comments above on Tenants Cashback Model 32-35.

Direction on Rents 66/68 – In general no comment but there should be no difference between the formula for traditional social rents and those provided by the registered providers.

Direction on Equality of Accommodation 69/71 – No comment.

Annex A : Proposed Directions

The Directions on Regulatory Standard

Citation, Application and Interpretation Section 1 – No Comment.

Tenure 1 – No comment other than comments on 3(d) and 4(a), see my

comments in general observations above.

Mutual Exchange 3 – No comment.

Tenants Involvement and Empowerment 4 – No comment.

Rent 5 – No comment other than the following. I do not understand why the rent standard should apply to private registered providers only and not to all social housing. Also under Section 5 see comments above: providers should be free to reassess rents at all times to bring them in line with market forces in the private sector and not to be confined to RPI + 0.5%.

Quality of Accommodation 6 – No comment.

Annex B : Consultation Criteria

The Seven Consultation Criteria and this Consultation – No comment.

John Selway
12 September 2011

Kensington & Chelsea Tenant Management Organisation

The comments below are from a focus group of resident Board members of the Kensington Chelsea Tenant Management Organisation deputed to look at the consultation document and are not necessarily the views of the whole Board. I attach responses to the questions that they discussed in detail.

3. Does the draft direction set out the right minimum protections for tenants of registered providers

We welcome the extension to the length of flexible tenancies from two years to five years but we are basically opposed to the introduction of flexible tenancies. We consider that:

- i. It will be detrimental to building stable communities
- ii. It is hard to know how the termination of these tenancies will be decided.

4. Do you agree with the principle and detail of our proposed direction on mutual exchange?

Yes

5. Do you agree with the principle and detail of our proposed revisions to the direction on tenant involvement and empowerment?

Yes

6. What type of models for involving social tenants in repair and maintenance services are registered providers likely to offer, how many tenants might participate in these and what costs and benefits might they result in?

The Tenant Cashback idea looks interesting and we would like to see the results of the pilot.

7. Do the proposed revisions to the rent direction adequately reflect the introduction of Affordable Rent

Because of the high market rents in inner London, we do not see that this as an option for increasing stock in the public sector.

8. Do you agree with the proposed revisions to the Quality of Accommodation direction to reflect the expiry of the original target date for compliance?

Yes

Kirklees Council

Question 1: Does the draft direction on tenure set out the relevant factors that registered providers should consider when deciding what type of tenancy they should offer and issue?

We agree. Kirklees Council is currently reviewing its Allocations Policy and these factors will be taken into account, as part of this review.

Question 2: Does the draft direction on tenure set out the right minimum requirements for a registered provider's tenancy policy?

We broadly agree with the principle of flexible tenancies; for example, making best use of stock. We feel that a minimum of two years flexible tenancy appears too short, although we are aware this would only be in exceptional circumstances.

The circumstances in which a flexible tenancy is granted would need to be very clearly defined and we envisage will be for specific circumstances that fit with local need, and exceptional, rather than usual practice. However we do have concerns around the supporting infrastructure that will be required to have a flexible tenancy arrangement in place in terms of the resources required, both staffing and economic. We are also concerned about the threat of legal challenge in situations whereby the authority decides not to renew the tenancy, and the cost implications of such legal actions.

Additionally we would like to register our concerns about the implication of universal credit and the risks of rising arrears as people struggle to adapt to the concept, culture and reality of having a single, standard amount of benefit from which all household bills, including rent, must be paid.

Question 3: Does the draft direction set out the right minimum protections for tenants of registered providers?

Yes, we agree with this.

Question 4: Do you agree with the principle and detail of our proposed direction on mutual exchange?

Yes, we agree with this

Question 5: Do you agree with the principle and detail of our proposed revisions to the direction on tenant involvement and empowerment?

Yes, we agree with these principles. However we are concerned that the proposed route to the Housing Ombudsman via a tenant panel (or other body which fulfils the role of "designated person") rather than via a complaint registered by an individual tenant, hampers and obscures the complaints process for tenants. It seems to add another layer of bureaucracy which appears contrary to the ethos of a streamlined, easily accessible complaints system.

We have no further comments to make.

Leeds City Council

Introduction

This is Leeds City Council's response to the Communities and Local Government consultation 'Implementing social housing reform: directions to the Social Housing Regulator'

Leeds City Council owns 58,000 properties which are managed by three Arms Length Management Organisations (ALMOs) and the Belle Isle Tenant Management Organisation (BITMO).

The response includes comments from the Leeds Arms Length Management Organisations (ALMOs) and the Belle Isle Tenant Management Organisation (BITMO), and the Leeds Tenants Federation which represents 1500 individuals. And 120 affiliated residents groups. It has also been approved by the Executive Member for Environment and Neighbourhoods.

Question 1: Does the draft direction on tenure set out the relevant factors that registered providers should consider when deciding what type of tenancy they should offer and issue?

Yes, we welcome the requirement for Registered Providers to publish details about their policies on tenancy management, and particularly the reference to tackling tenancy fraud and preventing unnecessary evictions. We also support the requirement to give details of appeals and complaints processes, and to consider the needs of vulnerable tenants and their children.

Question 2: Does the draft direction on tenure set out the right minimum requirements for a registered provider's tenancy policy?

Yes, for landlords deciding to implement fixed term tenancies, we welcome the amendment to the direction that the grant of fixed term tenancies should normally be for five years, with a two year tenancy only being granted in exceptional circumstances. We also agree with the expectation that tenancy policies detail the additional protection to vulnerable households or those with children, and set out the circumstances in which a two year tenancy would be granted.

We support the continued use of the probationary tenancy period and its extension to private Registered Providers.

We also welcome the continued security for existing tenants, but believe the exception for those moving to an affordable rent property may act as disincentive for a current tenant to pursue such a move. However, we accept that it is ultimately left to the local Registered Provider to decide whether to allow continued protection.

Question 3: Does the draft direction set out the right minimum protections for tenants of registered providers?

Yes, the draft direction appears to cover the main issues to be considered for Registered Providers who chose to introduce fixed term tenancies, in particular:

- safeguards for individuals around advice given and appeals
- specific needs of vulnerable households
- the reference to tenancy fraud and preventing unnecessary evictions, tenancy sustainment and achieving best use of stock
- ongoing protection for existing tenants

We also welcome the recognition that Registered Providers need to balance the needs of individuals against the broader context of supply of affordable homes in the locality.

Question 4: Do you agree with the principle and detail of our proposed direction on mutual exchange?

Yes, we welcome the proposed direction on mutual exchanges which will bring a consistent approach across landlords and authorities.

Leeds subscribes to House Exchange, the national web based mutual exchange service which is free to all council and Registered Provider tenants in Leeds and is widely promoted. We also offer support to tenants without internet access who can register at local customer access points or by telephone.

We are participants in the CLG Mobility Vanguard Programme for which we have received grant funding to promote mobility moves cross boundary and cross tenure, many of which will be through mutual exchange. Leeds will be participating in House Exchange's national help line initiative also funded by CLG.

We fully support and will participate in any initiative that enables our tenants' exchange requests to be shared with other mutual exchange service providers across the country in order to increase mobility.

Question 5: Do you agree with the principle and detail of our proposed revisions to the direction on tenant involvement and empowerment?

Leeds welcomes the drive to empower tenants to scrutinise performance more closely as stated in sub paragraph 4 (2)(a)(i – iv) and 4(2)(b) (ii – iii). Comments made on the Tenants Cashback scheme are listed in the response to question 6.

There are already well established tenant and resident groups across the county, and the approach outlined in the consultation is well developed in Leeds for example, by producing an Annual Report to tenants which covers performance information, and through the development of tenant panels. We are keen to ensure a wide range of opportunities for tenants to be represented is available, including tenants who do not want to be actively involved in the day to day management of their homes.

We support the Right to Manage and work with the Belle Isle Tenant Management Organisation (BITMO) in Leeds. The BITMO which manages

over 2000 properties, is the largest estate based TMO in England and one of the longest established TMOs.

We welcome some 'streamlining' of the Regulations especially in regard to the Common Assessment Management process. However, Leeds would like to see the retention of a sufficiently strong and, most importantly, independent assessment process to provide appropriate levels of assurance that groups undergoing Right to Manage are fit for purpose.

In particular Leeds is concerned that the proposed Right to Manage regulations fail to recognise:

- the local authority housing strategy or investment plans or consideration of delivery of housing management services from a Value for Money and efficiency perspective. The proposed Regulations will place additional resource pressures upon the Local Authority in terms of development and monitoring Right to Manage programmes and in the delivery of services through the reduction in economies in scale of service delivery.
- that tenants groups could develop to an advanced stage without providing adequate assurance to local authorities that they have the appropriate level of capability and competency to manage services on its behalf resulting in the tenant group not being fit for purpose. This could later result in a need for intensive monitoring which may be difficult to resource, in addition to potentially failing organisations.
- the mandatory level of tenant support remains weak due to the ballot being based on a simple majority

We believe the current 2008 regulations, specifically Part 2 section 10, which require a ballot or a vote at a public meeting based on a simple majority do not provide an effective way of demonstrating full tenant involvement or a good use of limited resources. We do not feel that the 20% membership requirements of the group should be sufficient assurance to embark on the Feasibility stage where there has been low participation in the ballot or vote. We believe that a more significant level of support should be required before instigating a process which is demanding in terms of resources, time and commitment.

Since 2008, the Regulations have required authorities to enter into a Tenant Management Organisation agreement where a majority of tenants who voted and a majority of secure tenants who voted were in favour. The requirement for a majority of eligible tenants to participate in the ballot has been removed, meaning the Feasibility stage could be triggered on a very low turnout with only a small minority of tenants supporting the proposal.

We do not believe this is the spirit of tenant involvement and could leave authorities exposed to the risk of challenge in addition to investing significant resources to projects which may not be supported by the majority of residents.

We understand the rationale for introducing a common route for social housing complaints through the creation of a single Ombudsman service, but have concerns about how this would operate in practice, as outlined in our response to DCLG's Local Decisions consultation in January 2011.

We believe this is an unnecessary barrier which prevents tenants and applicants from complaining to the Ombudsman directly for the following reasons:

- the introduction of a 'democratic filter' requiring tenants who have exhausted their landlord's complaints procedure to approach either their local tenant panel, MP or councillor, to seek to resolve the complaint or refer the complaint to the Ombudsman adds an unnecessary barrier to tenants, and could result in complaints not being considered by the Ombudsman
- landlords already attempt to resolve complaints as soon as possible, to prevent further escalation
- many complainants are already supported by local members or MPs
- the additional barrier is likely to cause particular problems for people with transient lifestyles who are not settled in one specific ward or constituency
- the 'designated person' of the panel, MP or councillor may still not resolve the complaint to the tenant's satisfaction
- there is potential for conflicts of interest between the views of existing tenants and housing applicants, which could result in a refusal to refer the case
- it is not clear what right of appeal a complainant would have if the designated person refuses to refer the complaint
- the requirement to involve a third party should only be as a result of individual choice
- complaints which concern more than one service area, eg social care and housing, would need to be dealt with separately by the Housing Ombudsman and the Local Government Ombudsman, resulting in duplication
- ultimately, complainants may decide to obtain redress through pursuing Judicial Review

Question 6: What type of models for involving social tenants in repair and maintenance services are registered providers likely to offer, how

many tenants might participate in these and what costs and benefits might they result in?

Tenants in Leeds already have significant involvement in the development of their repairs and maintenance programs through setting contract and service standards; being involved in the procurement of contractors; holding contractors to account through forums; mystery shopping exercises; 'rides out' to view the repairs operation etc.

We understand the potential benefits to tenants from the Tenants Cashback initiative, but Leeds has not undertaken an evaluation of the merits of such a scheme, and would like to see evaluation of the three pilots – operated by Home Group, Hastoe and Green Vale – before commenting on the draft direction. This would enable us to assess the merits of introducing a scheme, and seek assurance that some of the well documented risks (eg health and safety concerns for tenants, potential increased spending if the landlord has to make good any poor repairs etc) can be overcome.

Landlords will need to develop guidance on how schemes operate, for example, would tenants in rent arrears be able to utilise the scheme, and if so, would the arrears be deducted from the amount reimbursed?

Regardless of whether Tenants Cashback is introduced, providers should evidence that tenant satisfaction with the repairs services is high and share this information with tenants.

Question 7: Do the proposed revisions to the rent direction adequately reflect the introduction of Affordable Rent?

Yes, we believe the directions adequately reflect the introduction of Affordable Rent.

However, as stated in our response to the Local Decisions consultation in January 2011, we have concerns about how Affordable Rent will operate in practice.

Question 8: Do you agree with the proposed revisions to the Quality of Accommodation direction to reflect the expiry of the original target date for compliance?

In developing the HRA Business Plan Leeds has ensured that there will be sufficient resources to maintain Decency Homes Standard for the next 30 years. As a result, Leeds is happy with the proposed revision of the Quality of Accommodation direction in that it maintains the Decent Homes Standard.

We also agree with the provision to extend the period for compliance in certain circumstances.

However, there are likely to be other authorities which have yet to complete their decency programme who will be unable to achieve the decency standard because they lack the necessary financial resources. The quality of accommodation is a high priority for tenants. Failure to meet the standard

would leave tenants living in sub-standard homes with no likelihood of improvements being made to their homes.

Question 9: Energy efficiency is implicit in the revisions to the Quality of Accommodation Direction; should we make it more explicit?

We believe that energy efficiency should be made more explicit in the Quality of Accommodation Direction, and that the standards should state a SAP target or link it to an Energy Performance Certificate rating.

Liverpool Mutual Homes

Question 1. Does the draft direction on tenure set out the relevant factors that registered providers should consider when deciding what type of tenancy they should offer and issue?

Yes LMH would agree that the draft direction on tenure sets out the relevant factors that RP's should consider when deciding what type of tenancy they should offer and issue.

Question 2. Does the draft direction on tenure set out the right minimum requirements for a registered provider's tenancy policy?

Yes, however, LMH would prefer to see a greater minimum term e.g. 5 years. A good example would be if there was a probationary period of 12-18ths, this doesn't give RP's much more time before the tenancy would be due for review.

Question 3. Does the draft direction set out the right minimum protections for tenants of registered providers?

Yes the direction does set out the right principal protections for tenants of RP's; the only further consideration would be to ensure a robust appeal stage is incorporated into the decision making process

Question 4. Do you agree with the principle and detail of our proposed direction on mutual exchange?

Yes LMH agree with the principle and detail of the proposed direction on exchanges- LMH are currently pursuing a system to promote mutual exchanges through our involvement in the development of the sub-regional CBL system.

Question 5. Do you agree with the principle and detail of our proposed revisions to the direction on tenant involvement and empowerment?

Yes LMH agree and are implementing the proposed revisions on tenant involvement and empowerment. LMH will consider the revised standards during the period of consultation due to commence in November 2011.

Question 6. What type of models for involving social tenants in repair and maintenance services are registered providers likely to offer, how many tenants might participate in these and what costs and benefits might they result in?

LMH currently allow tenants to influence the repairs, maintenance and improvement service through a variety of different forums and methods, these examine the ways in which the service is delivered to our customers as well as providing feedback as to how affective we are performing. The table below gives an illustration of what is currently in place:

- Review Standards group (monthly)
- Tenant Scrutiny panel (monthly)
- Tenant Inspectors (weekly)
- Policy review (Bi annually)
- Equality Impact Assessments
- Customer Focus group
- Material Selection Panels
- Material Review Panels
- Improvement Works Open Days
- Post Contract Lessons learned

LMH has a “Review Standards Group” which receives papers and reports from officers in relation to any policy changes, giving a “customer Approved” logo to changes it also carries out Performance Reviews across all services to inform the Scrutiny Panel of the areas that require customer inspection/scrutiny. Any changes in costs for the Repairs service is communicated to tenants to provide a full understanding of financial decisions that may affect services.

As can be seen from the above LMH have consistently involved tenants in how the repairs, maintenance and improvement service is delivered. Whilst we agree with the principle of tenant choice in contractor appointment in reality we do not consider that ad hoc “right of repair” type schemes represent value for money. Best practice is undoubtedly a system that supports the development of repair policies and procurement arrangements in partnership with tenants and delivered in such a way that provides clear evidence of value for money. The proposals for a right to repair type scheme appear to increase the risk of incurring a costly, inconsistent and bureaucratic repair and maintenance arrangements that would not necessarily deliver a cost effective service for tenants.

Question 7. Do the proposed revisions to the rent direction adequately reflect the introduction of affordable rent?

LMH understand that Affordable Rents will be run separately to the current rent regime therefore this will involve running a 2 track rent increase system which will clearly place an administrative burden on RP's. If the rent has to be rebased every time the tenancy is reissued or renewed there will be a cost involved albeit that rent received will be higher. However, more generally LMH consider that the revisions do cover the changes adequately.

Question 8. Do you agree with the proposed revisions to the Quality of Accommodation direction to reflect the expiry of the original target date for compliance?

Yes, however, the proposed changes to the quality of accommodation need to provide an element of flexibility to RP's in delivering the required standard for all their properties. There may need to be some element of agreement and

negotiation with the regulator based on the asset management programme and resources.

Question 9. Energy efficiency is implicit in the revisions to the quality of accommodation Direction; should we make it more explicit?

Yes, LMH consider that it should be a mandatory requirement for RP's to comply with energy efficiency requirements and guidance as part of any decency works

Local Government Group

Question 1: Does the draft direction on tenure set out the relevant factors that registered providers should consider when deciding what type of tenancy they should offer and issue?

Local authorities as landlords and leaders of their communities have an important role to play in ensuring the provision of the right type of housing their communities need. It is therefore right that the decision over appropriate tenure options is a local one. For some, lifetime tenancies will remain an appropriate and viable model locally, whilst others will wish to explore using the new flexible tenancy option.

Many of our Member councils believe that a more flexible model will be of some assistance in enabling social landlords to make best use of the properties they own and help reduce waiting lists a little.

However, some of our members have concerns that the new flexible tenancies could also affect adversely the stability of the desired mixed-income nature of communities. For example:

- Longer length tenancies would allow more time for people to be involved in their community, pursue continuous education for their children and also benefit from their built social networks. In regeneration areas more stability might be required.
- For some areas there are significant advantages that the security of a longer term tenancy or lifetime tenancy can bring for many households particularly for workless or low income households with children, in finding and sustaining long term employment.
- There is also a risk of unintended consequences which those local authorities who choose to implement fixed term tenancies will need to manage. For example by encouraging people to stop working when their tenancy is to be reviewed as a way to secure their existing home.

These are risks councils adopting new models of tenancy will have to consider and manage. We are therefore pleased that the government has maintained a voluntary approach to flexible tenancies and will quite rightly leave the decisions relating to the most appropriate form of tenure to adopt to local providers and councils.

We recognise that it is important that all landlords in a locality work together to ensure a coherent approach to tenancy issues in their area and to ensure that tenants and prospective tenants are able to access clear and transparent information about the tenancy offer from providers.

The draft direction on tenure, clause 2 (2), helpfully identifies that the tenure standard should ensure that registered providers *'issue tenancies which are compatible with the purpose of the accommodation, the needs of individual households, the sustainability of the community, and the efficient use of the housing stock'*

However, we are disappointed that this approach is not continued throughout the draft directions. The draft direction on tenure prescribes the specific content of registered providers' policies. This level of prescription is unnecessary and we would encourage government to identify in its directions key outcomes it wished policies to address and contribute to. For example:

- The landlord's approach to tenancy should be based on careful thinking about the needs of the existing and potential tenant population, informed by full and genuine consultation with tenants.
- Very importantly, this includes attention to equalities and diversity ensuring as far as possible that the approach reflects the needs and views of all sections of the community.
- It should also reflect analysis of the housing market context in the area or areas where landlords operate.
- The landlords approach to tenancies should be communicated clearly to current and potential tenants, and should be reviewed periodically.
- To provide to existing and prospective residents a transparent offer about the nature and terms of the tenancy.

Question 2: Does the draft direction on tenure set out the right minimum requirements for a registered provider's tenancy policy?

We understand that the government has amended the draft regulations to specify that tenancies of less than five years should be used by providers in exceptional cases only. This clarification is helpful.

Question 3: Does the draft direction set out the right minimum protections for tenants of registered providers?

In line with our response to question one, we consider that the government should take an outcome rather than prescriptive approach to detailing the content of providers' tenancy policies.

Question 4: Do you agree with the principle and detail of our proposed direction on mutual exchange?

The majority of housing organisations are already part of a mutual exchange service. We welcome the commitment from the government to build on the existing approach and to leave it to registered providers to determine what provider they subscribe to and how they promote and support tenants to access the service. This is likely to minimise the burden on local authorities. We would however expect any new burdens on local authorities to be funded.

Question 5: Do you agree with the principle and detail of our proposed revisions to the direction on tenant involvement and empowerment?

We support the focus on accountability to residents and tenants rather than upward reporting to Whitehall. It is useful that the requirement to publish performance information via an annual report should be developed in a way that suits tenants and providers as determined locally.

Question 6: What type of models for involving social tenants in repair and maintenance services are registered providers likely to offer, how many tenants might participate in these and what costs and benefits might they result in?

It is helpful that the government does not intend to prescribe how registered providers should run local Tenant Cashback schemes. Registered providers already look to work proactively with tenants to involve them in managing repairs and maintenance services. For example; Brighton and Hove City Council have established a new Housing Centre to support co-delivery.

There are a number of issues related to Tenant Cashback on which we would welcome a further discussion with government. We understand the system is currently being piloted and we would hope to see the pilots addressing the following issues:

- Supporting landlords to ensure that repairs are carried out safely and to a high standard.
- Ensuring the scheme does not place landlords at increased exposure to legal challenge.
- Ensuring an equitable and transparent distribution of savings across tenants and providers.
- Assessing the impact of devolving control over maintenance budgets on the overall efficiency from the service. For example, is there a loss of economies of scale?

Question 7: Do the proposed revisions to the rent direction adequately reflect the introduction of Affordable Rent?

The rent standard relates to private registered providers only.

Question 8: Do you agree with the proposed revisions to the Quality of Accommodation direction to reflect the expiry of the original target date for compliance?

The proposed revisions to the quality of accommodation direction reflect the expiry of the original target date for compliance adequately.

Councils are working, in the context of significantly reduced resources, to seek to meet the Decent Homes Standard. However, under the government's proposals in the Localism Bill, the amount councils can borrow for councils housing is capped by government. This will hinder local authorities' ability to invest in new and existing stock.

Question 9: Energy efficiency is implicit in the revisions to the Quality of Accommodation Direction; should we make it more explicit?

Warmth is important to the well-being and health of tenants in social housing, and energy efficiency enables tenants to have warmth at a reasonable cost, mitigating against high energy bills and cold homes. As such, energy

efficiency should be awarded adequate recognition and status. Improvements in energy efficiency as a result of the Quality of Accommodation Direction can only be achieved with adequate funding, available and accessible to social housing providers to enable them to make these improvements.

The Green Deal provides an opportunity for the social housing sector to increase the energy efficiency of its housing stock with no upfront cost to the social housing provider. However, there is a charge that will be assigned to the individual tenant's bills, and as such, social housing providers need to proceed with caution in ensuring that their tenants are getting the best deal.

There is also currently insufficient clarity on the accessibility and criteria of the new 'Energy Company Obligation', which is designed to enable householders who have expensive and hard to treat properties, and who are vulnerable and on low incomes and need heating systems replaced, to have access to funding in addition to the Green Deal. Many householders in social housing are on lower incomes and may have difficulty in accessing the Green Deal due to their financial situation and low energy consumption, particularly if the 'home heating cost reduction target' element of the Energy Company Obligation is not available to the social housing sector, as is currently proposed by the Department for Energy and Climate Change. Such arbitrary restrictions would inhibit the ability of social housing providers to utilise the new funding streams due to be available under the Green Deal and the Energy Company Obligation, damaging their ability to meet any explicit requirements on energy efficiency in the Quality of Accommodation Direction.

In addition, if social housing providers are being encouraged to use the Green Deal to make energy efficiency improvements to their stock, as set out by Greg Barker, Minister for Energy and Climate Change, then the consent process needs to be made clear and simple. Equally, CLG needs to set out clear guidelines to enable social housing providers to access European Regional Development Fund (ERDF) funding for energy efficiency improvements.

London Borough of Ealing

Question 1: Does the draft direction on tenure set out the relevant factors that registered providers should consider when deciding what type of tenancy they should offer and issue?

The draft direction on tenure encompasses the need for greater flexibility for providers. However, most households allocated under the general waiting list are vulnerable, so there is a continued need to offer secure long-term fixed tenancies.

Question 2: Does the draft direction on tenure set out the right minimum requirements for a registered provider's tenancy policy?

The draft direction clearly states the minimum requirements that a landlord's tenancy policy needs to cover. London Borough of Ealing's existing Allocations Policy also contains a review procedure. There are also reviews of tenancy decisions on rents, ASB and Tenancy Management conducted by Director/Executive Directors. We also have a very robust complaints procedure serving as a further safeguard.

Question 3: Does the draft direction set out the right minimum protections for tenants of registered providers?

We believe the draft direction sets out the right minimum protections for tenants, including a minimum tenancy term of 5 years. The vast majority of those currently housed through the general waiting list are either very vulnerable, or households with young children whose housing situation is unlikely to change within 5 years. There is also a resource issue in reviewing fixed term tenancies.

Question 4: Do you agree with the principle and detail of our proposed direction on mutual exchange?

We are strongly in favour of introducing a nationwide social home swap programme providing tenants with an internet-based service. Ealing already complies with this Direction. Ensuring that other local authorities and RP's subscribe will further improve choice for tenants through increasing opportunities to move. Increasing the number of organisations providing nationwide mutual exchange schemes should result in a higher percentage of home swaps.

Question 5: Do you agree with the principle and detail of our proposed revisions to the direction on tenant involvement and empowerment?

We strongly agree with principle and revisions set out in the Involvement and Empowerment standard. We have already developed a scrutiny model, which provides opportunities for tenants to monitor performance. The newly formed Housing Forum brings together residents from across the borough in

monitoring both operational performance information and mystery shopping feedback. Our Forum consists of six members who each lead a team of resident scrutineers. These teams check the level of service residents are receiving, against a robust list of local standards. This group are also working on the Ealing Council Annual Report, which will detail the performance of Housing and Regeneration.

Question 6: What type of models for involving social tenants in repair and maintenance services are registered providers likely to offer, how many tenants might participate in these and what costs and benefits might they result in?

We have developed a Repairs Selection and Scrutiny Panel who participate in the contract letting process and the scrutiny of repairs performance. We work with our residents to draw up a list of local standards for repairs. These standards have been incorporated into the contract performance framework with default notices attached. This has empowered our residents and enabled them to have a real input into scrutinising contractor performance. Residents have also shaped the new contracts with limits put on sub-contractors and emphasis put on the use of apprenticeships.

We do not support tenants carrying out repairs that would normally be the landlord's responsibility because this could result in inconsistency of service, unsafe repairs, and potentially expensive costs from individual service providers.

Question 7: Do the proposed revisions to the rent direction adequately reflect the introduction of Affordable Rent?

We are satisfied that the proposed revisions contained within the rent direction adequately reflect the introduction of Affordable Rent.

Question 8: Do you agree with the proposed revisions to the Quality of Accommodation direction to reflect the expiry of the original target date for compliance?

We have achieved the Decent Homes Standard (DHS) in 100% of our properties and it is our intention to maintain that standard. There are 2 issues here to flag up with the proposed revision. Firstly, there needs to be clarity around the definition of the DHS - there should be reference to a particular date of document so that there can be no confusion as to the benchmark standard. There has been variation in the interpretation of the standard across social housing providers which viewed from a resident's perspective probably isn't a good thing.

Secondly, the document implies that if homes were not kept maintained to this Standard, the Regulator would demand action immediately without recognition of relevant issues. Who would determine what constituted exceptional circumstances? If funding constraints meant a choice between decent homes work and something else with whom would the final decision lie?

Question 9: Energy efficiency is implicit in the revisions to the Quality of Accommodation Direction; should we make it more explicit?

Our view is it would be beneficial to make specific reference to energy efficiency and include increased standards and a requirement for regular review. Energy Performance Certificate ratings would be a useful measure of compliance.

The properties in our housing stock currently have relatively high SAP ratings as a consequence of undertaking Decent Homes work. However, the Decent Homes standard does not include an energy efficiency standard and there is no general requirement for insulation to be fitted in line with current best practice. We recommend that the Building Regulations standards are adopted as a minimum standard within the Quality of Accommodation Standard.

London Borough of Enfield

Introduction

Enfield welcomes the opportunity to respond to the consultation on draft Directions to the Social Housing Regulator which forms an important part of the Government implementation of its Social Housing Reform.

Enfield generally supports the changes to existing directions to the Social Housing Regulator but has significant concerns which are set out in the various sections which follow.

DIRECTION ON TENURE

Question 1: Does the draft direction on tenure set out the relevant factors that registered providers should consider when deciding what type of tenancy they should offer and issue?

Enfield Council agrees that the Regulator should direct registered providers on publishing clear and accessible policies on types of tenancies to be offered and issued, and agrees with the overall proposed outcome of the Tenure Standard (“that registered providers offer and issue tenancies which are compatible with the purpose of the housing, the needs of individual households, the sustainability of the community and the efficient use of their housing stock”). However, the Council believes there are improvements that could be made to the directions as follows:

- Currently there is no mention in the directions for private registered providers¹ (RPs) to have regard to the local authority’s Tenancy Strategy (required by S137 of the Localism Bill) when devising their tenancy policies including rent-setting policies. Not having regard to the local authority Tenancy Strategy may result in LA RP partners not playing a part in achieving key local policy aims.
- there is nothing in the draft direction which specifically addresses achieving ‘efficient use of their housing stock’, particularly the need for RPs to tackle under-occupation.

Question 2: Does the draft direction on tenure set out the right minimum requirements for a registered provider’s tenancy policy?

We welcome the requirement (S1(3)(d)) that the Regulator should indicate to RPs what kind of ‘exceptional’ circumstances should be taken into account when granting a tenancy of less than 5 years.

On the direction to take account of vulnerability (Section 1(3)(g)), the Regulator should define more clearly the vulnerabilities outlined (age,

¹ ie Housing Associations

disability, illness, households with children, etc) and ask RPs to take account of the higher potential for becoming homeless amongst these vulnerable groups and their decreased ability to cope with homelessness.

In addition, in relation to its definition of vulnerability, the Regulator should set out the parameters of a tenancy with a “reasonable degree of stability”. The aim should be providing an environment for vulnerable households where they should not have to face the threat of eviction due to a fixed term coming to an end.

In relation to the activities around the decision by an RP not to reissue a fixed term tenancy (S1(3)(h),:

- the Regulator should require RPs to clearly set out the reasons for not reissuing a tenancy and provide evidence which adequately supports such a decision.
- the Regulator, should require RPs to have regard to the impact of their decision not to reissue a tenancy. This especially so in achieving the aim of preventing unnecessary evictions and homelessness. For example:
 - Obtain evidence of the actual availability of local alternative housing options for a household which meets their particular needs. In Enfield there is already a significant shortage of good quality rented housing in the private sector at rent levels below the LHA cap.
 - Not placing a burden on already limited local authority resources such as creating the need to deal with homelessness applications and providing support to find alternative homes
- Should set out for RPs what would be regarded as an acceptable level of advice and assistance to households who are in this situation.

Enfield welcomes the guarantee set out in Section 1(4)(c) of no less security for existing social housing tenants wanting to move. However, Enfield is very concerned that while there will be a guarantee for security of tenure there is not a similar guarantee for maintaining the rent level for existing social housing tenants moving to an alternative social rented home. Enfield believes that the lack of guarantee on rent levels will reduce choice of housing and work options as well as undermine mobility for existing social housing tenants wishing to move. This is because these tenants may not want to or can not afford the significantly higher rents let on Affordable Rent terms. Nearly 70% of existing social housing tenants in Enfield rely on full or partial housing benefit to pay their rent. Higher rents are likely to increase reliance on housing benefit. It is already difficult for many households to find work in Enfield which pays enough to meet rent payments without resorting to housing benefit. Earnings in excess of £30,000 pa net are required to meet the costs of the proposed levels of affordable rent tenancies in Enfield. Seventy four percent of all households in Enfield have earnings of around £21,000 gross.

The aim of the direction in Section 1(4)(c) should be framed to underpin the Government's other required outcome which is to enable greater mobility within the social housing sector. We would urge therefore that this section of the direction be changed to enable existing social housing tenants to transfer on the same rent levels as they currently have as well as maintaining their security of tenure.

Question 3: Does the draft direction set out the right minimum protections for tenants of registered providers

Bearing in mind our suggestions set out in Question 1 and 2 above, we believe the minimum protections for tenants of registered providers are about right.

DIRECTION ON MUTUAL EXCHANGE

Question 4: Do you agree with the principle and detail of our proposed direction on mutual exchange?

Enfield welcomes the government's principle and detail on the proposed direction on mutual exchange. Enfield's ALMO, Enfield Homes, already subscribes to the national internet based mutual exchange scheme, Homeswapper on behalf of Enfield's tenants. Negotiations are currently in hand with Homeswapper on making improvements to the scheme for its tenant members.

Enfield welcomes the requirement set out for reasonable support to be made available for users who do not have access to the internet (Mutual Exchange, S3((2)(d)). However, the draft direction should explain what is 'reasonable support'. In Enfield's view there should be no barriers to accessing a computer-based mutual exchange system. The aim of the direction here should be enabling active access to all likely users of internet based mutual exchange systems who are not *computer literate* because of age, disability, where English is not the first language or other reasons.

RPs should also be required to monitor who is accessing mutual exchange systems to ensure that everyone who could or needs to access a mutual exchange option is able to do so and take action where access is not representative. This may be particularly important in enabling RPs to make best use of their housing stock. An example would be prioritising active support for elderly under-occupiers wishing to move to enable their full and proper access to mutual exchange systems.

DIRECTION ON TENANT INVOLVEMENT AND EMPOWERMENT

Question 5: Do you agree with the principle and detail of our proposed revisions to the direction on tenant involvement and empowerment

Enfield supports the proposed revisions to the direction on tenant involvement and empowerment. Enfield's ALMO, Enfield Homes, has resident

representation on its Board and has put in place a new resident engagement structure which fulfils the performance reporting and scrutiny principles described in the draft direction.

Question 6: What type of models for involving social tenants in repair and maintenance services are registered providers likely to offer, how many tenants might participate in these and what costs and benefits might they result in?

Enfield supports an increased role for social tenants in the repair and maintenance of their homes and flexibility to set up tailored schemes to enable greater involvement. Enfield agrees with the rationale of greater involvement of tenants in the maintenance of their homes to assist in bringing about greater satisfaction for tenants with their homes, increased well-being for tenants, increased opportunity for gaining skills and the potential for getting some repairs done more cheaply and quickly. Enfield Homes is awaiting guidance and outcomes from the current Tenant Cashback pilot scheme with Hastoe Housing Association. In the meantime, Enfield Homes has already put in place a Repair and Investment Service Improvement Panel involving tenants and leaseholders. The Panel assists with:

- tendering for and selection of contractors
- monitoring of performance on carrying out repairs

Efficiency savings resulting from the Repair and Investment Service Improvement Panel activities will be reinvested in Enfield-owned social housing.

Our additional observations with this initiative include the following:

Any tenant-led repairs and maintenance service would need to have the same regard as landlords to the following issues:

- ensuring value for money
- quality assurance for repairs and maintenance undertaken
- protection of health and safety
- be open to challenge and accountability for risks, costs and uniformity of standards

From the landlord's perspective, the following issues will need to be considered and some reflected in the Tenant Involvement Standard:

- the potential for additional costs arising from inspection of repairs carried out by a tenant-led repairs and maintenance service
- the right to challenge and request accountability for costs and standards
- ensuring the asset value of homes maintained by tenant-led schemes is not undermined

DIRECTION ON RENTS

Question 7: Do the proposed revisions to the rent direction adequately reflect the introduction of Affordable Rent?

The Direction on Rent states that it is applicable from 1 April 2012 and applies to the setting of Social Rents (Sections 5(4) and 5(5)) and Affordable Rents (Section 5(7)). Enfield agrees that the Direction on Rents reflects the introduction of Affordable Rent but has concerns over paragraphs 7 (b) and (c) and 5(8).

Paragraph 7(b) and (c) require Affordable rents to be increased by RPI +5% (7(b)) and that levels of rent based on a new valuation each time the rent is let to a new tenant or re-issued to an existing Affordable Rent tenant (7(c)). Enfield would like confirmation from the government on whether RPI or CPI will be used to uprate housing costs within the overall household benefit cap being introduced with Universal Credit. This is important as an Affordable Rent will quickly become out of reach to an Affordable Rent tenant dependent on Universal Credit if housing costs are uprated by CPI and the Affordable Rent is increased by RPI. Enfield would also argue that re-basing of rents takes place at more regular intervals than when a home is let to a new tenant or reissued to an existing Affordable Rent tenant. Depending on the length of the fixed term, it could be much more than 5 years before a rent is rebased during which time market rent levels could change markedly. The aim of the rent direction should be to ensure that Affordable Rents do in reality stay below 80% local market rent levels and preferably much lower than that.

Paragraph 5(8) contains some potentially far-reaching outcomes. This paragraph will enable the Regulator to take account of the impact of Affordable Rents on financial viability for RPs and consequently allow extensions to the period over which the requirements of the Rent Standard are met. This paragraph will also affect when the other standards in this Direction can be met by RPs with financial viability risks, for example, the Direction on Quality of Accommodation.

The Direction should set out a timeframe for 'extensions to the period of which the requirement of the Rent Standard are met' and when other standards are met. This is to prevent agreement to lengthy extensions, for example, over the period of a 30 year business plan. Enfield would advocate that the question of what is a reasonable extension should be the subject of consultation with RPs before the rent standard is finalised.

DIRECTION ON QUALITY OF ACCOMMODATION

Question 8: Do you agree with the proposed revisions to the Quality of Accommodation direction to reflect the expiry of the original target date for compliance?

As a borough in the process of completing its Decent Homes programme beyond the original compliance date of 31 December 2010, Enfield agrees with the revision of the Direction on Quality of Accommodation which removes this date. We welcome the guidance in the consultation document on the

draft Directions that local authorities with a backlog of work now will be granted an extension by the Regulator to enable completion of their Decent Homes programme.

Enfield requires further clarification on how, after the current Decent Homes programme is complete, future extensions to enable compliance with the Direction will be dealt with in practice. The guidance in the consultation document states that after completion of Decent Homes programmes, future extensions to enable compliance will be granted only in exceptional circumstances but 'exceptional circumstances' are not defined. The draft Direction states that for local authority landlords, where applying the Quality Standard "would not be reasonable the Regulator may agree a temporary period ... during which the requirements of the Quality of Accommodation Standard need not be fully met." The terms 'reasonable' and 'temporary period' need to be defined more clearly both in guidance and in the draft direction.

Whilst Enfield fully supports the need for the homes it owns to meet the Decent Homes standard, there are a number of issues that would need to be taken into account in considering what is a 'reasonable' for an extension to be agreed or what a 'temporary period' might be in practice.

- The most important issue is that of resources to continue being able to comply with the Decent Homes standard in the future. Enfield, as with all local authorities is moving to the self-financing HRA regime, and is also working within the context of a general squeeze on resources for the borough's services and activities. Enfield is also trying to analyse how proposed welfare benefit reforms may impact on the HRA. The borough may face further financial difficulties in the future and have to make additional difficult choices on what services should be funded. Decisions could include deferring works on its housing stock to another financial year. Would this be regarded by the Regulator as 'reasonable' and would waiting perhaps much more than 12 months be agreed as a 'temporary period'?
- Would undertaking a lengthy period of tenant consultation and involvement on options for complying with the Decent Home standard in future be agreed by the Regulator as 'reasonable' and what length of time would be agreed as a reasonable 'temporary' extension?

Both the guidance for, and the draft Direction on Quality of Accommodation, need to reflect these types of concerns to enable some protection for registered providers faced with difficult financial scenarios.

Question 9: Energy efficiency is implicit in the revisions to the Quality of Accommodation Direction; should we make it more explicit?

Energy efficiency is implicit at Section 6(3)(a)(iv) in the draft Direction on Quality of Accommodation where it states that accommodation "includes facilities or services for the provision of a reasonable level of thermal comfort"

There are a number of reasons for making energy efficiency explicit and robust within this Direction:

- Enfield is committed to reducing fuel poverty in the borough. However, all households are now paying larger proportions of their income on higher fuel prices and within the social housing sector, an increasing number of tenants will pay significantly higher rents as a result of the introduction of the Affordable Rent tenancy. Energy efficiency is therefore made even more important now because of the increased strains on tenant finances.
- High levels of energy efficiency not only make an important contribution to maximising incomes for tenants but registered provider landlords will benefit as well. Tenants who have reduced fuel bills are less likely to accumulate rent arrears. Without robust energy efficiency measures, there is a risk of high levels of rent arrears which could constrain the ability of registered providers to repay loans they have for the development of new social homes and for the upkeep of new and existing homes.

London Borough of Hackney

Thank you for the opportunity to comment on DCLG's proposals for directions to the Social Housing Regulator. We agree with the broad thrust of a number of the directions, for example greater tenant empowerment and improving opportunities for mutual exchanges. However, we also have significant concerns about some of the proposals.

I include Hackney's observations to the consultation questions, by exception, below:

1. *Does the draft direction on tenure set out the relevant factors that registered providers should consider when deciding what type of tenancy they should offer and issue?*

We are concerned that no mention is made of registered providers having regard to the local authority's Tenancy Strategy when deciding what type of tenancy they should offer and issue. The social housing regulator should make reference to this requirement, contained in the Localism Bill, in its Tenure Standard.

2. *Does the draft direction on tenure set out the right minimum requirements for a registered providers' tenancy policy?*

In addition to the minimum requirements specified, the draft direction should require that registered providers should

a) publish clear and accessible policies on their approach to:

- i) tackling anti-social behaviour by their tenants,
- ii) contributing to local social cohesion and promoting mixed and sustainable communities

b) work closely with local authorities to achieve (i) and (ii) above

3. *Does the draft direction set out the right minimum protections for tenants of registered providers?*

Our view is that lifetime secure or assured tenancies would normally offer the right minimum protection for tenants of registered providers.

With regard to 2.(4)(c), we strongly believe that existing housing social tenants should be offered a tenancy of no less security if they choose to move to accommodation let on Affordable Rent terms. If social housing tenants are at risk of losing security, this would have an understandable impact on their choices and willingness to move. In turn, this would affect our efforts to improve mobility for social housing tenants and to tackle overcrowding and under-occupation, which are high strategic priorities for this borough and London-wide for the Mayor of London.

4. *Do you agree with the principle and detail of our proposed direction on mutual exchange?*

We agree with the broad thrust of the approach of improving mutual exchange opportunities for tenants. However, we remain concerned that a significant proportion of local tenants do not currently access the internet, and could potentially be excluded by this approach.

5. *Do you agree with the principle and detail of our proposed revisions to the direction on tenant involvement and empowerment?*

We broadly welcome the proposals for tenant involvement and empowerment, and the Hackney ALMO governance team is already considering how its existing tenant involvement arrangements for council tenants could be adapted to the new arrangements.

We suggest changing the wording of 4.-(2)(b)(ii) to “promoting, supporting and sustaining the formation and activities of tenant panels...”, rather than simply “supporting”.

While we fully support the empowerment of tenants over the management of their homes, we have concerns over the proposals for Tenant Cashback. In particular, it is at the very least questionable whether the proposed alternative arrangements would result in lower costs. Benchmarking against a range of other social landlords shows that Hackney’s ALMO is already obtaining excellent value for money for repairs and maintenance. We also believe that the additional administrative arrangements for quality control of repairs under the proposed new scheme would be onerous and costly.

We therefore ask that the introduction of a provision relating to tenant cashback is postponed until pilots have been carried out and the relative costs and practicalities of introducing such a scheme have been evaluated.

6. *What type of models for involving tenants in repair and maintenance services are registered providers likely to offer, how many tenants might participate in these and what costs and benefits might they result in?*

No response.

7. *Do the proposed revisions to the rent direction adequately reflect the introduction of Affordable Rent?*

No response.

8. *Do you agree with the proposed revisions to the quality of accommodation direction to reflect the expiry of the original target date for compliance?*

A high strategic priority for Hackney is to achieve decent standards for all of its housing stock. Substantial progress has been made towards meeting this aim over the past eight years, with the assistance of funding from central government.

However, Hackney still has a significant backlog of non-decent council homes. It would be essential that any new target is negotiated with a local authority on an individual basis, and that the current funding realities and an authority's longer-term estate regeneration plans are fully recognised and taken into account in setting a target. We also believe that there remains a role for central government in assisting local authorities address their backlogs.

9. Energy efficiency is implicit in the revisions to the quality of accommodation direction; should we make it more explicit?

We agree that the internal thermal efficiency standard within the quality of accommodation standard is sufficient.

London Borough of Lewisham

Lewisham has approximately 60 registered providers with stock in the borough, an Arms Length Management Organisation, a housing PFI and 3 tenant management organisations. Partnership working and monitoring of partnership arrangements is thus key to Lewisham's ability to successfully meet the housing needs of its residents.

This response is a Lewisham response, however the sentiments are generally shared with the wider south east London sub region.

Question 1: Does the draft direction on tenure set out the relevant factors that registered providers should consider when deciding what type of tenancy they should offer and issue?

The direction has overlooked the role of local authorities and the context in which registered providers operate. Lewisham has previously commented on the role of local authorities when responding to earlier consultations relating to regulation. Lewisham considers local input as vital.

In particular the government has proposed the development of Strategic Policies on Tenancies (SPoTs). Once these are in place providers will need to ensure their own policies are in general compliance.

Question 2: Does the draft direction on tenure set out the right minimum requirements for a registered provider's tenancy policy?

The exceptional circumstances in which tenancies of less than 5 years are offered should be agreed with local authority partners.

Question 3: Does the draft direction set out the right minimum protections for tenants of registered providers?

Lewisham would not support the removal of "affordable rent" homes from the guarantee of tenure security when moving for existing tenants. Any policy not offering the same level of security to tenants who *choose* to move to an "Affordable Rent" home should be based a local agreement with local authorities and on compliance with SPoTs.

There is a danger that the removal of the tenure guarantee will remove incentives to move from existing tenants.

Question 4: Do you agree with the principle and detail of our proposed direction on mutual exchange?

We agree with the principle but we note the following:

For many households the success of moves through web based mutual exchange systems has been dependent upon 'interventionist' officer support with dedicated staff members 'hand holding' applicants through the process.

Question 5: Do you agree with the principle and detail of our proposed revisions to the direction on tenant involvement and empowerment?

While we acknowledge that an extensive range of targets based on various performance indicators can be unduly onerous, the ability of tenants to carry out scrutiny in the way proposed will be compromised if there is not access to benchmarking type data about providers' performance.

Question 6: What type of models for involving social tenants in repair and maintenance services are registered providers likely to offer, how many tenants might participate in these and what costs and benefits might they result in?

Some local organisations with tenant representation at board level currently involve those tenants in decisions around, and scrutiny of, repair and maintenance however Lewisham is not aware of existing, or advanced proposals, by partners along the lines of the Tenant Cashback proposals.

Question 7: Do the proposed revisions to the rent direction adequately reflect the introduction of Affordable Rent?

It is noticeable that the directions make no reference to affordability. It will be of concern if providers are charging rents that require incomes above the local median or that cannot be afforded by larger families affected by the proposed Universal Credit cap.

Question 8: Do you agree with the proposed revisions to the Quality of Accommodation direction to reflect the expiry of the original target date for compliance?

Yes. Otherwise some local authorities will simply be unable to comply.

Question 9: Energy efficiency is implicit in the revisions to the Quality of Accommodation Direction; should we make it more explicit?

There is a good case for this – i.e. providing more clarity or detail, not introducing an additional requirement.

An example of why a more explicit direction about quality of Accommodation should be considered is the discrepancy between RP reporting of Decent Homes and data generated by the English Housing Survey – which, it is speculated, may arise from RP's particular interpretation of what constitutes a Decent Home.

London Borough of Redbridge

Question 1 Does the draft direction on tenure set out the relevant factors that registered providers should consider when deciding what type of tenancy they should offer and issue?

Flexibility in tenure is welcomed:- replacing the requirement to provide 'the most secure' tenancies with those that make 'the most efficient use of the housing stock and needs of individual households'. The intention is stated that this will act to "help people stand on their own two feet" and in some cases the offer of a less permanent solution could provide people with a limited period of stability will spur them on to resolve their own problems.

However,

- The Local Authority needs to continue to work with families with multiple needs across agencies, to help this happen, resources for this are limited.
- Registered providers will have to make decisions not just at the outset based on projections from what is known about individual cases but also at the end of the fixed term tenancies. These will be about eviction or extension of the tenancy or re housing, having regard to the vulnerability of the occupiers. We are concerned that fixed terms (particularly of less than 10 years) could act as a disincentive for occupiers to resolve their work or family size problems by the end of the tenancy and thereby reduce their vulnerability. Undoubtedly many could still be genuinely vulnerable and unable to find work.
- The Welfare Benefit reforms and mortgage lending restrictions will reduce the options available to adult singles on low incomes within a family to leave and find their own accommodation to rent or purchase.

Another purpose of the direction is to provide a "springboard to help people make a better life for themselves and for their communities".

- There is concern that the shorter length of tenancy could result in a more transient feel to a neighbourhood and less likelihood of engagement with the community.
- Resource implications: Tenants will be able to appeal or complain against tenancy decisions. Although procedures can be adjusted and statutory provisions for appeals made, this could result in a costly 'industry' of administration, logistics and legal action at a time when Local Authority staff and budget resources are reducing.

Question 2 Does the draft direction on tenure set out the right minimum requirements for a registered provider's tenancy policy?

The direction is clear. The concerns are stated in response to question 1.

Question 3 Does the draft direction set out the right minimum protections for tenants of registered providers?

The draft direction is clear and helpful, it makes provision for discretion relating to tenants moving to Affordable Housing that might otherwise be an unattractive move for currently secure tenants.

Question 4: Do you agree with the principle and detail of our proposed direction on mutual exchange?

The enhancement and requirements outlined are welcomed. These are important to enable people to move when they choose to e.g. older tenants, those seeking work and/or greater potential to purchase in other less expensive areas.

Tenants should not automatically be approved for a move to a property, for example where they may seem to be more overcrowded following the move, unless there are other compelling reasons that will result in their situation being improved in the longer term (e.g. availability of work, ground floor access, outside space).

Resource Implications — to make this a success and achieve best use of space within our stock nationally:-

There will be a cost for subscriptions to as many agencies as possible.

There will be a need for additional marketing, supply of IT equipment at key locations, regular surgeries for assisting people with accessing the information and applying. With a level of discretion on agreeing moves falling to registered providers, an increase in demand for approvals will also require staff resource. Reciprocal arrangements can be particularly time consuming to negotiate.

However, most significantly we know from under-occupation initiatives that 'handholding' is a key incentive and a far greater motivator for people to take these opportunities than financial incentives. Practical support to tenants wishing to move in order to resolve their difficulties e.g. under occupation, overcrowding, worklessness should be resourced. Resourcing the above would be represent a good ROI but this comes at a time when we are reducing staff resource.

Question 5: Do you agree with the principle and detail of our proposed revisions to the direction on tenant involvement and empowerment?

Question 6: What type of models for involving social tenants in repair and maintenance services are registered providers likely to offer, how many tenants might participate in these and what costs and benefits might they result in?

Re 5 and 6. Registered providers should give "timely, useful performance information to tenants for scrutiny and annual reports". There should already be tenants' panels or the equivalent. A review and improvement to systems will be welcomed by most. Tenants are involved in commissioning and

carrying out of major works and in estate improvements. To be given 'cash-back' and commissioning or carrying out routine repairs is a newer area.

- It can't be assumed that tenants will want to do repairs or commission routine repairs. There will need to be dual running of routine repairs systems that could reduce any savings on contracts. Repairs reporting handbooks will need to be revised to include commissioning issues and costs payable.
- There is no evidence yet that this will improve standards and tenants on fixed term tenancies may be less likely to be involved in commissioning the work and suffering disruption if their tenancy is to end in the relatively near future. Small repairs can lead to major repairs if left.
- The cash-back is probably best administered by way of reductions in rent payments
- It would be useful to gain feedback from the pilot authorities before commencing implementation and to gain consultation feedback from tenants (and leaseholders who may be affected)
- A handyperson scheme is already available in this borough to social tenants (and private tenants and owners) for minor repairs that would not be the landlord's responsibility. This is governed through a multi-agency board. A scheme of this type for routine works (landlord responsibility) could be considered.

Resources: The cash is public money effectively and its use will need to be administered and monitored to ensure there is no fraud and that repairs are acceptable. At present repairs contracts require a standard and the tenants report back in the form of a complaint if the work is not up to standard. Housing staff inspections are only necessary in a few cases. Hopefully savings would cover the new way of doing things.

Question 7 Do the proposed revisions to the rent direction adequately reflect the introduction of Affordable Rent.

This appears to focus on Decent Homes for Housing Associations only. The move to the Affordable Rent Model will not necessarily have an impact on the DH standard in the short term as there will be adequate stock/rental stream to met their obligations. We should be requiring HAs to ensure that minimum standards are achieved and should they require an extension to the timescale for the completion of their DH programme that the LAs where stock is affected are consulted by the HCA/CLG on whether the LA supports this.

Question 8: Do you agree with the proposed revisions to the Quality of Accommodation direction to reflect the expiry of the original target date for compliance?

The proposed revision is acceptable on the basis that the extended period for compliance is tied to the conditions for backlog funding agreed with the HCA

Question 9: Energy efficiency is implicit in the revisions to the Quality of Accommodation Direction; should we make it more explicit?

Our view is that the requirement should remain as it is. The position on retrofit for existing accommodation varies from one landlord to another depending on the age and stock types within their portfolios. A single standard for all stock types would be particularly onerous where older property comprises a larger proportion of the stock, It would be preferable for landlords to be required to publish a local energy efficiency target through the annual performance report.

London Borough of Waltham Forest



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29th September 2011

Social Housing Directions Consultation
Department for Communities and Local Government
Zone 1/A4, Eland House
Bressenden Place
London SW1E 5DU

Dear Sirs

Re: Implementing Social Housing Reform: directions to the Social Housing Regulator

Thank you for giving us the opportunity to respond to the consultation document. Please find our response below to the consultation.

Question 1 - Does the draft direction on tenure set out the relevant factor that registered providers should consider when deciding what type of tenancy they should offer and issue?

Question 2 – Does the draft direction on tenure set out the right minimum requirements for a registered provider's tenancy policy?

Question 3: Does the draft direction set out the right minimum protections for tenants of registered providers?

The consultation document states that the Government has 'carefully considered the right balance between central prescription and flexibility'. Whilst we appreciate the intention to provide Registered Providers with the flexibility that will allow them to develop tenancy policies which they deem appropriate to the people that they house, in practice this could end in a confusing and unmanageable array of different policy approaches to tenancies by each Registered Provider that is operating within our borough. This will be both confusing for clients and difficult to manage and monitor, and actually make the social housing sector more difficult to regulate.

As a borough we recommend that each tenancy strategy that a Registered Provider produces should be in compliance with the Local Tenancy Strategy produced by the local authority. Section 137 of the Localism Bill only requires Providers to have 'regard' to a Local Tenancy Strategy when formulating policies on tenancies, and we feel that this does not provide adequate direction to

Registered Providers operating within a borough and we would therefore like wording within this area to be strengthened, in order to give priority to the Local Tenancy Strategy.

In considering approaches to tenancies, we advocate the requirement of Registered Providers to justify their reasons for adopting fixed term tenancies within their own tenancy policies. For example, a Registered Provider may propose letting 1 bedroom homes on a short-term tenancy to promote through-put, however, this will need to be justified in relation to the borough's Local Tenancy Strategy and need to ensure that such policies do not undermine other Council objectives, for example Priority 3 of the Waltham Forest Housing Strategy (2008), 'Creating Successful Communities' and the priority of 'Improving housing quality and choice with the right kind of homes in the right places' within our Sustainable Communities Strategy (2008).

We have a specific concern about section (2)(4)(c) of the proposed direction on Tenure in that we feel that those people in Affordable Rent homes should be provided with the same protections as the Social Rent tenure. We understand that some Affordable Rent properties may be let on Flexible Tenancies, however, the direction may give rise to an erosion of other elements of tenancies that provide security to tenants under an Affordable Rent tenure. In our opinion Flexible tenancies may be useful in certain limited circumstances, however, in most cases flexible tenancies are likely to lead to a significant rise in homelessness, with individuals and families presenting as homeless once the tenancy comes to an end.

Question 4: Do you agree with the principle and detail of our proposed direction on mutual exchange?

The Council is in favour of the principle of the direction on mutual exchange, on the basis that it is in the interests of both residents and providers to provide and promote as wide a range of housing options as possible.

LBWF currently subscribes to the 'Homeswapper' system, which LBWF tenants can use free of charge. Computers are available in local libraries for residents who do not have computer access. We would welcome more detail about what constitutes "reasonable support" to tenants who do not have computer access.

Question 5: Do you agree with the principle and detail of our proposed revisions to the direction on tenant involvement and empowerment?

Question 6: What type of models for involving social tenants in repair and maintenance services are registered providers likely to offer, how many tenants might participate in these and what costs and benefits might they result in?

In principle we agree with the concept of providing greater accountability to tenants and providing greater opportunities to become involved in scrutinising their landlords' performance, however, we feel that there are a range of practical issues that require resolution before introduction. We are concerned that the proposals as they stand may not allow for sufficient scrutiny to be effective.

Regarding accountability, we are unclear on the interface between Tenants Panels and the Tenants Services Authority (HCA as successor regulator). If a bespoke approach to scrutiny is taken according to local circumstances and context then this could result in an inequitable approach to regulation, which ultimately places some of our most vulnerable members of society at increased risk. We would like clarity on what the triggers will be for intervention by the Regulator.

We also have concerns about how Tenants Panels will work in practice. It is conceivable that an ineffective Registered Provider may seek to populate a Tenant's Panel or board with members who are sympathetic to the role of the provider, and therefore not be able to effectively challenge their actions. Further, some residents may not have the skills or time to participate in such regulatory activities. Time constraints may be particularly felt by those people who are in social housing and employment, and since evidence from our Housing Needs and Market Survey (2007) indicates that over 66% of people in RSL rented accommodation earned less than £10,000 per annum, it is likely that those people in employment may work longer hours in low paid work.

We would therefore advocate the requirements that any Tenant's Panel contains a number of co-opted elected Members and that formal training is mandatory for any member of a Tenants Panel. We believe that some topics should be excluded from the Terms of Reference of any Panel, for example Rent Policies.

Question 7: Do the proposed revisions to the rent direction adequately reflect the introduction of Affordable Rent?

We fear that the proposed revisions to the rent direction could potentially exacerbate issues around affordability. This is because if rents for Affordable Rented properties rise on the basis of the RPI + 0.5 per annum and these changes are not reflected within the Universal Credit limit of £500 per week, then this could worsen affordability issues for certain groups. At the time of writing in September 2011 the Retail Price Index was running at 5.2%, and on this basis rents would rise by 5.7%, which we feel is a significant increase.

Research undertaken by POD Consultants on behalf of Waltham Forest Council has revealed that the introduction of up to 80% market rents charged under the Affordable Rent model and the Universal Credit will have a particular negative impact upon larger families who are not working. Even for those households who are working, rent increases will only add to the cost of living.

The net effect of amending the rent direction in this manner will ultimately compound affordability issues and residualise the stock of truly affordable rented properties.

Question 8: Do you agree with the proposed revisions to the Quality of Accommodation direction to reflect the expiry of the original target date for compliance?

Question 9: Energy efficiency is implicit in the revisions to the Quality of Accommodation Direction; should we make it more explicit?

We believe that the proposed revisions to the Quality of Accommodation Direction, specifically giving the regulator scope to grant a specific exemption from the Quality of Accommodation standard for specific properties where the requirements of the standard should be met by an agreed date could, at best, result in a piecemeal approach to raising the standard of homes in the sector and prompt a cycle of decline for those estates requiring high level intervention and investment to bring homes up to even a basic standard of quality, resulting in a requirement for more public sector investment in totality.

We understand that the proposal aims to provide greater flexibility to local authorities in theory, however, in practice rather than assisting in dealing with a backlog of homes that are not in compliance with the quality standard, we feel that this could potentially provoke the creation of a

new backlog of such homes, as different target dates are set for different local authorities across the country and the whole basis of a national standard of accommodation is eroded.

At a time when build rates of new affordable homes are slowing, and that the Government is seeking to promote mobility through such schemes as Mutual Exchange we would expect that the approach to raising standards across the sector is maintained and strengthened. To this end we would expect that a new target date for compliance across the sector is set, accompanied by the appropriate level of funding.

Yours faithfully

A handwritten signature in black ink, appearing to read 'C. Robbins', with a stylized flourish at the end.

Councillor Chris Robbins
Leader of the Council

London Borough of Wandsworth



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Our ref: H/RE/CJ
Your ref:
Date 28th September 2011

Dear Sirs,

Wandsworth Council's response to consultation on Implementing Social Housing Reform: Directions to the Social Housing Regulator

Please find attached Wandsworth Council's response to consultation on the proposed new and refreshed directions to the Social Housing Regulator including amendments set out in the Minister for Housing and Local Government's letter of 28th July 2011.

In large part the Council welcomes the principles set out in the directions. The directions are also sufficiently clear and understandable and generally non prescriptive enough for them to be adapted and applied within the local context. The wording of the directions, however, is in some instances either ambiguous or overly prescriptive. I have identified where I believe this to be the case in this response to the questions that is attached. There are some more major issues raised by the draft directions and these have been summarised in this letter for your convenience.

Once again, I would raise a general issue that the direction and subsequent standards apply and make reference only to tenants and do not recognise that a large proportion of residents provided with council housing management services are leaseholders living cheek by jowl with their tenant neighbours. In the Council's view, to fail to recognise this when publishing directions and developing guidance and standards, continues to be a significant omission.

In respect to the directions themselves there is no specific reference to social housing providers having regard to local authority Strategic Tenancy Policies. I would expect that the final direction will identify that registered providers must have "regard" and that this will, therefore, be a requirement on the part of registered social landlords.

The commentary and directions also do not align well in some places and the direction itself is potentially too prescriptive and could leave registered providers open to challenge. Wandsworth Council's response has identified where it believes the direction

Director of Housing: Roy Evans

number one for
service and value


should be pared down. The direction on tenure should for instance be specific on the minimum tenancy term and then require registered landlords to consider local needs and conditions in setting terms longer than this. It is not helpful to identify in the direction where registered providers might consider even longer tenancy terms as this will clearly cause confusion and may result in challenges. The amendment as set out in the Minister for Housing and Local Government's letter now suggests at least three lengths of tenancy; an exceptional minimum two year fixed tenancy, the "norm" of a five year fixed tenancy, and the suggestion of other tenancies which "provide a reasonable degree of stability" (Paragraph 1(3)(g) as revised).

Councils should provide support for residents who wish to establish Tenant Management Organisations, however, the direction should be clear that given the risk of service failure sits with the council there should be a requirement that councils work with residents to put in place sustainable self-management arrangements that ensure services are delivered to the required standard into the future.

Finally, although Wandsworth Council does support residents becoming (more) responsible for repairs, it is our view that the commentary and direction on this matter are too tightly drawn. The Council would wish to see a more general direction that required registered providers to develop Resident Repair Plans that aimed to increase resident responsibility for repairs and in turn committed to share efficiencies gained with local residents either as individuals where this is practical and or if not collectively.

I hope that you find the comments in this letter of assistance. If you require any further information or wish to discuss this response further please contact Chris Jones, Head of Housing Strategy and Development, on 020-8871-6781 (email: chrisjones@wandsworth.gov.uk)

Yours sincerely,



Roy Evans
Director of Housing

Response to Consultation Questions

Direction on Tenure

Question 1: Does the draft direction on tenure set out the relevant factors that registered providers should consider when deciding what type of tenancy they should offer and issue?

In the main yes. However, the direction is in danger of becoming overly caveated and causing significant complexity in the future as to interpretation. This in turn has the danger of leading to challenge. A series of simplified considerations should be identified that registered providers must consider as they evidence and develop their tenancy policies. One of these considerations not explicitly mentioned is housing needs and pressures and how this may affect the tenure term and conditions offered.

The direction must also identify that registered providers must have regard to local authority Strategic Tenancy Strategy's when deciding what type of tenancy they should offer and issue.

Question 2: Does the draft direction on tenure set out the right minimum requirements for a registered provider's tenancy policy?

In the main yes. However, as stated above the maximum flexibility should be given to registered providers to set policies relative to local housing needs and demands.

It is also unhelpful if the directions or general guidance given is equivocal. As an example of this there is a reference in the commentary (paragraph 50) that the minimum tenancy period should be two years but the Secretary of State would expect the vast majority of tenancies will be provided on longer terms particularly for vulnerable households or those with children - paragraph 2(3)(f) of the draft direction reflects that expectation. The expectation, however, is not explicit and "reasonable degree of stability" is undefined. This is further complicated by the proposed amendment as set out in the Minister for Housing and Local Government's letter of 28th July 2011 which now indicates a possible three tiers of length of tenancy (an exceptional two year minimum, a norm of five years and possibly some other tenancy length which provides stability).

Reference to vulnerable households or those with children has the potential to be too sweeping. Should for instance a social landlord provide the same length of tenancy for a household with members aged over 16 as a household with members who are under the age of 10 years? Providers are also likely to need to take into account the IT requirements and administrative costs of having different tenancy lengths and mechanisms for identifying in advance which tenancies may be coming to an end and need reviewing. The more complex a system of differentiated tenancies the more cost and confusion.

Some standardisation of fixed terms is, therefore, likely. It is our view that the emphasis should not necessarily be on tenancy length but review mechanisms that provide reassurance that reviews will passport certain households if circumstances have not changed or if tenancy conditions have been met (e.g. households with younger children contacted to confirm household details and then offered a new "standard" local tenancy for a further 5 years).

The direction should also set out that the Regulator must set the tenure standard with a view to achieving as far as possible that registered providers have regard to the local housing authority's tenancy strategy in formulating policies.

Question 3: Does the draft direction set out the right minimum protections for tenants of registered providers?

The direction covers the main elements.

(4)(b) of the direction sets out *where registered providers use probationary tenancies*. Commentary (paragraph 51) indicates that a flexible tenancy *may* be preceded by a probationary tenancy but paragraph 52 refers to ensuring that all registered providers have the same flexibility for their use but indicates *encouraging their use for new tenants as standard practice*. What is the intention given that the emphasis of these two paragraphs is different?

Wandsworth Council does not agree that an existing social tenant who moves should in every instance receive a tenancy with the same level of security. Although the Council is likely to provide this guarantee there are exceptional circumstances where this might not be the case particularly for instance in terms of the provision of larger family housing. An alternative way of dealing with this matter, we would suggest, would be to amend Ground 16 of the Housing Act 1985 (Schedule 2, Part II – the Ground on which the court may order possession if suitable alternative accommodation is available) as follows:

"Ground 16:

The accommodation afforded by the dwelling-house is more extensive than is reasonably required by the tenant and—

- ~~(a) the tenancy vested in the tenant by virtue of section 89 (succession to periodic tenancy), the tenant being qualified to succeed by virtue of section 87(b) (members of family other than spouse), and~~
- ~~(b) notice of the proceedings for possession was served under section 83 more than six months but less than twelve months after the date of the previous tenant's death.~~

The matters to be taken into account by the court in determining whether it is reasonable to make an order on this ground include –

- ~~(a) the age of the tenant,~~
- ~~(b) the period during which the tenancy has occupied the dwelling-house as his only or principal home, and~~
- ~~(c) any financial or other support given by the tenant to the previous tenant"~~

This would allow local authority landlords to offer tenants who are under occupying their home a tenancy (of no less security than their current tenancy) of an appropriately sized property and, where they refused, seek a court order requiring them to move – they would still have a 'tenancy for life' but not necessarily at the same property.

Where the tenant refused to leave, the landlord would have to consider whether to seek a possession order through the court (and in deciding whether to do so would have regard to the matters that the court would have to take into account).

This would bring ground 16 more in line with ground 13 in the sense that it could be used at any time to gain possession of a property let on a secure tenancy which has features (in the case of ground 16 – extra bedrooms) that are no longer required by the tenant but are required by other households

Direction on Mutual Exchange

Question 4: Do you agree with the principle and detail of our proposed direction on mutual exchange?

Yes. The principles of the direction and expectations put on registered providers are reasonable. However, again the application of this direction will have cost implications that need to be recognised and balanced with other priorities.

Wandsworth Council would also expect that the Government will ensure that web based services are available that allow prospective movers to view all properties with providers buying into services that demonstrate VFM and the right outcomes. Although this is not required for the directions it is clear that this commitment must be explicit and timely.

The commentary (paragraph 59) to the draft direction indicates that where a full subscription does not offer value for money smaller registered providers could consider paying the subscription free for individual tenants on request. However, this is not specifically referred to in the direction.

Direction on Tenant Involvement and Empowerment

Question 5: Do you agree with the principle and detail of our proposed revisions to the direction on tenant involvement and empowerment?

Yes in large part, except for 4.2.a.v. on which comments are provided below in the response to Question 6.

In respect to 4.2.b.i, the Council would support tenants having the right to manage and understand that the CLG is looking to streamline the Right to Manage process to make it easier to establish Tenant Management Organisations (TMOs). Whilst supporting their establishment what would be detrimental to all parties is the development of TMOs, without the necessary skill sets in place to be able to demonstrate appropriate standards of governance and probity and also able to sustain effective management of stock to the standards required. There are risks here for local residents in terms of service failure and Councils who are ultimately responsible for the delivery of services. Failure of TMOs within 1-2 years of taking on the management role would benefit no-one and would be a drain on already tight resources. We believe, therefore, that the direction should be explicit in identifying that Councils need to work with residents to put in place sustainable self-management arrangements that ensure services are delivered to the required standard.

Question 6: What type of models for involving social tenants in repair and maintenance services are registered providers likely to offer, how many tenants might participate in these and what costs and benefits might they result in?

Wandsworth Council does not accept that 4.2.a.v. and related commentary should be so directing in its intent. Whilst the Council wholly concurs with the aim of making residents more empowered and responsible for repairs, the commentary and direction is too tightly drawn to allow registered providers to respond to the overall intent of the direction. The Council would wish to see wording that required registered providers to develop Resident Repair Plans that aimed to increase resident responsibility for repairs (e.g. effective recharging, undertaking certain works, reward schemes) and share any efficiencies gained with local residents either individually where this is practicable or collectively (e.g. rewards and bonuses and/or establishment of community funds).

Given a council tenant's right to repair, health and safety matters relating to the undertaking of certain works and the costs of checking the quality of works undertaken it is our view that establishing a tenant cashback scheme may be difficult and more costly than current repair arrangements. Also as the consultation paper identifies stock profile, and in particular having a largely flatted stock, may militate against running and supporting a tenant cashback scheme as envisaged. It is also not clear whether such schemes only relate to works undertaken in a council tenant's home or whether they also apply to works to communal and common areas including cleaning/garden maintenance etc? If schemes also involved communal and common areas, there may be implications to be considered as to whether "rewards" were also offered to long leaseholders.

It is more likely that Wandsworth Council will look to establish reward schemes that identify low users of repairs services and reward those tenants/groups of residents accordingly. There are potentially some real opportunities arising from this approach. One option may be providing such rewards when a tenant moves and leaves a property in lettable order. The average void repair and improvement cost is £4K, therefore, a substantial "reward" could be offered if part of this cost were saved. The Council is also considering ways in which to target higher users of repairs services to reduce costs and potentially improve living conditions. One such example might be improving the advice and assistance given to those who report severe condensation in their homes.

The Council would also be looking to be more proactive in ensuring that tenants were recharged for works that were their responsibility, being mindful of course of the exceptions that may continue to be made where for instance works are necessary to more vulnerable tenants' homes.

Direction on Rents

Question 7: Do the proposed revisions to the rent direction adequately reflect the introduction of Affordable Rent?

Whilst this direction does not apply to local councils it is Wandsworth Council's view that private registered providers should have due regard to any guidance given by local councils in relation to the Affordable Rent levels it would want seen set locally. It is a contradiction for a registered provider to set Affordable Rent levels that do not take account of local housing needs as identified by the statutory housing authority.

Direction on Quality of Accommodation

Question 8: Do you agree with the proposed revisions to the Quality of Accommodation direction to reflect the expiry of the original target date for compliance?

Wandsworth Council agrees with the changes to this direction.

However, clarification is needed as to what is meant by compliance being required with immediate effect rather than within a certain period.

Where it refers to "the Regulator may agree a temporary period during which the requirements of the Quality of Accommodation Standard need not be fully met" clarification is required. The commentary (paragraph 38) refers to exceptional circumstances, which is not reflected in the direction. Paragraph 71 of the commentary refers to the provision of a temporary extension where the requirements of the standard should be met by an agreed date – the wording of the direction does not indicate that

work should be ongoing during this period to meet the standard. It is the Council's view that this should be amended.

Question 9: Energy efficiency is implicit in the revisions to the Quality of Accommodation Direction; should we make it more explicit?

No. The decent homes standard provides an adequate baseline that social landlords must meet that will in turn improve the energy efficiency of homes (e.g. through the replacement or improvement of windows, replacement of roofing etc.). Local authority landlords also continue to report performance against the SAP rating which provides a useful comparative benchmark in terms of the energy efficiency of stock and improvements of same.

Further direction may have two consequences. Firstly, works beyond the decent standard can only be undertaken if there are sufficient funds available to do them. Setting higher standards may affect the viability of council landlord 30 year business plans that are themselves predicated on being sustainable within the context of the HRA buyout. Secondly, there is the leaseholder position to consider. Under the terms of the lease, works can effectively only be undertaken if they are 'necessary'. If grant is not available to support the service charge costs to leaseholders 'unnecessary' works cannot be undertaken without the financial burden falling directly on the HRA i.e. their tenant neighbours.

Longhurst Group

Question	Response
Direction on tenure	
Question 1: Does the draft direction on tenure set out the relevant factors that registered providers should consider when deciding what type of tenancy they should offer and issue?	Yes it does in the main, however it is unclear whether we are being given the opportunity to offer fixed term or whether we are expected to – as we believe that we will want to continue offering secure beyond the starter tenancies in the majority of cases.
Question 2: Does the draft direction on tenure set out the right minimum requirements for a registered provider's tenancy policy?	Yes it does in the main, providing explanation around using probationary tenancies and security of tenure for existing tenants. It does not specify minimum terms – we would look for 5 year minimum term.
Question 3: Does the draft direction set out the right minimum protections for tenants of registered providers?	Can't see what protections they are referring to other than succession! Are we not expecting to continue to offer the same protections (rights) as before (other than no security if we decide to offer fixed term tenancy?)
Direction on mutual exchange	
Question 4: Do you agree with the principle and detail of our proposed direction on mutual exchange?	Yes the principle – however the administration for a central scheme has proven to fail in the past and the costs for housing associations providing this service needs not to be cost prohibitive.
Direction on tenant involvement and empowerment	

Question 5: Do you agree with the principle and detail of our proposed revisions to the direction on tenant involvement and empowerment?	<p>Yes we agree with an increased emphasis on tenant scrutiny and the provision of timely useful information.</p> <p>We have entered into a long term partnering agreement of 5+5 years and therefore providing this scheme to tenants would have a negative impact on existing contracts – which had significant tenant involvement throughout all stages of procurement.</p>
Question 6: What type of models for involving social tenants in repair and maintenance services are registered providers likely to offer, how many tenants might participate in these and what costs and benefits might they result in?	<p>1) Agreeing specification, quality requirements, policy and procedures</p> <p>2) Agreeing / review budgets/priorities</p> <p>3) Selection of contractors</p> <p>4) Monitoring performance and holding contractors to account</p> <p>5) Estate walkabouts / mystery shopping.</p> <p>The number of tenants involved will depend on methods of involvement used – and cost and benefits will hopefully achieve improved performance and VFM.</p>
Direction on rents	
Question 7: Do the proposed revisions to the rent direction adequately reflect the introduction of Affordable Rent?	Does this direction apply where HCA funding hasn't been granted?
Direction on quality of accommodation	
Question 8: Do you agree with the proposed revisions to the Quality of Accommodation direction to reflect the expiry of the original target date for compliance?	Yes
Question 9: Energy	No.

efficiency is implicit in the revisions to the Quality of Accommodation Direction; should we make it more explicit?	
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Luton Community Housing

Question 1: Does the draft direction on tenure set out the relevant factors that registered providers should consider when deciding what type of tenancy they should offer and issue?

The introduction of flexibility in the tenure offered by moving away from the traditional requirement for 'the most secure' form is generally welcome and offers landlords greater flexibility in the use of their stock. The revised recommended minimum term of 5 years is also supported.

Question 2: Does the draft direction on tenure set out the right minimum requirements for a registered provider's tenancy policy?

As the consultation document states most, if not all, associations will already have in place appeal and complaint procedures. Provided they are properly established and clear, the procedures will protect the interests of landlord and tenant & avoid potential litigation and further direction should be unnecessary.

Question 3: Does the draft direction set out the right minimum protections for tenants of registered providers?

See above.

Question 4: Do you agree with the principle and detail of our proposed direction on mutual exchange?

The principle is sound and nobody could reasonably argue that encouraging and facilitating tenants to exchange homes where they choose and want to do so is not worthwhile. It makes best use of the available stock and at little or no cost to the landlord. However prescribing how landlords are to do this is an unnecessary and bureaucratic measure that is diametrically opposed to the ministers' foreword which describes giving landlords the freedom to run their own businesses and giving tenants control over the decisions they make about their lives.

If introduced, the regulatory requirements would have no impact on this association since we already subscribe to the national Homeswapper system and already assist tenants with their applications and enquiries. However we believe that this is best left to associations to manage as they see fit by agreement with their tenants. We therefore oppose it becoming a regulatory requirement.

Question 5: Do you agree with the principle and detail of our proposed revisions to the direction on tenant involvement and empowerment?

We agree that landlords should encourage resident involvement and take their views into account. However it will not always be practical and there may be no desire on the part of tenants to form a panel. The most popular and best received means of communicating with tenants is by text, email and personal visit. For smaller landlords with a dispersed stock it will be difficult for residents to take part in such a panel and for any such panel to be truly representative and have a meaningful role.

Any worthwhile annual report should already include performance information. In practice, performance information requires comparative figures to demonstrate how the landlord is performing compared to peers. This has been common practice by this association and the many associations with which we have close links.

The consultation paper states:

'We believe that the publication of information about repair and maintenance budgets will help tenants to judge whether local schemes are sufficiently ambitious.'

Information on the amount spent, the average cost of work and resident satisfaction with the repairs service is reported already either in performance information or the association's accounts. Tenants will have views already on the quality of the repair service based on personal experience and it is very doubtful that publishing any further information would influence or change them.

Question 6: What type of models for involving social tenants in repair and maintenance services are registered providers likely to offer, how many tenants might participate in these and what costs and benefits might they result in?

Under current law the landlord has obligations to keep the property in good repair and condition. Tenants have the right to repair legislation to call upon where the landlord fails to meet their repairing obligations and a separate right to compensation for certain improvements they have carried out at their own expense when they vacate. This makes the obligations of both parties clear. The proposals muddy and blur this relationship.

This proposal is not sensible and is unlikely to achieve its stated aims. It will be difficult and costly to administer and lead to inconsistencies across the housing stock in terms of the standard and make of components used which may compromise the landlord's future planned repair and improvement programmes.

Take up is likely to be low but disproportionately high amongst well intentioned amateurs who may lack the skills and ability to carry out work to an acceptable standard. Most associations regardless of their size appoint contractors based on criteria such as performance, financial strength, rates & costs and having employees with appropriate qualifications and experience, often living locally. With very few exceptions it is difficult to see how the majority of tenants could carry out the same job to an equivalent or higher standard and at less cost. In addition, rogue tradesmen would no doubt be quick to seize on this as an opportunity to make money from and exploit vulnerable people.

We are aware of tenants in blocks of mixed tenure where owners/leaseholders who are responsible for internal repairs have arranged or carried out plumbing work that fails and leads to tenanted properties beneath being flooded. If similar rights are extended to social housing tenants who

would be liable for the damage, what happens in the event of no insurance policy being in place and who would meet the cost of putting it right? The proposal increases the risks, financial and other, for well-intentioned but vulnerable people, who may become personally liable for damage caused if they should decide to undertake repairs.

To sum up, take up is likely to be relatively low, the impact on the organisation's costs will be disproportionately high and the benefits (if any) minimal. There are so many potential pitfalls that the proposed scheme should not be pursued.

Question 7: Do the proposed revisions to the rent direction adequately reflect the introduction of Affordable Rent?

The guidance on rent setting is clear and the retention of the existing formula for traditional social rented homes is welcomed.

However, LCH is unclear of the latest directions to Local Authorities relating to rent harmonisation within social housing, which is highly relevant in areas where Local Authorities (not LSVTs) continue to hold stock. Large variations cause unnecessary tenant dissatisfaction. We hope that harmonisation is still the intention within a short period of time.

Question 8: Do you agree with the proposed revisions to the Quality of Accommodation direction to reflect the expiry of the original target date for compliance?

In practice, although it is a laudable aim, a fixed date by when landlords are expected to have met a national standard for all properties cannot be achieved. Some properties will always fail the standard at any given point as components age or fail. However, the well-established decent home standard is readily understood and accepted by all social landlords. In many cases future planned work programmes and business plan projections have been based on the work identified through stock surveys to meet the standard. There is no good reason for departing from the accepted national standard for social housing as a benchmark.

Question 9: Energy efficiency is implicit in the revisions to the Quality of Accommodation Direction; should we make it more explicit?

No – this is not necessary.

Manchester City Council

This consultation response reflects the combined view of Manchester City Council and its partners.² We welcome the opportunity to respond to this consultation on draft directions to the Social Housing Regulator, which will help implement key elements of the Government's package of reforms to social housing across Greater Manchester (GM).

By way of introduction,

- Manchester is one of only six local authority areas in England (and the only one outside the South East) to have recorded population growth of over 10% in the five year period 2005-10.³
- GM is the UK's largest city in both population and economic terms after London. GM is in the top 20% largest economies (by GVA) in the European Union, with GVA growth over the last decade behind only Dublin, Helsinki and Barcelona.
- Following strong growth over the past decade, the conurbation generated around £46 billion per annum of total GVA, almost a fifth of the total economic output of the North and created over 90,000 additional jobs.⁴
- The GM conurbation is the most densely populated part of the north west region, with over 3 million people living in an area of 1,200 km². Manchester with a population of approximately half a million is the largest of the ten districts.

Over the next twenty years it is predicted that 100,000 additional jobs will be created across the MCR city region. In recent years a strong correlation has emerged between new build housing and those areas of the conurbation that have seen a growth in the number of working households. Delivery of new high quality housing close to forecast future jobs is therefore seen as a fundamental component of efforts to support regeneration and reduce dependency locally.

The City is committed to breaking the relationship between poor quality housing, poverty and worklessness. This response therefore promotes neighbourhoods of choice which meet the needs of existing communities as well as being attractive to new economically active residents from elsewhere. We have responded to each of the questions in turn. However, the response includes a particular focus on flexibility and choice, the proposed home swap programme, enhanced tenant involvement and empowerment.

² MCC Strategic Housing Board – A collection of Registered Providers active in the Manchester area

³ Office for National Statistics – UK Population Growth 2010

⁴ 1998–2008

Question 1: Does the draft direction on tenure set out the relevant factors that registered providers should consider when deciding what type of tenancy they should offer and issue?

Broadly speaking, we agree that the draft direction covers the matter adequately. We agree with the revised direction that fixed term tenancies should be for a minimum of five years other than in exceptional circumstances.

We welcome the extension of the use of probationary tenancies up to 18 months, which should allow registered providers to align with authorities locally.

We believe the direction should also accord with Tenancy Strategies in each local authority area (GM local authorities are currently working on this).

Question 2: Does the draft direction on tenure set out the right minimum requirements for a registered provider's tenancy policy?

Yes: this is adequately covered in the draft direction.

Question 3: Does the draft direction set out the right minimum protections for tenants of registered providers?

Yes: this is adequately covered in the draft direction.

Question 4: Do you agree with the principle and detail of our proposed direction on mutual exchange?

We agree with the principle of promoting national mutual exchange schemes and in assisting tenants with access to online services to aid mobility. Clearly it is in the interests of partners to make best use of stock, reduce voids and their associated costs.

On this basis, a number of partners now promote Homeswapper as a core service offer on allocations on the tenancy standard and online. Therefore we are unsure as to why this is included as mandatory provision given that nearly all partners offer a swap scheme already (eg Homeswapper).

The elements of the direction that we do support can be summarised as follows:

- Building on existing regulatory requirement and making clearer the expectation that registered providers should offer a better mutual exchange service to tenants
- Requiring registered providers to subscribe to an internet based mutual service
- Helping registered providers to subscribe to a scheme on behalf of their tenants at no cost to the tenant which is proactively promoted particularly to tenants who do not have access to a computer or who need assistance

The service should be proactively promoted and should provide support to tenants who do not have access to a computer or who need assistance to do so. Although not prescriptive each provider might want to consider access to computers in public buildings, or housing officer support to register and search for matches.

We would, however, welcome the opportunity to comment on the detail of the standard in due course. Principally we would want to be reassured that the standard is not framed in such a way as to remove from housing providers a reasonable measure of flexibility in terms of how they meet the outcome the standard is designed to achieve (for example by meaning that in practice they have to subscribe to a particular scheme in order to meet the standard, thus in effect creating a monopoly provider who can charge as much as they want) .

We support the right of tenants to exchange on a mutual basis and believe there is merit in trying to encourage people to move on if they are financially able to do so. However, in creating neighbourhoods of choice we want to deliver stable and sustainable communities, particularly in areas where the sense of community can be fragile. On this basis we believe that the concept of charging different rents to tenants living side by side (often receiving the same level of service) will require very careful management at best.

Question 5: Do you agree with the principle and detail of our proposed revisions to the direction on tenant involvement and empowerment?

We would welcome evidence to demonstrate that the benefits of Tenant Cashback schemes will outweigh the potential additional management and administration costs.

Partners have raised concerns around gas and other certification. We would want to be reassured that any requirement contained within the standard did not confer a right for tenants to undertake or buy in their own repairs, particularly if this led to increased costs.

We would also want to be reassured that the standard is not framed in such a way as to remove from housing providers a reasonable measure of flexibility in terms of how they meet the outcome the standard is desired to achieve (for example by requiring them to offer a Tenant Cashback scheme in order to meet the standard, even when consultation has suggested that such a scheme would not bring significant benefit to tenants).

We would welcome the opportunity to work closely with Government on the detail of the standard as the various provisions emerge.

Question 6: What type of models for involving social tenants in repair and maintenance services are registered providers likely to offer, how many tenants might participate in these and what costs and benefits might they result in?

At present, partners involve tenants in repair and maintenance services through a variety of mechanisms, including: performance monitoring through Local Area Panels; complaints monitoring through Excellence Committees; service review and continuous improvement through resident-led Repairs and Improvements Forums.

A number of partners also carry out tenant satisfaction surveys for all repairs and feedback from these is used to drive service improvement. All tenants benefit from service improvements and efficiencies achieved through these mechanisms. In our view, mechanisms such as this are the most effective way of involving tenants in repair and maintenance and again we have yet to see any evidence that this would be enhanced to any significant degree by a "Tenant Cashback" scheme.

Finally partners believe that so far there is little significant appetite amongst tenants for such a scheme. With very low take up and additional management and with the administration costs borne by tenants, we remain to be convinced of the benefits of such an approach.

Question 7: Do the proposed revisions to the rent direction adequately reflect the introduction of Affordable Rent?

Broadly speaking, partners believe that the proposals cement current practise. The only exception is point 7 (c) concerning affordable rent which states "a new valuation will be required each time accommodation is let to a new tenant or relet to the same tenant". We would suggest it is not inconceivable for some tenancies to have a high churn, they may be the exception, but some can churn twice within a 12 month period. We would therefore prefer the statement to read that "RPs are expected to either maintain or purchase information concerning valuations that is up-to-date in relation to the areas in which they operate. RPs should have recourse to this information to reset the valuations on each occasion the accommodation is let to the new tenant or relet to the same tenant.

Question 8: Do you agree with the proposed revisions to the Quality of Accommodation direction to reflect the expiry of the original target date for compliance?

The draft direction is adequate in this regard.

Question 9: Energy efficiency is implicit in the revisions to the Quality of Accommodation Direction; should we make it more explicit?

The draft direction is adequate in this regard.

Mencap

General

1. With the abolition of the Tenant Services Authority, more power to hold housing associations to account will be going to tenants themselves, while oversight of the economic and a more risk based consumer approach to regulation will go to the Homes and Communities Agency.

In order for tenants to be able to hold their housing associations fully to account, we think that the directions and forthcoming standards need to be clear and detailed enough to ensure that tenants are protected. It is for this reason that we would like to see further details around particularly tenure reform, but also tenant involvement and the other areas, clearly stated in the directions. Without that clarity and a regulator actively overlooking the implementation of the standards that are being set, we fear that accountability, and as a result, tenants will suffer.

Tenure reform

1) Does the draft direction on tenure set out the relevant factors that registered providers should consider when deciding what type of tenancy they should offer and issue?

2) Does the draft direction on tenure set out the right minimum requirements for a registered provider's tenancy policy?

3) Does the draft direction set out the right minimum protections for tenants of registered providers?

2. We welcome the opportunity to contribute to the consultation on the directions to the Social Housing Regulator, which will influence the standards the Regulator will develop to guide social housing providers. Given that that these standards aim to ensure vulnerable people are protected⁵, it is key that these directions spell out clearly what the Government expects social housing providers to do about, for example, tenancies for disabled or older people.

3. Paragraph (2)(f) instructs the Regulator to include in the Tenure Standard that registered providers publish a 'policy on taking into account the needs of those households who are vulnerable by reason of age, disability or illness, and households with children, including through the provision of tenancies which provide a reasonable degree of stability'⁶. We do not think this goes far enough. The introduction of flexible tenancies in the social housing sector represents a major overhaul of the system. It is therefore vital that the impact on particularly the more vulnerable groups in our society is considered in detail.

⁵ Andrew Stunnell, on behalf of the Government, outlined in the report stage in the House of Commons that 'the tenure standards will provide specific protection for the vulnerable', Commons report stage, Localism Bill – Day Two, 18 May 2011

⁶ CLG (2011) 'Implementing social housing reform: directions to the Social Housing Regulator, p. 25

4. Paragraph (2)(f) is a step in the right direction, and is likely to go some way to protecting disabled and older people from the full effect of the introduction of 2-year flexible tenancies⁷ in the social housing sector. However, we would like to see some more detailed directions given to providers of social housing as to what tenancies they should offer to more vulnerable groups. As we have outlined in briefings on this issue previously, disabled or older people may either need adaptations to their homes or rely on informal support networks, which can take many years to build up. Many disabled and older people consider security of tenure to be essential to both quality of life and well being. Over the years many tenants build up local support networks and use nearby services that enable them to remain independent. For example, 50% of adults with autism who live in their own home or flat who responded to a survey by the National Autistic Society (NAS) said they relied on support from family or friends⁸. It is vital that this is reflected in the directions.

5. We are concerned that the term ‘a reasonable degree of stability’ is open to interpretation, and could lead to disabled and older people being offered unsuitable tenancies. We would therefore like to see some more detail in the directions as to what this term means and what aspects need to be considered when assessing this. This detail should make it clear that ‘security of tenure’ should form part of the consideration for disabled and older people, particularly where a disability means that the individual’s situation or requirements are unlikely to change fundamentally over time. It must also be clear that the rules would apply in cases where a tenancy may be held on behalf of someone in the form of a trusteeship, which can be the case for people who lack capacity, due perhaps to a learning disability and/ or autism.

6. Our suggested wording for the directions would therefore be (changes in bold):

3 (g) their policy on taking into account the needs of those households who are vulnerable by reason of age, disability (including learning disability and autism spectrum disorders) or illness, and households with children, **outlining the exceptional circumstances in which they would not grant a permanent tenancy.**

4 (e) where registered providers grant a tenancy to a vulnerable person (or a trust acting on behalf of that individual) by reason of age, disability (including learning disability and autism spectrum disorders) or illness, and households with children, this tenancy should offer the securest form of tenancy possible, and only exceptionally not a permanent tenancy.

7. We also believe that the directions to the Regulator present an opportunity to provide further guidance to social housing providers on the issue of ‘express terms of tenancies’ in the context of succession rights. Including in

⁷ Some welcome changes have been made to the directions, making it clear that 2-year fixed term tenancies should only be given in exceptional circumstances. This acknowledges that while flexibility may be what providers of housing want, some stability is fundamental for the well-being of tenants.

⁸ Rosenbaltt, M (2008) ‘I Exist’, National Autistic Society: London

the directions what is expected of providers with regards to this in the directions, and therefore the forthcoming regulations by the Regulator, will ensure that there is some consistency in application of this approach across the country.

8. A large proportion of people with a learning disability⁹ and autism spectrum disorders continue to live with their parents, often into old age¹⁰. We believe that where they live in a social housing arrangement, the children with these disabilities should not be put in a situation where they may not only lose their parents, but potentially also their home. We would therefore like to see the directions altered to include an expectation that an express term of the tenancy should consider, and where possible, give a succession right where the household member is disabled.

9. Our suggested wording for the directions would be (changes in bold):

3 (i) the circumstances in which an express term of the tenancy makes provision for a person other than a spouse or civil partner of the tenant to succeed to the tenancy, including a presumption of succession for disabled members of a household.

4 (f) registered providers grant succession rights to disabled members of a household via an express term of the tenancy in most circumstances

10. We are concerned by the suggestions put forward in paragraph (4)(c) that a current social housing tenant who chooses to move to a new home, let on Affordable Rent terms, would lose the protection of a secure tenancy. If the new size criteria for social housing are introduced in law via the Welfare Reform Bill, then individuals who are living in social housing could find that they are confronted with an impossible choice. If they have a home that is larger than the HB regulations stipulate then they will either have to accept a cut to their Housing Benefit or move home and thereby accept a reduction in the security of their tenancy. Given that the suggested new size criteria rules affect disabled people disproportionately, we believe that this needs to be reconsidered.

Mutual exchange

4) Do you agree with the principle and detail of our proposed direction on mutual exchange?

11. We would like to see included in the directions a mention that the internet-based mutual exchange service should ensure that accessible properties are clearly identified, so as to ensure that people who require these types of properties also have access to information that would enable them to move.

⁹ 50-55% - see Valuing People Now

¹⁰ The National Autistic Society's *I Exist* campaign indicated that 40% of adults with autism lived with their parents

12. We would like to see paragraph 3.(2) (d) amended so that it reflects the principle that support should not only be given to those who do not have access to the internet, but also to those who may have problems with understanding the information provided on the internet which could, for example, include people with a learning disability. This would ensure that all social housing tenants have access to the opportunities that improved access to mutual exchanges could offer.

13. It is important to mention at this point that mutual exchanges will be made difficult by the fact that someone living in a secure tenancy will be unlikely to choose to swap their property voluntarily, even if it was more suitable, should they lose their security of tenure in the process. This is likely to restrict mobility within the social housing sector in the future, rather than increase it.

Tenant involvement and empowerment

5) Do you agree with the principle and detail of our proposed revisions to the direction on tenant involvement and empowerment?

14. The new social housing framework highlights the importance of local accountability and transparency of social housing providers. It introduces the idea of 'tenant panels', which the Localism Bill makes clear, can act as intermediaries between the individual and the Housing Ombudsman, should an individual have a complaint.

15. We have some wider concerns about the fact that the Localism Bill reduces the direct access that individuals will have to a redress mechanism once this Bill becomes law, and are therefore somewhat worried about endorsing tenant panels as a principle. However, should tenant panels become the norm, we believe the directions must be clear that they will have to be representative of all groups present in the particular housing complex they represent. To do this, they will often need to make reasonable adjustments to ensure that all views can be heard. Social Housing Providers should be reminded of this and it would be very helpful if CLG produced guidance on how best to ensure this happens. This guidance should cover, for instance, the need for easy read or other accessible formats to be produced.

16. Furthermore, we would also like to see some direction given, highlighting the duties in the Equalities Act, that any information provided by a social housing provider must also be available in an accessible format. Local accountability can only be fully put into practice when all individuals have access to the information they require in order to hold a body to account. It is therefore key that social housing providers are aware of the differing information needs by different client groups.

Metropolitan Housing Partnership

Question 1:

Does the draft direction on tenure set out the relevant factors that registered providers should consider when deciding what type of tenancy they should offer and issue?

Clearer guidance is needed, for example statements on the types of households that should be considered for longer or life time tenancies. Directions suggest 'tailored intervention' in vulnerability cases, and this is a good approach but one which is reliant on reasonable resourcing and support particularly from social service providers and local authorities. Ensuring that responsiveness and resourcing is potentially made available by providers should be clearly laid out within relevant plans by strategic leaders and Local Authorities.

Question 2:

Does the draft direction on tenure set out the right minimum requirements for a registered provider's tenancy policy?

Yes.

Question 3:

Does the draft direction set out the right minimum protections for tenants of registered providers?

Minimum guidance is becoming clearer and MHP welcome the relationship with local authorities to ensure local continuity. However paragraph 53 of the consultation document says 'guarantee does not apply where a tenant chooses to move to an Affordable Rent home, although registered providers will have discretion to provide the same level of security in this situation should they wish to do so' More clarity is needed around what this flexibility means i.e. does the discretionary potentially allow affordable rent level with more security?

Question 4:

Do you agree with the principle and detail of our proposed direction on mutual exchange?

MHP agrees with this.

Question 5:

Do you agree with the principle and detail of our proposed revisions to the direction on tenant involvement and empowerment?

MHP also have concerns about the Tenant Panel. We feel that tenants should be able to access the Housing Ombudsman directly, and not be forced through another layer of bureaucracy.

Question 6:

What type of models for involving social tenants in repair and maintenance services are registered providers likely to offer, how many tenants might participate in these and what costs and benefits might they result in?

MHP believes that registered providers should have freedom, notwithstanding legal and health & safety constraints, to develop models for involving tenants in repairs and maintenance services that suit their own operational context. In developing our approach to this option we will use consult with our tenants, and employ customer insight techniques, to establish:

- What demand exists for our tenants playing a greater role in repairs and maintenance services
- Develop a scheme that aims to meet tenant aspirations and achieve value-for-money in the maintenance of our stock

Benefits of greater direct tenant involvement in repairs and maintenance are likely to be improved tenant satisfaction with the repairs service, and feelings of empowerment that come from taking more control of one's affairs. The costs are likely to be around the administration of any scheme established, primarily around checking the quality of repairs undertaken.

Question 7:

Do the proposed revisions to the rent direction adequately reflect the introduction of Affordable Rent?

Yes.

Question 8:

Do you agree with the proposed revisions to the Quality of Accommodation direction to reflect the expiry of the original target date for compliance?

It is MHP's view that maintaining zero Decent Homes (DH) failures at all times is uneconomic in both financial (due to the cost of depreciated components being written off as they are replaced early), and maintenance programme management terms (in terms of getting best value in procurement). Some tolerance of residual DH failures at any point in time will be required by the regulator to allow for prudent financial management, and the effective procurement of maintenance items by registered providers. This tolerance should not apply to DH failures due to health and safety reasons.

Question 9:

Energy efficiency is implicit in the revisions to the Quality of Accommodation Direction; should we make it more explicit?

MHP are working towards this through our Fuel Poverty Action Plan, where we will ensure all homes achieve a minimum SAP target, as defined by the Energy Audit Company.

Standards of energy efficiency prescribed in the DH standard are poor in respect of hard to treat housing stock, specifically those difficult to insulate. The backstop of a SAP of less than 35 as a Category 1 HHSRS failure provides no real focus on energy efficiency, but correctly links in the potential impact on occupant health.

MHP would be supportive of a revision that is more explicit, and based on an agreed minimum SAP target. This should also set out that failure to achieve the standard should not prevent registered providers from re-letting, when they can demonstrate plans to achieve the minimum target, and show they are moving towards higher recommended standards.

Michael Siggs

Dear Sirs,

You have kindly asked for comments on the proposed directions to the Social Housing Regulator according to the powers given to the Secretary of State under the 2008 Housing and Regeneration Bill.

I wish to raise the following issues regarding "tenure". I am engaged professionally as a Clerk to 12 Almshouse Charities in Essex and Cambridgeshire. Until June of this year I was the Executive member for Essex on the Board of the Almshouse Association (having reached the age of 75 I was required by the constitution of the Association to retire!). Almshouses are special. There are 1700 groups of almshouses across the country housing some 35,000 residents or beneficiaries. I believe that some 500 of the almshouse charities are still registered providers. The Almshouse Association consultation with the Charity Commission and the former Housing Corporation, now the HCA, issued guidance on the Standards of Almshouse Management through regulations which were last reviewed in 2010 and published that year.

The significant point I am raising regards the "tenure" of an almshouse beneficiary who holds "a Licence to Occupy". The basic format of the Licence to Occupy has been agreed and is printed in the Standards of Almshouse Management and it is on this basis that almshouse beneficiaries hold their Licence to Occupy their home. In the most recent revision to the Licence to Occupy the Licence to Occupy can be limited in time (clause 17). As far as I can see, no reference is made in the consultation to a "Licence to Occupy".

The 2008 Housing and Regeneration Act provides for the establishment of Community Land Trusts (CLTs). This is a particularly interesting innovation and may well provide a basis for localism in housing and local facilities. As far as I have been able to ascertain:-

Community Land Trusts (CLTs) seek to address the problem by creating affordable housing and community resources through the co-operative ownership of land by the local community. Land is acquired by community groups (usually below its market rate) through public investment, planning gain or philanthropic or charitable gifts and is held in perpetuity by the local community.

The value of the land plus subsidies and other equity benefits is permanently locked in, on behalf of the local community and future occupiers, by the CLT. Local residents and businesses form CLTs in order to plan and deliver long term affordable and sustainable development of this land which would benefit the local area and its inhabitants for generations to come.

In 2008 an official definition of Community Land Trusts was laid out in the Housing and Regeneration Act 2008, Part 2 Chapter 1, Clause 79. This says that a Community Land Trust is a corporate body which :

1. Is established for the express purpose of furthering the social , economic and environmental interests of a local community by acquiring and managing land and other assets in order :

- to provide a benefit to the local community
- to ensure that the assets are not sold or developed except in a manner which the trust's members think benefits the local community

2. Is established under arrangements which are expressly designed to ensure that:

- any profits from its activities will be used to benefit the local community (without by being paid directly to members)
- individuals who live or work in the specified area have the opportunity to become members of the trust (whether or not others can also become members)
- the members of a trust control it.

From a practical point of view with regard to discussions that are going on currently in Wivenhoe and Hackney it may be possible to merge existing almshouse charities into CLTs and for those CLTs to act as a focus for local charitable housing within a community. The writer assumes that a CLT will have charitable status. If so, can we also assume that occupants of properties belonging to a CLT would be able to have a "Licence to Occupy" as is currently provided for on almshouse provision.

Until March this year it was possible for an almshouse charity to get HCA grants for new build projects. We hope that this method of receiving grants from the HCA will not be lost because the tenure issues have not been covered by legislation. I look forward to hearing from you.

Yours faithfully,
Michael Siggs

Midland Heart

Question: 1 – type of tenancy to be offered

Does the draft direction on tenure set out the relevant factors that registered providers should consider when deciding what type of tenancy they should offer and issue?

Yes, the amendments within the draft directions appear to be adequate with regard to the type of tenancy to be offered. In particular, we welcome the retention of the phrase: “the sustainability of the community.”

Question: 2 – minimum requirements for tenancy policy

Does the draft direction on tenure set out the right minimum requirements for a registered provider’s tenancy policy?

Yes, on balance, the draft direction does appear to set out an appropriate set of minimum requirements for a tenancy policy. In addition, we support the expectation that through developing and enacting tenancy policies providers should have regard to the needs of vulnerable customers and, where appropriate, offer further support.

Question: 3 – Minimum protections for tenants

Does the draft direction set out the right minimum protections for tenants of registered providers?

Yes, although the reference to a minimum period of two years for a fixed term tenancy still seems odd when virtually all providers have reiterated on a number of occasions that two years is far too short and that they would use much longer periods.

Question: 4 – Proposed principles for mutual exchanges

Do you agree with the principle and detail of our proposed direction on mutual exchange?

We agree with the proposed principles for mutual exchanges, and generally speaking the proposed direction. However, we have some concerns about whether sufficient numbers of tenants will have access to the internet and

would certainly be keen to ensure that there is support for elderly and vulnerable tenants in accessing whatever arrangements can be made available.

Question: 5 – Proposed principles for tenant involvement and empowerment

Do you agree with the principle and detail of our proposed revisions to the direction on tenant involvement and empowerment?

Generally, we have no fundamental issues with regard to the overall direction of these proposals in terms of involving customers in scrutiny. Indeed, for some time Midland Heart has welcomed and encouraged the review of performance by customers and developed scrutiny panels some while ago to undertake this function.

One area where we do have concerns however, is with regard to limiting the ability of tenants to complain directly to the Housing Ombudsman. We remain unconvinced that many tenants would be either willing or able to complain to their local councillor or MP and that in reality this is unlikely to be practical. However, we do feel that the use of tenant scrutiny panels in regard to handling complaints is a useful and valuable concept. To this end, Midland Heart has an established and well developed tenant panel structure for dealing with customer appeals.

Question: 6 – Model types for involving tenants

What type of models for involving social tenants in repair and maintenance services are registered providers likely to offer, how many tenants might participate in these and what costs and benefits might they result in?

As with the previous question we believe it is extremely important that customers are able to scrutinise repairs performance. In addition, we have a long established process for involving customers in the procurement process with regard to the selection of repairs and planned maintenance contractors.

However, we are not in favour of tenants undertaking their own repairs directly. Whilst we believe that take-up from tenants will in reality be generally low, we also feel that this will not be cost effective, that it will increase completed works inspection costs and general administration costs, that works may not be completed to a satisfactory standard and may be financially untenable through rectifying poorer quality repairs.

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Question: 7 – Rent direction adequately reflects Affordable Rents

Do the proposed revisions to the rent direction adequately reflect the introduction of Affordable Rent?

On balance, we feel that the proposed revisions do not adequately reflect the new affordable rent proposals. The current consultation document does not introduce any significant alterations to the present standard and merely relocates it within the new directions. Given that affordable rents introduce a radical concept for social housing providers, we are not convinced that this is sufficient.

Question: 8 – Agreement to the proposed revisions

Do you agree with the proposed revisions to the Quality of Accommodation direction to reflect the expiry of the original target date for compliance?

We are relaxed with regard to these proposed revisions.

Question: 9 – Whether energy efficiency should be more explicit

Energy efficiency is implicit in the revisions to the Quality of Accommodation Direction; should we make it more explicit?

The Quality of Accommodation directions could have been made more explicit to reflect a more robust stance on energy efficiency. This is particularly imperative in view of the following issues:-

- That there are substantially increased - and increasing - energy costs for consumers;
- That they should be better aligned with the intentions of the current Energy Bill.

Overall, there is now an opportunity to beef up this aspect of the Quality of Accommodation standard through a more explicit direction.

Moat

Executive summary

We welcome the opportunity to comment on the directions to the Social Housing Regulator consultation. The main points in our response are as follows:

- **We believe there needs to be a mechanism for registered providers to review the rent affordability of their residents.** We propose a review of rent affordability against the income of residents every set number of years (eg. every five years). This would allow registered providers to establish their residents' ability to afford different levels of rent.
- **We propose the introduction of a new full-rent category.** This would give us the ability to set more appropriate rent levels as residents' incomes improve over time. Currently, the only mechanism for dealing with this is eviction.
- **It is our view that tenures should no longer be 'hard-wired' to specific properties.** We are in favour of amending the system to allow for genuine tenure flexibility – underpinned by our proposals to review rent affordability and charge full market rents where subsidy is no longer required. Our aim is to give people the ability to move between tenures even while remaining in the same home.
- **We believe that incentives should be at the heart of housing policy.** This aim should therefore be the starting point for the creation of directions to the regulator.

Response to consultation

Tenure reform

It is Moat's view that there are two main methods of increasing the supply of subsidised affordable homes. The first is to develop new homes, at a cost to the taxpayer through capital grant. The second method is for registered providers to shift more residents from subsidised homes into non-subsidised tenures.

In order to achieve this, there is a need for further tenure reform, and we are pleased to see that the Secretary of State intends to use the new power of direction to 'allow greater flexibility for registered providers on the types of tenancies that they may grant'.¹¹ The new Affordable Rent model does offer some flexibility – namely, the flexibility to set tenancy length. However, we believe that in many ways, this kind of flexibility is somewhat misplaced.

¹¹ CLG, Implementing social housing reform: directions to the Social Housing Regulator, consultation document, p.13, pgph 23.

According to the consultation document, the intention of social housing reforms are:

...To provide greater freedoms and flexibilities for local authorities and registered providers to meet local needs and local priorities; make better use of resources; promote fairness; and ensure that support is focused on those who need it for as long as they need it.¹²

We strongly agree with all of these aims, but differ in our methodology for achieving them. We propose an alternative model, designed as an enhancement of the Affordable Rent model – not a large-scale reconstruction.

In short, as an alternative to simply terminating peoples' leases, we suggest an amend to the Affordable Rent model that would allow registered providers to charge full market rent where circumstances warrant it. It would consist of the following:

1. Review of rent affordability

A review of rent affordability against the income of residents every set number of years (eg. every five years). This would allow registered providers to establish their residents' ability to afford different levels of rent.

2. New full-rent category

In contrast to current proposals which only give the flexibility to terminate leases, our alternative model also gives flexibility on the setting of rent levels when people are able to pay full market rent.

Where circumstances change for residents and they are deemed to be able to afford full market rent by the review, we believe it is important to increase their rent accordingly. This seems the fairest way of ensuring that residents are able to remain in their homes, whilst safeguarding the pre-eminence of public subsidy.

In order to ease people into their new circumstances, we also accept that an escalating rent increase may be required, set at approximately 90% of market rent for a set period of time.

3. Encourage shared ownership

When a resident is moved onto the new full-rent category, we would also offer the chance to move to shared ownership – with the normal rent discounts that apply within this model.

This point serves to minimise the risk of the perverse policy outcome of a resident being disincentivised from actively seeking to increase their income. It is also consistent with the principles of mobility and

¹² CLG, Implementing social housing reform: directions to the Social Housing Regulator, consultation document, p.13, pgph 18.

aspiration as outlined on numerous occasions by the Housing Minister.¹³

4. Reinvestment of increased income

Due to various factors, there is little doubt that one of the greatest challenges facing affordable house building currently is a lack of capital. To address this issue, we propose that housing associations should ring-fence all extra income derived through the alternative model, in order to re-invest it into new social housing.

It is clear from proposed changes to tenure that the hypothecation of incremental income to new housing delivery is already being established in principle. Therefore, what we propose is not a new system, but an extension of what is currently being proposed.

We also believe that it is sensible to create 'homes' for people rather than simply a 'place to live'. We certainly want to distance our homes from the stigmatised view that social or affordable housing is a tenure of last resort. The reality is that if we create a sense for our residents that a Moat home is a temporary housing measure, we are significantly less likely to succeed in our aims.

Indeed, true flexibility – in a housing context – means giving people the ability to move between tenures even while remaining in the same home. The assumption that people should be evicted as their income improves does little to promote mixed communities, and at worst, promotes a return to the mono-tenure developments of the past.

Response to specific questions

Question 1: Does the draft direction on tenure set out the relevant factors that registered providers should consider when deciding what type of tenancy they should offer and issue?

The draft direction sets out the relevant factors that registered providers should consider when deciding on the type of tenancy under the current system. However, we have proposed an extension to this system, outlined in the previous section, which would most likely require a revised direction.

Question 2: Does the draft direction on tenure set out the right minimum requirements for a registered provider's tenancy policy?

Yes

Question 3: Does the draft direction set out the right minimum protections for tenants of registered providers?

Yes

Question 4: Do you agree with the principle and detail of our proposed direction on mutual exchange?

¹³ CLG, 'Local decisions: a fairer future for social housing', consultation document, Nov 2010, p.5.

Yes

Question 5: Do you agree with the principle and detail of our proposed revisions to the direction on tenant involvement and empowerment?

Yes

Question 6: What type of models for involving social tenants in repair and maintenance services are registered providers likely to offer, how many tenants might participate in these and what costs and benefits might they result in?

Moat has developed its own Resident Independence model, whereby Moat agrees to provide training and encouragement to residents who would prefer to undertake minor repairs to their homes themselves.

Question 7: Do the proposed revisions to the rent direction adequately reflect the introduction of Affordable Rent?

The proposed revisions adequately reflect the introduction of Affordable Rent. However, in order to enact our proposed alternative model, this direction would require a further revision – in particular to sub-paragraph (7), which sets the limit at 80% of market rent.

Question 8: Do you agree with the proposed revisions to the Quality of Accommodation direction to reflect the expiry of the original target date for compliance?

Yes

Question 9: Energy efficiency is implicit in the revisions to the Quality of Accommodation Direction; should we make it more explicit?

No

N Carr

To whom it may concern:

I have read the report via the BBC news site and I think it is a laugh, yes that is right a LAUGH in what country can you get a house and pay your rent on time and if your life improves you get booted out of your own home ?? England that is where a good place to live.

I Ask the Question who sold off the housing stock because the councils could not afford to upgrade them as years of neglect, who also stopped (until recently) the councils from spending the rent they received on the stock they have to upgrade, who also kept a very large amount of money from the sell off of housing stock and has led us to this housing shortage. I will tell you the Damn government !! whether it be this one or the other or the other before it the government does things because it's cheap and raises money for them then years later bleat about the housing shortage and how to correct it. I will tell you how to correct the housing shortage release the money that raised billions for the government so the councils and social housing people can build more homes for the less well off, also I would give up my home if the government paid my deposit for a house which I can afford but not the down payment. After all how much does it cost to keep people in hotels and B and B's I would move but I don't have the deposit £20,000 for a proper house. That is what will free up housing ENCOURAGING people to move not forcing them to move.

Also where is the incentive to do your house up if you think you are only going to be there for up to 5 years I wouldn't and many others would not too. Shame on you all.....Build houses not affordable ones but social ones as I cannot even get the down payment for an affordable one either but I can afford to buy one just not the down payment price.

n.carr
northants

National Federation of Tenant Management Organisations

General Comments

Thank you for inviting the NFTMO to comment on the proposed Directions to the Social Housing Regulator. We set out below our responses to the particular questions you have asked.

The NFTMO has considered the proposed Directions in the context of two factors in particular:-

- a) Will the Directions enhance or undermine our aims to achieve settled, sustainable communities?
- b) Once the Regulator has set the standards, in accordance with the Directions, what will be done by the Regulator or others to enforce the standards?

Direction on tenure

Question 1: Does the draft direction on tenure set out the relevant factors that registered providers should consider when deciding what type of tenancy they should offer and issue?

We note that registered providers will be required to issue tenancies that are 'compatible with the purpose of the accommodation, the needs of individual households, the sustainability of the community, and the efficient use of their housing stock'. What will be important is the relative weight that providers give to each of these relevant factors. We would be concerned if the drive for 'efficient use of the housing stock' was to become a reason for providers to make frequent use of short term tenancies – for example to force tenants to move out following a change of income or household size.

The needs of individual households and the sustainability of communities are vitally important factors. We want tenants to feel a genuine sense of belonging and commitment to their neighbourhood. This is an essential ingredient for any sustainable community. It will be much harder to encourage tenants to take an active and committed voluntary role in their community if those tenants don't expect to be resident there beyond the short term.

For Tenant Management Organisations (TMOs) we can only continue to operate successfully if we have enough able and willing volunteers offering their time and energy to serve the community. TMOs will be at risk if landlords offer short term tenancies so that tenants have no long term interest in their home or community.

Sustainable communities need to be socially and economically diverse. If the landlord chooses to offer tenancies that encourage or force the more economically active tenants to leave, then the community will be undermined. TMOs, like their communities they serve, are more likely to prosper when they can call on volunteers from a range of social and economic backgrounds.

We were pleased to see a Government Spokesperson quoted by the BBC as saying that:-

"Where a council or a housing association is aware that one of their estates benefits from having a well-established and close-knit community, they may want to offer any new tenant moving there a life-time tenancy. This factor can be taken into consideration alongside others, including the needs of the tenant and as part of the management of their housing stock."

In this spirit we believe that landlords should be required to obtain the agreement of a TMO to the tenancy policy for those dwellings managed by the TMO. The types of tenancy offered in the TMO would therefore reflect the TMOs advice about the implications for a sustainable community and successful TMO.

Question 2: Does the draft direction on tenure set out the right minimum requirements for a registered provider's tenancy policy?

The direction is helpful in so far as it requires providers to publish a policy that sets out clearly the kinds and lengths of tenancies they will grant, the circumstances in which they will grant tenancies of a particular type, the circumstances in which tenancies may or may not be reissued at the end of a fixed term, details of how tenants can appeal or complain, their policy on taking into account the needs of vulnerable households and how tenants will be helped to find alternative accommodation.

It is very important that these policies are only agreed and published after proper consultation with tenants including representative tenants' organisations.

We believe that there needs to be a close and carefully considered relationship between the published tenancy policy and the published allocations policy.

Question 3: Does the draft direction set out the right minimum protections for tenants of registered providers?

The NFTMO welcomes the recent amendment to the draft Directions indicating that fixed-term tenancies of under five years should only be used in exceptional circumstances.

We are concerned that where a provider chooses to offer a short term tenancy and this follows a probationary/introductory period of tenancy, then this will be extremely unsettling for the tenant. We cannot see any justification for the uncertainty that is created, for example for tenants with children who are being settled into a local school.

We welcome the protections for existing tenants (at the time that the proposals become law) including protection in the event that they move to another social rented home, and for tenants who are temporarily moved during works to their home. They are essential but these protections do serve to underline the misfortune of newer tenants who are offered only a short term

tenancy. It creates the likely scenario of two very similar and neighbouring households living in similar homes but with one of the two households having to plan their futures in the context of uncertainty about their future occupancy of their home.

We agree that the provider's tenancy policy should make clear how the provider will protect the interests of tenants who are vulnerable because of their age, disability or illness, and households with children. However we think the proposed standard should require providers to do more than "the provision of tenancies which provide a reasonable degree of stability". We think that the provider should aim to offer a tenancy that offers the vulnerable person as much stability as possible.

We believe the best protection for tenants would be for the CLG to direct that providers should only use fixed term tenancies in the most exceptional circumstances and when they can clearly demonstrate why it is necessary to offer a fixed term tenancy.

Direction on mutual exchange

Question 4: Do you agree with the principle and detail of our proposed direction on mutual exchange?

The lack of mobility is an unfortunate feature of housing in England compared with many other European countries. We welcome initiatives that will offer tenants of councils and housing associations more opportunities to move from one social housing tenancy to another, when and where they need to do so.

Increasing opportunities for mutual exchange will add to mobility. We hope that providers will, as the Government proposes, make proper arrangements for tenants who do not have internet access at home, so that they are not at a disadvantage if and when they need to move to a different part of the country.

We would also like to suggest that the scheme enables tenants who are living in a co op or a TMO to find possible exchanges with tenants in co-ops or TMOs in the area where they want to live. It is a waste of knowledge and experience when, for example, an established committee member in a TMO is unable to use that experience when they move home. Equally there are potential advantages to coops and TMOs if incoming 'exchangers' have prior experience of volunteering in a similar organisation.

Direction on tenant involvement and empowerment

Question 5: Do you agree with the principle and detail of our proposed revisions to the direction on tenant involvement and empowerment?

We generally welcome the new features introduced by the revised direction on tenant involvement and empowerment but we hope that the Regulator will also retain features of the current standard that were generally welcomed by

tenants. We refer, for example, to the references in the current standard to Local Offers and Annual Reports.

NFTMO welcomes the specific references in the Direction to tenants being given the opportunity to be involved in the management of their homes. We particularly welcome the stipulation that providers should “support their tenants to exercise their Right to Manage or otherwise exercise housing management functions”.

We welcome the opportunity for tenants to be involved in the scrutiny of their landlord's performance but we believe that scrutiny by tenants will not be effective unless the panels have genuine authority. When the Housing Minister announced his support for tenant scrutiny panels last year he promised that they would have the ‘teeth’ they would need to hold their landlords to account. We believe the effectiveness, or otherwise, of tenant scrutiny panels will largely depend on the extent to which they develop the ‘teeth’ that the Minister referred to.

In that connection we are concerned that the Government appears to be proposing that, having set the Standards, the Housing Regulator will not actively regulate the Involvement and Empowerment standard. The question then arises as to how tenant scrutiny will develop teeth where a landlord fails to take the necessary steps to establish and recognise an independent and effective tenant scrutiny structure. There will be a very obvious vicious circle whereby, because the landlord has failed to enable effective tenant scrutiny, the tenants will not be in a position to hold the landlord to account for that failure. This vicious circle should be broken by an intervention from the Housing Regulator.

We have similar concerns about the intransigent landlords who will continue to obstruct tenants who seek to exercise their Right to Manage. Unless there is a prospect of intervention by the Regulator we expect, from bitter experience, some landlords will simply choose to ignore or breach parts of the Involvement and Empowerment Standard at will.

We fully understand that the new regulatory regime is intended by Government to minimise the number of interventions by the Housing Regulator, and we recognise that only the most serious breaches will meet the ‘serious detriment’ test. However we strongly believe that potential intervention by the Regulator would significantly strengthen the hand of tenants who are looking to get involved in ways that are set out in the Standard.

The NFTMO believes that there will be some serious breaches of the Involvement and Empowerment Standard that would meet the ‘serious detriment test’ and would be sufficiently serious to warrant Regulator intervention. For example:-

a) Where a landlord denies any tenant their legal rights to be involved and consulted. e.g. Not acting in accordance with Right to Manage Regs.

- b) Where a landlord is not offering any genuine opportunities for tenants to get involved.
- c) Where a landlord's published policy is itself in breach of the tenant empowerment standard. e.g. if a council had an official policy to oppose the development of TMOs
- d) Where a landlord makes no genuine arrangements to involve its tenants in the shaping of services. e.g. through the Annual Reports and Local Offers.
- e) Where a landlord fails to enable proper tenant scrutiny arrangements. e.g. blocks the setting up of tenant panels.
- f) Where a landlord makes no genuine effort to break down barriers that are blocking involvement opportunities for some groups within its stock.

We are aware that there is a potential role for the Housing Ombudsman where a complaint is made to him about an alleged breach of the Involvement and Empowerment standard and we look forward to hearing more about how he will be able to help. However, we believe that the role of tenants in the Government's new vision for regulation is so fundamental that it should be underpinned by a Regulator ready and able to intervene where a landlord is systematically denying tenants the involvement and empowerment opportunities that the Government's Direction is calling for.

Question 6: What type of models for involving social tenants in repair and maintenance services are registered providers likely to offer, how many tenants might participate in these and what costs and benefits might they result in?

We understand that more details of the proposed 'Tenant Cashback' scheme for delegating repairs budgets will emerge as the pilot projects progress. Based on the information we have so far, the NFTMO has concerns about the idea of giving individual tenants a personal budget to arrange their own repairs. There are some obvious questions about quality control and accountability and concerns about the potential for exploitation of vulnerable tenants by dishonest traders. There are also issues for TMOs, particularly those managing small numbers of properties, whose business model for the repairs service maybe undermined if a significant number of tenants opted for the Cashback model.

We much prefer the model whereby groups of tenants can take responsibility for some aspects of the housing repairs budget, in a properly structured relationship with the landlord. Many TMOs, of course, already manage day-to-day repairs budgets efficiently and effectively. We would be pleased to see landlords looking to delegate repairs budgets to community groups using the TMO model, or something similar. Limited responsibility, say for minor repairs to a small number of homes, could be delegated through some form of Local Manage Agreement. The same result could be achieved by using the Right to Manage/ TMO model but with a very specific focus on minor repairs. Remember that the CLG's Modular Management Agreement for TMOs allows for groups to select very specific and limited responsibilities. Either way, some responsibility for a minor repairs budget could be delegated to a local tenant's organisation relatively quickly.

We expect that the majority of landlords will not voluntarily delegate repairs budgets, whatever the model, unless given some very specific encouragement to do so. Where landlords do open up the option for their tenants, and/or where council tenants are aware of their Right to Manage, we believe significant numbers of tenants will be interested. This will particularly apply where tenants are not fully satisfied with the service offered by the landlord. We would also expect tenants to be interested in taking charge of the maintenance of common areas in blocks of flats and of the estate environment.

The experience of TMOs is that, when properly organised, local community control of the repairs budget can give rise to significant cost savings and service improvements. The NFTMO submitted detailed evidence of this impact to the CLG Review of the TEP programme last year.

Direction on rents

Question 7: Do the proposed revisions to the rent direction adequately reflect the introduction of Affordable Rent?

We note that the Direction on rents is formalising changes that have already been made by the Regulator to allow providers to offer Affordable Rent properties. In our response to the consultation last winter the NFTMO expressed concerns about linking housing association rents to local market levels. Our views have not changed. At that time we said *"We are concerned about the impact in some regions of 'affordable' rents being at 80% of market rents. A recent survey of TMO tenants in the London Borough of Southwark showed that under 2% of respondents had an income of more than £30,000. This suggests that most social housing tenants in London would be 'priced out' of homes offered at 'affordable rents'. For this reason we do not agree that housing associations should be allowed to convert existing properties to affordable rents when they become vacant. This will effectively reduce the supply of social rented housing available to people on lower incomes."*

Direction on quality of accommodation

Question 8: Do you agree with the proposed revisions to the Quality of Accommodation direction to reflect the expiry of the original target date for compliance?

This seems to be logical. In future Local Authorities and Housing Associations will have long term business plans which should provide for cyclical maintenance, periodic refurbishment and improvement. This information should be shared with tenants so that they can be assured that the landlord is making viable plans for the future maintenance of their homes.

TMOs should be given the opportunity to manage their own 'mini housing revenue account' including the planning and implementation of major works programmes for the refurbishment and improvement of the homes they

manage. In one or two instances landlords are already in discussions with TMOs about this potential model of localism.

Question 9: Energy efficiency is implicit in the revisions to the Quality of Accommodation Direction; should we make it more explicit?

We now have rapidly escalating energy charges to consumers. Fuel poverty has been an increasing problem for many years and will get worse. Energy efficiency in social rented homes is extremely important and should be explicit in the Quality of Accommodation Direction.

National Housing Federation

The National Housing Federation represents 1,200 independent, not-for-profit housing associations in England and is the voice of affordable housing. Our members provide two and a half million affordable homes for more than five million people. We are grateful for the opportunity to respond to the Government's consultation on the proposed directions to the social housing regulator. We confirm that we are happy for our response to be made public.

Relationship between social housing providers and the state

Before addressing specific aspects of the consultation, we wish to tackle a fundamental error that informs the entire document. This error is demonstrated in the very first paragraph of the minister's foreword, in which he refers to social housing as a "publicly-funded" asset.

The description is not correct: at least, not without some very important qualifications.

As regards its relationship with the state, "social housing", as defined in s68 of the Housing and Regeneration Act, falls into three categories.

First, there is housing owned by local authorities. This, whether managed through an ALMO or directly by the authority, is clearly public in nature because a local authority is an emanation of the state.

Secondly, there is housing owned by providers that are registered with the Tenant Services Authority but are not local authorities. This category, known formally as private registered providers, consists chiefly of housing associations. Members of this group are not part of the state: they do, of course, fund their development partly by state grant but most of their development finance is raised privately; while their day-to-day running costs are met almost entirely from rents, paid under private contract by their tenants.

Thirdly and finally, there is sub-market housing let on the basis of need by a variety of unregistered housing associations, charities, and other public-benefit organisations. This is numerically the smallest category and it is outside the scope of the current consultation, but it clearly qualifies as 'social housing' under the statutory definition and its existence reinforces the point that social housing is not inherently public in nature.

We have gone into some detail on this point because the minister's misapprehension about the nature of social housing has led to a fundamentally misconceived approach to the draft directions. At several points, the directions set out very specific requirements on social housing providers. Such an approach would be entirely proper in dealing with true public bodies (although even there, it would arguably be unwise) but in the context of bodies such as housing associations, it gravely risks compromising

their non-public status; to say nothing of undermining the Government's vaunted commitment to localism.

This is particularly disappointing in view of the minister's repeated commitments, both when he was in opposition and in his early months in government, to avoid "policy passporting": that is, the use of regulation to impose policy initiatives favoured by the minister of the day. Unfortunately, elements of the current direction – especially, on mutual exchanges and tenant cashback – will go down as prime examples of "policy passporting".

Direction on tenure

In responding to this direction we shall also address the further proposal, and amended draft direction, outlined by the minister in his letter of 28 July.

The first point is that we do not accept the need for direction on this subject. This power is introduced in the Localism Bill and was not thought necessary at the time of the Housing and Regeneration Act 2008. Whatever the merits of the direction in policy terms (to which we turn below), the power to direct is inherently dangerous. Although it is being used on this occasion to liberalise regulation, there is nothing to prevent it from being used in the future in a far more restrictive sense, potentially seeking to micro-manage providers' lettings policies from Whitehall.

That said, the proposed direction, even in the light of the minister's letter, represents a significant liberalisation of previous rules. To that extent it is welcome, although this could have been achieved without a direction. The substance of the direction is to allow (but not require) the use of "flexible", i.e. fixed-term, tenancies. The initial version of the direction would have allowed providers to grant such a tenancy with a term as short as two years, although the minister's letter of 28 July announces a change to the draft direction so that the term should be at least five years other than in "exceptional circumstances".

The Federation supports this liberalisation of tenancy regulation. This is not because we think there is a general desire on the part of our members to switch to a fixed-term regime. On the contrary, we anticipate that many, probably most, of our members will continue to use lifetime tenancies (subject, if thought fit, to a probationary arrangement) and we welcome the fact that the direction permits this approach. However, a number of members favour a tenancy regime that allows a regular review of the tenant's circumstances, and a fixed-term regime will meet this requirement.

We support this flexibility because it allows registered providers, working in association with their tenants and other stakeholders, to develop an approach to tenure according to their own circumstances. We agree that this flexibility should be available in new tenancies generally, regardless of the level of rent: that is, we support the proposal to decouple rent level and tenure type.

Much of the commentary on fixed-term tenancies has concentrated on the supposed need to identify tenants whose financial circumstances have markedly improved since they were allocated social housing. Our view, however, is that although a fixed-term regime may occasionally be used in this way, its principal application will be not where a tenant's income has risen but where a tenant's household size has fallen; typically, because children have left home so the property is now underoccupied. In such a case the landlord is likelier to offer the tenant a smaller property rather than seek to remove him or her from the social housing sector.

The argument for using a fixed-term regime to address underoccupation is naturally strongest in areas of very high demand. We therefore expect use of this regime to be commonest in these areas, although doubtless practice will vary, and we stress the importance of allowing each provider to decide what form of tenure regime is appropriate.

We do not, however, detect any significant interest in the use of very short fixed terms. Most associations (if they wish to use fixed terms at all) envisage terms in the order of five or ten years. Accordingly, the change announced by the minister on 28 July is not necessary: in effect, it directs the sector to do what it was likely to do anyway.

This does not mean, however, that the change announced in the minister's letter is irrelevant. On the contrary, it is potentially harmful because it could easily create the impression that the use of tenancies of five year's (or more) is the result of the direction; whereas in fact, landlords would almost all have used five-year terms even if the minister and the regulator had said nothing.

Although we expect a term of at least five years to be the norm, we do not exclude the possibility that in certain cases, an association may consider that a shorter term is appropriate. We are pleased that, even in its modified form, the direction recognises this possibility. We do not propose to speculate about what "exceptional circumstances" might give rise to a shorter term, and we urge the minister and the regulator to resist any temptation to prescribe rules about this. We anticipate, however, that fixed terms of less than five years will be very rare – and would have been in any event, irrespective of the modification of the direction.

We agree with the proposal to allow landlords to extend probationary periods from 12 months to 18.

Direction on mutual exchange

Enabling tenants to swap their homes with those of other willing tenants is an important way of increasing mobility in the social rented sector and making the best use of stock. Providers of mutual exchange schemes provide a useful service in connecting tenants who are looking to swap tenancies. For example, one provider – House Exchange – has 135,000 registered tenants and last year facilitated 800 exchanges per month.

Housing associations are already required, under the Tenant Services Authority's Tenancy Standard, to "participate in mobility schemes and mutual exchange schemes where these are available".

The number of housing associations signed up to online home swap schemes has increased steadily, and in its summary of responses to the Local Decisions consultation, the Department for Communities and Local Government said "a large majority of respondents, as landlords, indicated they do already subscribe to a scheme".

But despite the growing use of such schemes, the Government intends to use the Localism Bill (Clause 154) to direct the Regulator to replace the Tenancy Standard's required outcome with specific requirements on landlords to sign up to internet-based mutual exchange services that share data. To do this, the Government would have to add mutual exchange to the list of categories in relation to which the Secretary of State may direct the Regulator.

In its consultation, the Government said any direction should contain "the minimum amount of detail needed to achieve the desired goals". However, the details of the draft direction on mutual exchange are over-prescriptive to the point of micro-management.

Under the direction, housing associations would have to subscribe to one of more providers of internet-based mutual exchange schemes that are part of a new national scheme that would enable tenants wishing to identify a mutual exchange to see all available matches. Smaller associations may choose to pay the subscription fees of individual tenants on request, rather than paying for an association-wide membership.

The consultation says: "The intended outcome is that tenants should be able to access easily the details of as many available reciprocal matches as possible." The Direction would also compel housing associations to publicise the availability of mutual exchange services to tenants and to provide "reasonable support" to tenants who do not have access to the internet.

The direction fails to recognise that specialist and supported housing is often allocated through referral arrangements; in addition, this type of accommodation, in its nature, entails the provision of support or other specialised services to residents, which are often highly specific to the circumstances of the individual and which may not necessarily be available at another location. For these reasons, exchange arrangements do not necessarily apply in supported or specialist housing.

Moreover, the direction is worded in a way that could give rise to absurd results. Landlords are required to subscribe either to an exchange service that shares property data with other such services, or to "as many [schemes] as necessary to ... access ... as many ... properties as possible". Regarding the first element, there is no guarantee, of course, that any exchange service will exist that satisfies the data-sharing requirement; and regarding the second element, there is no saving provision to take account of cost or proportionality

so that providers could be obliged to pay significant fees to subscribe to schemes that provide access to only a trivial number of additional properties.

The National Housing Federation supports mutual exchange schemes, alongside the wealth of other local initiatives by social landlords to boost mobility. We also welcome the fact that providers of online schemes are already taking steps to enable data to be shared. But we have strong concerns about plans to strengthen the Secretary of State's powers in this area, which would allow the government of the day to use the regulatory system to impose its policy initiatives. It is vital that regulation retains its purpose of supporting the sector to help those in housing need. We therefore believe, in principle, that the content of standards regarding tenancy exchanges should remain the preserve of the regulator, and oppose this draft direction.

Direction on tenant involvement and empowerment

We note that the heading for this direction does not accord with the statutory authority, which refers only to involvement, not empowerment. For clarity and consistency, and to maintain the focus of the direction, the heading should be amended to refer only to involvement.

The Government's proposals for this direction fall into three parts.

Firstly, the Government proposes to strengthen the requirements of the existing direction in respect of resident engagement and scrutiny. To some extent, this represents a legitimate shift, compared with the previous version of the direction, to take account of the rebalancing of the regulator's role. The increased emphasis on tenant involvement in setting service standards, and tenant scrutiny, should be seen in this context, and the Federation agrees that this is a proper extension of the previous direction.

It is welcome that the direction recognises that tenant panels may not be appropriate in every case, and that alternative approaches are admissible.

We agree that the provision of timely information is implicit in any effective scrutiny: so much so, in fact, that it is hardly necessary for the direction to contain a stipulation to this effect. We agree that landlords should engage with their tenants about the form in which this information should be provided; and we do not think this process should be constrained by specifying a requirement about publishing an annual report, or the contents thereof.

We agree, in principle, with the second element in this direction: that tenants should have the opportunity to be involved in the management of their homes, which may include devolved management arrangements (among other approaches). However, the "Right to Manage", as a statutory scheme, is relevant only to local authority landlords.

The third element in the proposed direction relates to the so-called "tenant cashback" scheme (although this expression is not used in the direction itself).

We do not propose to comment on this part of the draft direction because we think it is outwith the relevant direction power (Housing and Regeneration Act 2008, s197(2)(c)), which applies to “involvement by tenants in the management ... of accommodation”.

Direction on rent

The Federation welcomes the confirmation of the previously announced position that the current rent regime, which officially terminates on 1 April 2012, is to be extended. This allows associations a degree of confidence moving forward.

In addressing affordable rent, the direction should refer to the special treatment of service charges in supported housing. On service charges more generally, it remains our view that the inclusion of service charges within the affordable rent calculation is not appropriate because it may prevent landlords from recovering the true cost of services, thereby reducing the resources available to support the provision of new housing.

Direction on quality of accommodation

We support this direction, which in substance reproduces the existing requirement. We agree that energy efficiency is implicit in the draft direction and we do not think there is any gain in making it explicit.

Conclusion

While there are elements of the proposal that the Federation can support, the overall impact of the five new directions, taken together, is a significant increase in direct ministerial influence in the sector. In some cases it represents a return to the worst past excesses of micro-management and “policy passporting”: the direction on mobility is a text-book example.

This needlessly detailed regulation unbalances the regulatory settlement embodied in the 2010 Regulatory Framework. This commanded unusually wide support precisely because of its careful avoidance of the kind of detailed stipulation embodied in the current draft directions. Although the return to a discredited regulatory approach is, as yet, confined to relatively limited areas of landlords’ activities, the effect is to compromise the regulatory settlement as a whole and the adverse consequences of this will be felt far beyond the areas directly affected.

It may be added that this approach also sets a bad example to the minister’s successors in office (of whichever political persuasion), who will be able to cite his actions as a precedent for the use of regulation to impose whatever initiatives or schemes they may have in mind.

Network Housing Group

Q1 Does the draft direction on tenure set out the relevant factors that registered providers should consider when deciding on what type of tenancy they should offer and issue?

In part yes, but it leaves a number of grey areas that will be addressed locally. This could lead to different approaches in different areas, and for a single Registered provider such as Network Housing Group using different criteria in different areas. The HCA London Region have indicated to the G15 that the delivery contract for affordable homes in each borough will have primacy over local authorities. This should be confirmed in the guidance.

Q2 Does the draft direction on tenure set out the right minimum requirements for a registered provider's tenancy policy?

Yes we accept that this is clear and fully comprehensive so we have no further comment.

Q3 Does the draft direction set out the right minimum protections for tenants of registered providers?

To be fully protected, our tenants need clear criteria as to when affordable tenancies will be granted and when assured tenancies will be granted. As no central guidance is provided, this will be decided locally and will again differ from area to area. This will mean that two tenants with a similar level of need living in different local authority areas could experience different outcomes and pay vastly different rents for similar properties.

Q4 Do you agree with the principle and detail of our proposed direction on mutual exchange?

At present we are a member of Homeswapper which provides our tenants with the opportunity to carry out a mutual exchange with other social housing tenants.

This service is not available for assured shorthold, starter tenancies or intermediate rent tenancies. It is available for our assured tenants.

The mutual exchange standard proposed to the Regulator does not make it clear whether this is a service that can be offered to fixed term tenancies (affordable rent) and given the affordability and vulnerability criteria how this will be compatible.

Q5 Do you agree with the principle and detail of our proposed revisions to the direction on tenant involvement and empowerment?

We do not agree with the principle of "tenant cashback" which appears ill thought through for the following reasons:

- 1 Deciding what to include within the remit of cashback will be problematic.
- 2 There are serious issues of health and safety awareness apparent—for example asbestos when tenants undertake their own works.
- 3 Such a scheme would require a robust mechanism in place to ensure quality assurance. How will savings be shared when the costs of inspecting and signing off work will be costly?

4 How will savings be paid to tenants in such a way that it doesn't affect their benefit entitlement?

Q6 What type of models for involving social tenants in repair and maintenance services are registered providers likely to offer, how many tenants might participate in these and what costs and benefits might they result in?

We are currently not in a position to answer this.

Q7 Do the proposed revisions to the rent direction adequately reflect the introduction of affordable rent?

For the most part, yes. There are technical issues that are not yet satisfactorily resolved, which should be addressed by the guidance. For example, re-basing rents. The TSA Tenancy Standard states there is a requirement that the rent is re-based each time an affordable rent tenancy is issued for a property and the TSA's explanatory note clarifies that this should occur whether a new tenancy is issued or an existing tenancy is reissued. What is unclear is whether there would be any requirement to re-base if an affordable rent tenancy is granted as a periodic assured shorthold and the tenant is allowed to remain in occupation beyond the initial (5 year or other) term. If there is no requirement to re-base in that situation, then any future increases would be restricted to RPI plus 0.5% per annum throughout the period of the tenant's occupation.

Q8 Do you agree with the proposed revision to the Quality of Accommodation direction to reflect the expiry of the original target date for compliance?

Yes.

Q9 Energy efficiency is implicit in the revisions to the Quality of Accommodation Direction, should we make it more explicit?

We feel that as the Quality of Accommodation standard has to have regard to the Decent Homes Guidance, energy efficiency will be sufficiently covered.

New Charter Housing Trust Group

1.	Does the draft direction on tenure set out the relevant factors that R.P's should consider when deciding what type of tenancy they should offer and issue?	The draft direction allows R.P's more flexibility on types of tenancy and we agree that minimum guarantees are required to ensure some standards across the sector. However it is likely that most providers will continue with lifetime tenancies and only offer fixed term tenancies for the minority of properties/households. There is concern from all levels including customers that the proposals will have unforeseen and detrimental consequences for many neighbourhoods already suffering from the consequences of the economic downturn and longstanding deprivation.
2.	Does the draft direction on tenure set out the right minimum requirements for a R.P's tenancy policy?	<p>The draft direction doesn't give providers a great amount of detail on what is expected to be included in the tenancy policy, however New Charter welcome the freedom and flexibility to agree the detail locally.</p> <p>New Charter would welcome greater information on appeal processes required as it is envisaged that customers are likely to use this right.</p>
3.	Does the draft direction set out the right minimum protections for tenants of R.P's?	New Charter are comfortable with the proposals detailed in the draft direction.
4.	Do you agree with the principle and detail of our proposed direction on mutual exchange?	New Charter is already part of HOMESWAPPER and will continue to participate in an internet based service in the future. We agree that matching services could be improved to increase opportunities for mobility.
5.	Do you agree with the principle and detail of our proposed revisions to the direction on tenant involvement and empowerment?	New Charter welcome the challenge from tenants and have a successful scrutiny panel in place that we envisage developing further in the future.

6.	What type of models for involving tenants in repair and maintenance services are R.P's likely to offer, how many tenants might participate in these and what costs and benefits might they result in?	New Charter has concerns over the draft direction in relation to tenants carrying out routine repairs as this is an area where RPs are required to ensure exceptional standards of work to meet with health and safety duties because poor workmanship resulting from tenants engaging 'cowboy' agents could endanger lives of the tenant concerned and their neighbours. In view of our concerns, Aksa Housing Trust, part of New Charter Housing Trust Group is participating in the Cash Back pilot.
7.	Do the proposed revisions to the rent direction adequately reflect the introduction of AR?	The proposed revisions reflect the introduction of affordable rent.
8.	Do you agree with the proposed revisions on the quality of accommodation direction to reflect the expiry of the original target date for compliance?	New Charter welcome the proposed revisions.
9.	Energy efficiency is implicit in the revisions to the quality of accommodation direction, should we be more explicit?	It is sufficiently explicit.

Newark and Sherwood District Council

This is a joint consultation response from Newark and Sherwood District Council and Newark and Sherwood Homes, being approved by both the District Council's Cabinet and the Board of Newark and Sherwood Homes. The views of tenants have also been considered within this response.

In considering the below response reference should also be made to the response this authority provided on the 'Local decisions: a fairer future for social housing' consultation paper and the contents within this, which still hold relevance to the questions posed below.

Direction on Tenure

Q1 Does the draft direction on tenure set out the relevant factors that registered providers should consider when deciding what tenancy they should offer and issue?

In principle the proposed changes are welcomed as they may provide better local flexibility and increase the potential to meet individual demand for housing in greater numbers, respond to individuals changing housing needs and make the most efficient use of the housing stock.

The Council would still wish to maintain the right to offer the most secure form of tenancy at its discretion to ensure the needs of individual households is met and a community's sustainability is maintained. In particular we would seek to ensure that the elderly and most vulnerable households eligible for social housing would be granted a tenancy for life. In this respect the draft direction could be more explicit stating that elderly and vulnerable people will not be offered a flexible (fixed) tenancy to safeguard their needs

The impact of adopting a flexible tenancy as part of the Tenancy Management Strategy would it seem have limited potential for the Council, in terms of the expected benefits of this approach outlined in the consultation document. This is due to significant proportion of the Councils housing stock designated for supported accommodation and the fact that approximately 5% of the stock is one bed general needs accommodation.

As highlighted in our response to the 'Local decision: a fairer future for social housing' consultation paper we do not currently possess sufficient evidence to demonstrate the benefits that could be realised from the introduction of flexible tenancies, which would continue to make the most efficient use of public resource. In addition to the direct costs of administering and managing the flexible tenancies, we believe there will be increased costs in terms of sustaining communities that could experience an increase in transience.

Local circumstances should inform the decision making process and the duration of fixed terms tenancies should be decided at the local level, community/family stability and sustainability should be influencing factors. Reviewing large numbers of tenancies and potential enforcement action would have an impact on our resources, especially when the potential for appeals is increased.

Item 3 of the draft proposals sets out the need to publish clear and accessible policies. We agree this is important and that they should also reflect local circumstances and priorities that are pertinent to each provider. Policies should be written in a clear and precise format that ensures all tenants, especially vulnerable tenants, understand their rights and where to go to access relevant support and advice. This should be at the discretion of the provider.

The decision to amend the minimum terms of a tenancy from 2 years to 5 years is welcomed.

Item 4 of the draft proposals is intended to ensure that those with security of tenure should have no less security if they choose to move to another social rented home, but that this should not apply if a tenant chooses to move to accommodation which is let with an affordable rent. The Council believes that tenants should receive the same level of security irrespective of the accommodation they move to, so to ensure fairness within this process.

Q2 Does the draft direction on tenure set out the right minimum requirements for a registered provider's tenancy policy?

The draft direction does set out the principle requirements for a tenancy policy, though we would wish to take the decision at the local level on the duration of a tenancy based on the information we hold and considering the housing need within the locality.

In addition tenants should benefit from the same security of tenure irrelevant of where they move to within the social housing sector. It may be that some tenants will be reluctant to move to a property with an affordable rent from a social rent if they no longer retain a secure tenancy, therefore inhibiting social mobility

Q3 Does the draft direction set out the right minimum protections for tenants of registered provider?

The draft direction does address the right minimum protections for tenants in the main, though clarification is required with regard to when an existing tenant of the Council is seeking a mutual exchange with another tenant who is on a fixed term tenancy, as to the tenant's position post mutual exchange.

The current situation is that following a mutual exchange, each tenant takes on the exchanging person's tenancy; this does not fit with the guarantee that a tenant choosing to move will not lose their existing security of tenure. This is something referred to in the 'local decision: a fairer future for social housing' consultation document.

Direction on mutual exchange

Q4 Do you agree with the principle and detail of our proposed direction on mutual exchange?

In essence yes, as a landlord for over 5,500 properties the Council is keen to ensure that our tenants are presented with the necessary support to move if they wish too. We would welcome the approach in utilising technology to aid the mutual exchange process and believe that although potentially costly, such a service could yield significant benefits. This would particularly be the case if the system or systems adopted by Registered Providers provided a consistent approach to the mutual exchange process which is transparent and easily understandable by users. Failure to adopt such an approach would we believe, result in significant expenditure of public funds for little or no additional benefit to that of the current approach.

In terms of the additional expenditure which will be required to install, maintain and update an internet based system, along with the need for publicity, access points (for tenants to use an internet based system) and the training of both officers and tenants, will extra resources be made available nationally to support these activities to effectively meet the requirements of this direction locally? Would it not be more effective to introduce a national internet based system or make use of existing social media, which would ensure a better and more effective use of public resource?

Reference in the consultation document is made to 'reasonable support' with regard to tenants who do not have internet access and clarification is required in the direction on what this means. This is of relevance due to the significant proportion of the Council's housing stock being designated as supported accommodation and the rural nature of the District, both impacting on a tenant's ability to access an internet service. Also it is not clear in the direction what support is expected to be given by the provider for those tenants who may have internet access but lack confidence and skills in using it.

Direction on tenant involvement and empowerment

Q5 Do you agree with the principle and detail of our proposed revisions to the direction on tenant involvement and empowerment?

We welcome the government's approach in this direction to ensure that tenants are fully involved in scrutinising the activities of their Provider in a transparent manner, which can bring a Provider to account. This authority actively engages with tenants and residents through the Federation of Tenants and Residents and a wide range of other involvement mechanisms. We have already adopted some of the principles set out in this direction, including tenants setting service standards and establishing a tenant's panel.

The direction needs to acknowledge that as housing is a wide ranging subject area this places a considerable responsibility on those tenants who seek to be involved in this type of work and the time constraints of the limited numbers that are involved. Providers need to build on their existing mechanisms and develop capacity within the tenant base to ensure tenants have the appropriate skills and knowledge to be able to effectively undertake the roles detailed within the proposed revisions and all tenants are given the opportunity to do this. This is a matter that will need to be reviewed regularly to ensure there is continued capacity, confidence and competence for tenants to effectively scrutinise their provider.

We agree that the publication of information about repair and maintenance budgets will help tenants judge whether local schemes are sufficiently ambitious and will promote this approach within the existing mechanism we operate.

With reference to the Tenants Cashback Model, the results from the pilots need to be known and scrutinised prior to any informed comment can be made on the proposal. In principle we would support such a scheme in delivering the most efficient use of public resource, though have concerns that additional costs to the Housing Revenue Account would be incurred through the administration of the scheme. (Further information is detailed in the response to Question 6 on this subject.)

Q6 What type of models for involving social tenants in repair and maintenance services are registered providers likely to offer, how many tenants might participate in these and what costs and benefit might they result in?

We would agree that tenants' requirements should be addressed in current arrangements, which enable them to have an input into the management of repair and maintenance services. In this respect tenants within the Council's housing stock are involved in setting local service standards covering repairs and maintenance, which exceed the current national standards. Tenants also play a key role in monitoring the service provided against these standards and this role is being strengthened through the adoption of a Tenant Panel.

The Tenants Cashback scheme, referred to in the consultation as a potential model for tenants to undertake certain repairs to their properties, causes some concern in terms of its wider implications.

Currently we have, trained, multi skilled operatives who carry out risk assessments, have received health and safety training, instructions on how to use specific tools, have power tools and other equipment regularly checked and have vast experience of the thousands of individual tasks which constitute the repairs and maintenance service. The majority of tenants have limited or none of this experience of competence, nor would they want to as they see this as a function of their landlord but one that also has to deliver value for money.

We would also seek clarification as to how it is intended that the Tenants Cashback Model would operate in conjunction with established processes for recompensing tenants, such as the Tenants Right to Compensation for Improvements. Processes such as these are already established and care will need to be taken to avoid any confusion being generated which could be detrimental to tenants.

There are a range of issues which emerge when looking at those models that give tenants the opportunity to undertake or commission routine repairs themselves. These, along with the views of tenants, need to be fully considered prior to the commencement of any such scheme, the issues include:

- The continuing need for the provider to meet its asset management requirements.
- The Provider will have a requirement to collect and record data of tenant repairs (to inform asset management processes).
- The scheme should deliver value for money for both the tenant and provider and complement existing repair services, (additional resource requirements should not be incurred.)
- The standard of repairs needs to be adhered to, along with the approach of installing standard fixture and fittings.
- The price of a repair needs to be considered and what is reasonable. Would the tenant have to comply with a Schedule of Rates?
- How will the tenant be supported through such a scheme?
- There needs to be a mechanism to quality control a contractor employed by a tenant.
- The Provider will need to monitor (inspect) the standard and quality of works carried out.
- Whose liability will it be to make good and pay for a faulty repair?
- Consideration needs to be given on how Health and Safety issues will be addressed.
- Will there be an impact on the Providers insurance premiums?
- Consideration needs to be given on the impact this will have on a local authorities Business Plan in the wake of self financing.
- The 'Right of Repair' already exists as a mechanism for a tenant to improve their home, will this Right continue?
- The 'Right to Manage' allows for tenants to undertake the management of their home inclusive of the repairs and maintenance service, will this continue?

It is essential that the Council retains its reputation for good standards of repair to its housing stock, ensuring that its homes are safe places to live for all tenants.

As outlined above the proposed intention to move responsibility away from housing professionals to tenants could result in significant issues. Arrangements already exist to enable tenants to have an appropriate level of input into the management of repair and maintenance services and we understand that the proposals contained within the Localism Bill would further strengthen this approach through initiatives such as the Community Right to Manage. We believe the benefit of this approach should be protected. This does not mean they should not be reviewed, by tenants and their providers, with a view to improvement on a regular basis.

Direction on rents

Q7 Do the proposed revisions to the rent direction adequately reflect the introduction of Affordable Rent?

This applies to private registered providers.

Direction on quality of accommodation

Q8 Do you agree with the proposed revisions to the Quality of Accommodation direction to reflect the expiry of the original target date for compliance?

Yes.

Q9 Energy efficiency is implicitly in the revisions to Quality of Accommodation Direction; should we make it more explicitly?

We feel that energy efficiency is an obligation of providers both in terms of its environmental impact and also its potential benefit to tenants in terms of financial inclusion through addressing fuel poverty. As such energy efficiency is implicit within the revisions however we believe the inclusion of more explicit language within the direction would further strengthen the need for providers to consider energy efficiency with regard to the quality of social rented accommodation.

Newcastle City Council & Your Homes Newcastle

The following is a joint response to the CLG consultation by Newcastle City Council and Your Homes Newcastle (YHN) - the arms length management agent for council housing in Newcastle.

Your Homes Newcastle was set up in 2004 to manage council properties, to improve housing in order to meet the Government's Decent Homes standard, and to provide various other services for Newcastle

Currently we have in excess of 30,000 local authority homes which in addition to general needs and leasehold properties also includes sheltered, supported and shared ownership properties.

Though the Newcastle leadership has ruled out issuing fixed termed tenancies for general needs homes, except for supported accommodation schemes such as our recently developed Jubilee Court development for young families, our joint response is based on the premise that some housing authorities will take up the option provided in the Localism Bill. Therefore, our comments are intended to ensure that the new Direction offers the fairest deal to tenants of social housing where their authority has decided to take up this provision. We are concerned that under the principles of localism the City Council cannot decide on whether fixed term tenancies should be used in its area, and would welcome an obligation being placed upon other providers to consult with local councils to ensure any potential adverse impacts are minimised.

Question 1: Does the draft direction on tenure set out the relevant factors that registered providers should consider when deciding what type of tenancy they should offer and issue?

In the main the draft direction on tenure sets out the relevant factors which we would expect to see when considering what type of tenancies housing providers should offer. We would welcome the inclusion of affordability as a factor to be considered when allocating tenancies. In the current economic climate against a backdrop of welfare reform we anticipate that this will become increasingly important.

In the absence of further prescription we do think that the individual factors will be open to varying degrees of interpretation though we appreciate there needs to be a balance between sufficient guidance and over prescription to ensure landlords can maintain flexibility.

We welcome the guidance that those with existing secure tenancy transferring between social housing stock will be offered the same tenancy on their new property as this will keep the incentive for those needing to move to seek employment. However, the Direction needs to make it more explicit that this provision applies to tenants moving across local authority boundaries, except in the cases of those choosing affordable rent.

Given the number of registered providers and the levels of stock that they have in the city, we feel that there Registered Providers should be encouraged to work with Councils to ensure there is read across between Tenancy Policies in the local area.

Question 2: Does the draft direction on tenure set out the right minimum requirements for a registered provider's tenancy policy?

We feel the draft direction sets out the right minimum requirements and reflect what we would expect to be covered as standard in a lettings policy. However, what requires more detail is the minimum level of advice and assistance required to be given to a household when their flexible tenancy is coming to an end. The Direction does not state the level of advice or assistance required to be offered and also does not mention whether there will be a minimum requirement on landlords as to what is offered, (for example, is a document setting out telephone numbers of alternative housing providers likely to be sufficient?). In this instance we would welcome more detail on what providers are required to give as a minimum to ensure households faced with moving home at the end of their tenancy receive adequate advice to enable them to make an informed decision.

In addition the Tenancy Policy should also give clear indication of the circumstances whereby a further fixed tenancy would be guaranteed to be granted i.e. if there is still housing need or where there is little/no suitable affordable accommodation available. The regulator would need to determine what evidence is required from the Registered Provider to show that there is affordable and suitable accommodation available.

Question 3: Does the draft direction set out the right minimum protections for tenants of registered providers?

Even though the proposed direction has been amended to a minimum fixed term of five years we consider that the direction does still not set out the right minimum protection and the minimum for fixed term tenancies for standard housing should be ten years. However, it remains the case that as a social housing provider we are unlikely to use the new fixed term tenancies with the exception of use for our supported accommodation.

Setting a maximum introductory period for 12 months (extendable to 18 months where reason has been given) gives the tenant a reasonable time frame to prove that they can manage their tenancy. It also gives the provider an assurance and framework to review, or where necessary to terminate, a tenancy. Similarly, setting out protection of tenure for vulnerable households and those already in social housing prior to the implementation of Section 132 is welcomed.

Mutual Exchange

Question 4: Do you agree with the principle and detail of our proposed direction on mutual exchange?

Whilst we appreciate an unwillingness to prescribe exactly what levels of support and service a housing provider should give to mutual exchange applicants we do feel a minimum level should be set out to ensure that all tenants are guaranteed at least this.

We welcome the principle of providers subscribing to an internet based mutual exchange service. This will allow for better use of existing housing and access for households to suitable housing. From our experience most tenants who register for mutual exchanges are seeking moves over a short distance and are already able to draw on a substantial number of potential swaps. However we do fully support the implementation of a nation wide scheme.

To facilitate sub regional exchanges we are already participating in an internet based scheme, to be further enhanced with the introduction of a sub regional choice based lettings scheme and enhanced housing options service. Assistance to this service to those without access to a computer will be provided within housing offices and a range of other public buildings.

Tenant involvement and empowerment

Question 5: Do you agree with the principle and detail of our proposed revisions to the direction on tenant involvement and empowerment?

An approach to ensure tenants are instrumental in the decision making of the organisation providing housing services, including the right to manage, is very much welcomed.

For the most part we agree with the principle and detail of the tenant involvement and empowerment standard. We are fully aligned with the principle that tenants are given a wide range of opportunities in order to strengthen the ability of tenants to hold providers to account. We already have in place a range of opportunities e.g. YHN's Customer & Service Delivery Committee, YHN's Performance Committee and the Council's Tenant Involvement Advisory Group, where tenants are represented, enabling regular analysis and scrutiny of our performance. In order to further enable effective scrutiny of performance and service delivery we are undertaking a review in consultation with tenants to adapt our scrutiny arrangements to make them even more tenant led and provide more opportunities.

We further agree with the requirement to publish an annual performance report for tenants to enable tenants to effectively scrutinise housing providers' performance.

The new approach raises significant questions for Registered Providers, not least on how value for money will be assessed and compared. Will existing tools be up to the task of providing landlords and their customers with the information they need to compare costs accurately and secure improvements? How will tenants be able to judge cost versus quality issues? This needs to be made explicit within the draft Direction.

Question 6: What type of models for involving social tenants in repair and maintenance services are registered providers likely to offer, how many tenants might participate in these and what costs and benefits might they result in?

At the time of responding the analysis from the three tenant 'cashback' pilots is not yet available. We would prefer to await the outcome and lessons learned from these pilots before forming any firm opinions relating to potential costs, numbers and benefits or detailing how a tenant cashback model might work in practice for our own organisation.

However, we do have some early concerns which we have summarised below, but appreciate these concerns may be addressed once the pilots have been concluded.

- Quality of repair work carried out outside of contractor could be variable and result in additional costs putting it right.
- Administering the scheme to ensure that repairs are done to a satisfactory level could be difficult and costly as presumably number of pre and post inspections would need to rise.
- Ensuring safety of tenants trying to undertake repairs without having the necessary skills
- Housing providers may need to establish additional “approved supplier” lists
- Potential risk of fraud
- Time delays in finding someone to carry out repairs which could increase the scale of work required
- Housing providers may become liable for repairs carried out by others

YHN have recently entered into a partnership with B&Q to offer DIY training for tenants. The scheme aims to equip tenants with the necessary skills to carry out basic repairs around their homes. We look forward to seeing the outcomes of the pilots with the view of possibly developing our scheme in line with this direction.

Question 7: Do the proposed revisions to the rent direction adequately reflect the introduction of Affordable Rent?

The proposed revisions do reflect the introduction of affordable rent and this may lead to further development.

This may provide a further option for those unable to access social housing or unable to afford market housing. However, the provision of affordable rent must not be to the detriment of those seeking or only able to access properties at a social rent.

Question 8: Do you agree with the proposed revisions to the Quality of Accommodation direction to reflect the expiry of the original target date for compliance?

In general the quality of accommodation guidance is very limited in terms of detail. It is underpinned by the need to maintain a low level standard (decent homes) that was fit for purpose five years ago. It does not address the fact for example decent homes can still have single glazed windows which links to the energy efficiency element in question 9 below.

Even in the absence of a deadline many organisations still have a large number of properties that are not decent, that are now unfunded. This will take some time to make decent using our own limited internal resources. In the meantime homes assessed at the beginning of the programme as decent will be falling into non decency; thus compounding the issue. Omitted properties will also need to be invested at some stage. We want autonomy at a local level to complete what we began.

Question 9: Energy efficiency is implicit in the revisions to the Quality of Accommodation Direction; should we make it more explicit?

The direction on energy efficiency should be made more explicit within the document as it is a major cross cutting issue with other government targets. The guidance is not SMART so doesn't provide a drive towards associated targets.

Decent Homes standards have been carried forward but this doesn't match current codes for insulation, and are out of date in terms of insulation requirements.

DECC are still clarifying how the Green Deal can work for social housing. There needs to be a tie in with this along with carbon reduction commitments ensuring joined up government advice.

Newcastle Tenants Federation

1. Newcastle Tenants Federation

Newcastle Tenants Federation is the independent voice of tenants and residents associations in Newcastle upon Tyne. We have been championing and strengthening tenants and residents associations and representing social housing tenants since 1977. We support our members in their work, with over 80 tenants and residents associations spread across 18 out of the 26 wards in the city representing the majority of the 30,000 council tenants.

Newcastle Tenants Federation believes that tenants and residents associations are vital agents of change and vibrant and caring communities. We provide our members with networking opportunities, leadership, specialist housing advice, support, policy information and training.

Newcastle Tenants Federation is a vital bridge between local tenants and residents associations, Newcastle City Council, sub-regional, regional and national decision making forums. Our organisation takes a lead on social housing issues that matter most to social housing tenants. We also influence local and national government policy to strengthen tenant involvement and empowerment.

For more details about the full range of ways that Newcastle Tenants Federation can help you please go to www.newcastletenantsfed.org.uk or contact us on 0191 232 1371.

2. Introduction

Newcastle Tenants Federation welcomes the opportunity to respond to the Department for Communities and Local Government consultation on **Implementing Social Housing Reform: Directions to the Social Housing Regulator** issued on 7th July 2011. Our response is based on work with our members and partner organisations which has been ongoing since we submitted our initial feedback on '**A Fairer Future for Social Housing**'.

We have also conducted targeted consultations on this specific piece of consultation.

2.1 Methodology

The Federation adopted various consultation methods to gather views from our membership on the proposal as outlined below:

- **Information briefings:** Information briefings were distributed to all tenants and residents groups and Newcastle Branch UNISON representatives.
- **Tenants and residents associations meetings:** Our Executive Committee and staff team visited a number of tenants groups to get initial views on the proposals.

- **Executive Committee meetings (including the Northern Federations¹⁴);** our Executive Committee and tenant representatives from the Northern Federation's discussed the proposal at a meeting held at Newcastle Tenants Federation on 19th July 2011.
- **Presentations** to Trade Unions (UNISON and Trades Council) and our AGM¹⁵. Three presentations have been delivered to members and partner organisations.

Focus Group Discussions (two focus groups held involving tenants representatives)

The Federation held two consultation focus groups, one on 25th July and the other on 19th September, to gather views on the consultation document. Fifty nine (59) tenants representing tenants groups across the city took part in these events.

2. Consultation Themes: Directions

The consultation focussed on the proposed directions and specific views about the nine (9) questions:

- **Tenure reform** - making changes to the types and duration of tenancies which can be offered
- **Mutual exchange** - introducing a nationwide social home swap programme
- **Tenant involvement and empowerment** - enhancing tenant involvement and empowerment encompassing the Tenant Cashback Scheme enabling tenants to manage their own repairs budget
- **Rent** – introduction of affordable rent model

3 Federation Responses

3.1 General Comments

Newcastle Tenants Federation believes in mixed and stable communities and encourages the development of housing to meet local need. Replacing secure tenancies with fixed term tenancies will undermine the stability of sustainable communities and discourage tenants' investment of time and energy in our

¹⁴ Northern Federations was set up around April 2011 to provide support, share best practice and networking opportunities for the members, current membership includes Leeds Tenants Federation, Kirklees Federation, Doncaster Federation, Barnsley Federation, Rotherham Federation, Berneslai Homes and Newcastle Tenants Federation.

¹⁵ Federation AGM was attended by 99 tenant representatives from 31 Tenants and Residents Associations and 11 BME Forum members. (Over a third of our membership)

community. Tenants will be fearful that any improvement in their financial circumstances might mean being made to leave their homes.

Excluding people from waiting lists and nominations and putting homeless households into short term private sector lets would add to pressure on inadequate private rented housing and will do nothing to provide more homes.

To meet local housing need requires more new and improved council and other secure and genuinely affordable homes for rent. New RSL fixed-term tenancies with up to 80% market rents, will push up Housing Benefit costs but will not create the homes we need.

4. Response to Specific Questions

Direction on Tenure

Question 1: Does the draft direction on tenure set out the relevant factors that registered providers should consider when deciding what type of tenancy they should offer and issue?

Response

No. Lifetime tenancies remain the fundamental element of council tenancies. It is unacceptable to expect people to create support mechanisms, find jobs, become part of a community and take pride in their homes if they are stressed by the constant threat of losing their home. Tenants will live in fear of eviction when council tenancies were created to free people from this very threat so removing this basic right goes against its very creation.

Improving financial circumstances whilst living in a council housing property should not mean that you have to move on. It should remain to be your decision as whether you private rent or remain a council housing tenant. Being in a council property should not make you feel as though you should have no aspirations. Tenants are being told that having any kind of aspiration which will create a higher income and better living conditions means you will have to find somewhere else to live. This will do nothing to sustain communities as people will become transient, there will be disruption to education with children having to move from one area to another, the environment will suffer as people will feel no sense of belonging and community cohesion will become extinct.

Reducing the length of time a tenant can spend in a social property does not address the fact that there is a serious shortage in the supply of social housing. The Federation is seriously concerned about where people will go as they will still be in need of some form of housing. The consultation paper states "affordable housing should be available for those who genuinely need it". There needs to be more affordable social housing properties built to address the desperate need of people on huge waiting lists.

Tenancy agreements will need reviewed constantly as tenants who have reached the cut off point and been labelled 'too rich to stay' are forced out of their homes. There is also the headache of reviewing income levels on a regular basis which will create more work leading to higher costs. Tenants who currently under occupy their homes feel they are at risk of being forced to move on. The Federation believes that work must be done with these tenants so they understand whether they will be forced out or if they actually have the choice to stay. We have found that elderly tenants are very concerned about this and whilst we understand the pressure councils are under to increase the number of family homes, we do not believe that tenants should be stressed as they believe they have no choice but to move on. Informing tenants of the high number of people on waiting lists might help them to make a more informed choice as to whether they want to move on or not.

Question 2: Does the draft direction on tenure set out the right minimum requirements for a registered provider's tenancy policy?

Response

No. It does for the registered provider, not the tenant. This is a false economy – lifetime tenancies must remain as it is a basic human right to live in a secure home. Tenants must have the right of choice without being told when to move, we are a democracy not a dictatorship.

Question 3: Does the draft direction on tenure set out the right minimum protection for tenants of registered providers?

Response

No. There should be more protection for tenants. The direction on minimum requirements for tenancy policy leaves landlords able to withdraw services and basic human rights to be secure in their home.

Direction on Mutual Exchange

Question 4: Do you agree with the principle and detail of our proposed direction on mutual exchange?

Response

Yes in principle. This will offer tenants more choice and control over where they live.

It will benefit people who have found work in other parts of the country and people wanting to move closer to their families for example. There is concern though as to how this will be funded.

Tenants feel that this will give providers the opportunity to change the security of tenure and would like to see a robust process in place developed with

tenant's involvement at the beginning to ensure the service is supportive of existing letting procedures and policies.

Newcastle Tenants Federation has concerns about who will be responsible for monitoring the service and how it will be evaluated to ensure it is effective and offers value for money. Other concerns regard management and storage of tenants' data to ensure tenants are protected from unintended consequences in the event of data loss from system failure and other causes.

The Federation is concerned about the fairness of the scheme and whether it is open to abuse by encouraging difficult families to move around. In the latter case, the Federation would like to see robust vetting, monitoring guidance and procedures adopted to ensure potential entrants to the system are properly scrutinised. It is important that information protocols are put in place between the affected Landlords before any changes to this direction take place.

The Federation is concerned that safety nets may not be built into the system to ensure the scheme protects vulnerable and at risk families and children. This should be supported by information sharing protocols between departments, Local Authorities and landlords to ensure safeguarding protocols are adhered to and flagged up during the registration stage.

General Comment: Our organisation feels that the scheme however promising does not address the issue of inequitable job creation and resource across the regions. We feel providing local jobs and better education and training facilities would prevent people from having to move on at all.

Direction on Tenant Involvement and Empowerment

Question 5: Do you agree with the principle and detail of our proposed revisions to the direction on tenant involvement and empowerment?

Response

No. Newcastle Tenants Federation is completely opposed to the removal of the tenants' right to access the services of the Housing Ombudsman directly. We are also concerned that social housing tenants are being treated differently to other consumers.

Our Federation feels this proposal actually disempowers tenants because tenants have a right choose who they speak to. The removal of the tenants' right to contact the Housing Ombudsman is principally and morally unacceptable – the Housing Ombudsman must remain. The Federation has been involving and empowering tenants since it was formally set up in 1977. Our experience over the past 34 years of supporting and empowering tenants to articulate their voices has shown that tenants approach the Ombudsman only when laid down complaints procedures have been completely exhausted. Many tenants still dread raising complaints about their landlord and taking this right away will remove the final point of contact.

We believe the introduction of Tenant Panels is a good idea but they must have clout. We have serious concerns about the effectiveness of the 'democratic filter' and fear that not all landlords will listen to their tenants. We have concerns about the independence and fairness of the tenants panels because some panellists may have conflicts of interest. Tenants will lose control of managing their complaints and there are issues around privacy, especially around equality issues. For example, we have concerns about tenants whose complaints may be around discrimination on grounds of race or sexuality. They may be unfairly disadvantaged due the fact they do not want to disclose certain information to third parties or a panel of strangers or neighbours.

Our members strongly believe the Tenant Panels must be independent of the landlord and tenant led with some form of legal status. Our consultees recommend that the Federation should act as a sponsor so tenants feel they are being represented by an independent body.

Question 6: What type of models for involving social tenants in repair and maintenance services are registered providers likely to offer, how many tenants might participate in these and what costs and benefits might they result in?

Response

We are not in a position to give figures, however we believe tenants in Newcastle and elsewhere should be involved in decision making about any changes to existing services or the introduction of new services.

The Federation has had a Repairs Development Group¹⁶ since July 1999 that has been instrumental in shaping the repairs services provided to tenants in Newcastle.

While we appreciate the need to offer tenants more choice and control over their repairs, we have serious concerns about quality assurance, health and safety and value for money.

We strongly feel that in the long run this will be a very expensive service that is likely to cost landlords more as they have to put botched repairs right.

On health and safety grounds we are concerned about tenants being unintentionally exposed to Asbestos Containing Materials¹⁷ because of lack of awareness and inadequate information from landlords, especially in council housing. Who will ensure that Health and Safety legislation is adhered to and who will monitors compliance?

¹⁶ Repairs Development Group was formed by the Federation to influence the repairs service. We meets with the repairs contractor, Citybuild and Your Homes Newcastle (client). Tenant representatives have been involved in contract procurement and monitoring.

¹⁷ See **As Safe as Houses? Dealing with Asbestos in Social Housing** report by UCATT June 2009

Our members who took part in the consultation exercise firmly believe the current tenant repair obligations under their tenancy agreement are appropriate. They also believe it is not possible to allow tenants to carry out repairs to their own homes. Our members agree that the priority is to increase and improve tenants' awareness of the need to report repairs accurately and at the earliest time possible to prevent further deterioration to their property. This will enable the appropriate operative to be dispatched for the right job.

Direction on Rents

Question 7: Do the proposed revisions to the rent direction adequately reflect the introduction of Affordable Rent?

Response

No. There is a big debate about what affordable rent actually is. What is affordable to one person will not be affordable to another. Tenants feel the term 'market rent' is a disgrace and should be replaced with 'value for money housing or not for profit rent'. Tenants in Newcastle feel this could drive social housing providers to financial ruin because many tenants faced with the choice of topping up their rent will end up in arrears leaving housing associations financial plans in disarray.

Unemployed people on benefits feel they will be at a disadvantage as they will be unable to afford 80% market rent. Working tenants on low incomes feel they will be consequentially made homeless.

Our members expressed concerns that council rents and RSL rents have continued to rise despite the fact that bank interest has remained pretty low and wages for many do not meet their expenditure.

General Comment: Our consultees felt that councils should utilise empty premises including those above shops for example, which will help balance rents therefore cutting the need for increases. Taxing the banks was another option.

We feel there are big issues to be ironed out across the regions and we feel our region is at a disadvantage because of lower than average incomes. There are housing needs disparities across the region and sub regions and within the local area itself. We call for a better model to finance new build to increase supply of affordable social housing that support community needs.

Direction on Quality of Accommodation

Question 8: Do you agree with the proposed revisions to the Quality of Accommodation direction to reflect the expiry of the original target date for compliance?

Response:

No. First of all, we are uncomfortable with stretching the deadline of existing Decent Homes Programmes. This has left some tenants very unhappy because their lives have been put on hold due to completion dates keep changing and tenants cannot decorate their homes as they are awaiting the work to be carried out.

We believe our ALMO, Your Homes Newcastle and similar ALMO's with 10% non-decent homes are being punished for having managed their programmes well. We feel tenants are the victims here and this decision has created tension between tenants and their landlords despite all efforts to explain the situation. Our Investment Forum was created in July 2001 and has been working with Your Homes Newcastle since the onset of the work. We have received a number of concerns from tenants and residents groups who are very unhappy with the Government's decision to withhold the last tranche of money to complete the work. This goes against the Big Society and Localism agendas as our members were involved in discussions about the work and a lot of effort has gone into monitoring the delivery of the programme.

Newcastle Tenants Federation is calling for a new Decent Homes deadline as tenants do not want to see an open ended deadline. We would like to see further investment in shared communal areas, especially in sheltered schemes and flats. Our members believe just because they live in 'vertical streets', especially in tower blocks, the corridors need to be invested in and refurbished periodically. Our members believe there should be consequences to landlords and their Boards for failing to meet the Decent Homes Standards deadline. Although we appreciate social housing providers will have different financial constraints, we are calling upon the Government to set a common date for all providers. We would also welcome clarity on the '*exceptional standards*' meaning and that such information is robustly shared with affected tenants.

General Comment:

We believe there should be a mandatory requirement to improve communal and shared areas in flats and sheltered schemes and that a national guidance is developed in consultation with tenants. Through our Living in Flats Working Group, our members who live in flats have raised concerns that while the decent homes work has taken care of their flats, corridors, balconies and other common facilities have been left behind.

Question 9: Energy efficiency is implicit in the revisions to the Quality of Accommodation Direction; should we make it more explicit?

Response

Yes. We believe there needs to be more emphasis on combating fuel poverty and improving thermal comfort in all tenants' homes. We believe homes should be more energy efficient and anything the landlord can do to be more proactive will be cost effective in the long run. Tenants believe the regulation

should be more explicit and should set minimum standard. Quality assurance should be monitored and the cost of maintaining it will need to be taken into consideration. Tenants would also like to see robust reports on the SAP rating.

Newlon Housing Trust

Question 1. The direction is fine. But clarity on the role of Councils is desirable, some Councils feel under their powers they can direct us as to tenure length and type and their role needs to be clarified.

Question 2 Yes.

Question 3. Section 53 is unclear. Does someone who “chooses to move” mean anyone who transfers? Does excluding Affordable Rent properties just mean those funded with new grant: otherwise it is up to the landlord what they charge affordable rent for.

Question 4. This is fine. Almost everyone does this already by the way.

Question 5 This is fine.

Question 6. The proposed Cashback as reflected in the impact assessment proposal is neither going to give residents a good service nor achieve value for money, it will involve lots of pre and post inspecting by landlords and is replete with the opportunities for fraud. Most of the proposal in the impact assessment (changing lights etc) are things most Social Landlords do not do now or which in the case of e.g. decorations we pay people to do already. A more radical proposal (e.g. tenants opting out of named landlord repairs completely for a lower rent) might be more effective but cannot be achieved without regulatory guidance or a change in the law. Saying a cashback scheme has to be provided before the pilots are done is unwise.

To turn to what we do and others could do we try to consult and involve residents on

how we tender services

the performance expected of contractors

the appointment of contractors

the monitoring of contractors.

The cost of doing so is relatively low as one should be able to build in to existing consultation mechanisms. You cannot guarantee a high level of involvement but you can say that everyone has had the chance of joining in and get a sense of ownership.

An alternative would be a system like the Section 20 for service charge payers but that is slow a bureaucratic and expensive.

Question 7. Again Councils have started to tell us they have role in rents and I think it needs to be made clear if they do, or don't.

Question 8 This is fine

Question 9. Not quite explicit enough: you might want to say that RPs are expected to increase the energy efficiency of their existing stock.

Nigel Carter

Dear CLG,

About this time last year (August 2010), David Cameron PM rightly proposed ending the policy of a 'council house for life'. Unfortunately (and somewhat predictably), it does not appear that this important proposal will now be implemented. To a large extent, the council house for life policy created and continues to support Britain's 'dependency culture' (or 'habit'), and remains one of the great inequities of the welfare system (huge demand, limited supply) – it's imperative that this inequity is ended for both existing and future tenants. The inequity of Britain's dependency culture (which affects everyone) is an intrinsic component of the welfare system and has undermined this country for far too long – radical reform/restructuring is sorely needed. With limited resources, how can the state justify that a few privileged (and often feckless) individuals continue to enjoy subsidised housing for life (at the expense of others), while tax payers continue to foot the bill?

Effectively, the state is saying that it never expects tenants to become self-sufficient or responsible for their own maintenance, while it continues to offer them the option of relying on the support of others (through the state) permanently/for life – who else enjoys such a life long subsidy? Social housing should only ever be a temporary 'safety net' measure, not a career option, and security of tenure should only be comparable with that afforded to private tenants (and/or mortgage payers for that matter) – welfare should HELP not SUSTAIN. In addition to the inequity/unfairness that social housing produces, the system is also subject to widespread abuse (by tenants/the privileged few). Tenant sub-letting must be stopped (complimented by effective policing and penalties for contravention), and a tenant's right to enable family and/or other relatives to 'inherit' tenancies (Succession Rights) should be removed (for both existing and new tenants) to mitigate 'generational dependency'.

This rather feeble attempt to reform social housing does not go nearly far enough, and demonstrates that the coalition government is either incapable, not prepared, or not particularly serious about making the really tough (but necessary) decisions to tackle social housing's fundamental and chronic problems (while it continues to place at risk/undermine the majority's economic prospects).

Regards, Nigel Carter.

North Hertfordshire Homes

General observation

We consider that directions to the regulator should be kept to a minimum and should, within the overall policy framework the government puts in place, maintain sufficient flexibility for Registered Providers to work within a policy framework in way that suits their local circumstances. The more directions, and the more detailed they are, the less effective our responses could be due to a lack of flexibility.

Tenure reform

We welcome the flexibility being proposed.

Mobility

We do not consider that there is a need for a direction on mutual exchange. We already facilitate this in the most practical and efficient way including internet based arrangements. Creating a national model, with all of the implications for system failure, poor IT infrastructure and error, will add cost but little benefit. It is our experience that residents' aspirations for exchanges and transfers are local, rarely regional and never national.

Rents

We fully support this.

Tenant empowerment and involvement

While we fully support the spirit of enhancing tenant empowerment and involvement and welcome the recognition that tenants locally might want to work with their landlord to agree the information they require and in what form, we do not consider that detailed direction on this is necessary.

In relation to tenant cashback raises more questions than it answers about how this can be facilitated while maintaining the quality, cost effectiveness and safety of our homes. These would, we consider be able to be surmounted but at the cost of additional administration and inspection. Bearing in mind that our in-house repairs depot does not pay VAT and can use its buying power to keep costs low, we do not consider there will be a great deal of take-up locally if it is offered.

Quality of accommodation

We are 100% compliant and accept the requirement to maintain homes at a decent level. We do not believe directions to the regulator should include detail on energy efficiency.

Detailed questions

Question 1: Yes

Question 2: Five years is the right minimum period

Question 3: Yes

Question 4: No

Question 5: We agree with the principle but not the detail

Question 6: We do not know.

Question 7: Yes

Question 8: Yes

Question 9: No

North Kesteven District Council

Question 1: Does the draft direction on tenure set out the relevant factors that registered providers should consider when deciding what type of tenancy they should offer and issue.

Council's response:

The draft direction does set out the principles for introducing flexible tenancies, although the Council, at this stage has not decided whether or not it would wish to introduce them. It is hoped that Local Authorities will have the choice to decide the type of tenancy to offer.

NK Tenants response

Support the principle of use of flexible tenancies although these should be a minimum fixed term of 5 years (except in exceptional circumstances).

Question 2: Does the draft direction on tenure set out the right minimum requirements for registered provider's tenancy policy?

Council's response

The draft direction does outline the key areas for inclusion in a tenancy policy. The Council supports the introduction of the requirement for landlords to set out clearly their policies and procedures about:

- The types and circumstances in which they will grant tenancies, taking account of individual household needs;
- Advice and assistance they will give to tenants in the event that they decide not to reissue a tenancy;
- Their approach to tenancy management;
- How they will intervene to support tenants to sustain their tenancy to prevent unnecessary eviction;
- The right for a tenant to appeal about: a decision to grant a tenancy or not reissue a tenancy at the end of a fixed term.

The Council also operates an effective forum for discussing issues with RSL's operating in the area. This would provide the opportunity for discussing the development of a strategic policy on tenancies covering all RSL and local authority properties within the area to include: allocation policies, meeting statutory requirements to the homeless and how housing needs will be met

NK Tenants response:

Agreement from the group that the relevant factors have been considered.

Housing authorities should ensure consultation with tenants throughout the formulation and development of tenancy policies and their approach to tenancy management.

Question 3: Does the draft direction set out the right minimum protections for tenants of registered providers?

Council's response:

The Council supports the principle to allow landlords to decide whether or not to grant additional succession rights, other than to spouses/partners, for fixed term tenancies and to provide similar protection, as with secure tenancies, with the exception of the right to buy within the fixed term.

NK Tenants response

Succession should include one succession but be open to other members of the household such as children or proven carers not just spouse or partner

Question 4: Do you agree with the principle and detail of our proposed direction on mutual exchange?

Council's response:

The Council supports maintaining protection for existing secure or assured tenants, when exchanging and the introduction of a new requirement for surrender of an existing tenancy and granting of new one to ensure that a tenant's security of tenure is not downgraded by use of an exchange.

NK Tenants response

Landlords should provide information to tenants about the implications associated with undertaking a mutual exchange e.g. – the tenant's landlord should provide clear guidance about any differences to their rights, responsibilities or security of tenure if they swapped their tenancy, along with any different expectations from a new landlord, if appropriate.

Question 5: Do you agree with the principle and detail of our proposed revisions to the direction on tenant involvement and empowerment?

Council's response:

The Council agrees with the proposal of introducing the requirement for:

- Landlords to produce an annual report for tenants;
- Wider opportunities available for tenants to scrutinise, influence and provide recommendations about landlords performance;
- Tenants and Councillors to be involved in the complaint process, before consideration by the Housing Ombudsman

Whilst the Council supports the principle of empowering tenants to take more control in maintaining their property. Under self financing arrangements the Council will need to ensure that it protects the value of its investments and that work undertaken, as part of a cash back scheme, does not detract from the current or future condition the property, if let in the future.

NK Tenant response:

In agreement with the proposal except for the Tenant Cashback Scheme which is seen as retrograde step to keeping homes at a decent standard. Some concerns expressed about the competency of most tenants to undertake works to a suitable standard and the additional staff resources required to undertake inspection of their work.

Question 6: What type of models for involving social tenants in repair and maintenance services are registered providers likely to offer, how many tenants might participate in these and what costs and benefits might they result in?

Council's response:

The Council can see how this type of scheme could work in small communities, although some concern about how the principles could be employed across the whole stock. The Council would need to review feedback from pilot schemes before any further commitment.

NK Tenants response

Tenants see little benefit to tenants or the maintenance of Council stock for future tenants for the following reasons:

- The standard of the work undertaken by tenants may be inconsistent
- Repairs would need 100% inspection rate and if officers missed anything the Council would have increased liability for faults
- The scheme would have a heavy administration cost
- Tenants may overlook works that should be carried out by registered professionals such as gas and electric works to get the job done cheaply
- Some people would be more at risk from unscrupulous traders.
- A concern over the health and safety of tenants and adjoining neighbours if works are not carried out properly
- Many vulnerable and older people wouldn't want to commission their own works as their peace of mind comes from knowing that the Council will sort repairs out.
- Repairs contractor would have to charge more per job if there was less work as part of their contract
- Assessing the quality of repairs is subjective and what some tenants would think of as a good repair others would class as a 'bodge job.' This would become more evident when tenants move on and leave the Council with larger voids costs

Question 7: Do the proposed revisions to the rent direction adequately reflect the introduction of Affordable Rent?

Council and tenant response:

On the whole, not applicable to NK housing stock.

Question 8: Do you agree with the proposed revisions to the Quality of Accommodation direction to reflect the expiry of the original target date for compliance?

Council's response:

The Council agrees with the principle of introducing the quality of accommodation standard.

NK Tenants response:

Agreement that housing stock should be at a decent level with an expectation that landlords should continue with a programme of improvements to maintain the stock at a decent standard.

Question 9: Energy efficiency is implicit in the revisions to the Quality of Accommodation Direction; should we make it more explicit?

Council's response:

The existing standard for thermal comfort is not easy to interpret or apply. Currently it is difficult to determine the existing standard for North Kesteven stock, as predominantly a rural area.

Recommend that the Social Housing Regulator determines a minimum standard of energy efficiency, whilst also having regard to the difficulties associated with having stock in rural areas.

NK Tenants response:

Energy efficiency should be made explicit and a minimum standard of thermal comfort should be set.

North Somerset Council

Question 1: Does the draft direction on tenure set out the relevant factors that registered providers should consider when deciding what type of tenancy they should offer and issue?	We would expect the direction to state that the Regulator must require registered providers to have regard to local authority Strategic Tenancy Policies, as well as including the detail currently set out in the consultation draft. The direction should also require providers to have regard to any guidance issued by the DCLG to local housing authorities on this issue.
Question 2: Does the draft direction on tenure set out the right minimum requirements for a registered provider's tenancy policy?	We welcome the inclusion of a probationary period, where registered providers wish to include one. We also welcome the amendment that makes the two year term an exception rather than a norm. We will be encouraging registered providers in North Somerset to be using a five-year tenancy as the minimum.
Question 3: Does the draft direction set out the right minimum protections for tenants of registered providers?	<p>We would like to see more guidance about which groups should, or could, be entitled to lifetime tenancies, to aid providers in making these decisions.</p> <p>We would like this direction to include more prescription around the type of advice and assistance a registered provider must provide at the end of a tenancy. Currently there is no prescription about this so the quality of advice and assistance a tenant receives from one provider may differ dramatically from that received by another. This is not a fair system.</p>
Question 4: Do you agree with the principle and detail of our proposed direction on mutual exchange?	If this scheme is definitely going ahead, the directions seem reasonable.
Question 5: Do you agree with the principle and detail of our proposed revisions to the direction on tenant involvement and empowerment?	We agree with this proposal.
Question 6: What type of models for involving social tenants in repair and maintenance services are registered providers likely	As we do not have a landlord function, we are not in a position to comment.

offer, how many tenants might participate in these and what costs and benefits might they result in?	
Question 7: Do the proposed revisions to the rent direction adequately reflect the introduction of Affordable Rent?	Yes.
Question 8: Do you agree with the proposed revisions to the Quality of Accommodation direction to reflect the expiry of the original target date for compliance?	Yes, this seems a sensible approach.
Energy efficiency is implicit in the revisions to the Quality of Accommodation direction; should we make it more explicit?	Yes, this should be more explicit - the properties should be 'fuel poverty proofed' which means achieving as higher SAP level as possible. A 'reasonable level of thermal comfort' would not enable a tenant to afford the heating costs in the future, which are set to rise by 50% at least in the next 5 years. Renewable technologies including solar panels should become standard to help reduce the number of fuel poor households.