

Northampton Borough Council

Dear Sir/Madam

Implementing social housing reform: directions to the social Housing Regulator – Consultation

Thank you for the opportunity to respond to the consultation document. Whilst the Council are broadly supportive of the new draft directions to the social housing regulator, there are still aspects that are related to the 'Local decisions: a fairer future for social housing' consultation earlier in the year that the authority still have concerns over.

Our main concerns are related to the flexible tenancy proposals. We do appreciate that in certain circumstances this approach will work, however in the majority of cases it will not. In terms of the impact on tenants, introducing fixed term tenancies will remove the stability and security that social tenants currently benefit from. Security and stability allow tenants to put down roots in a community, find employment, and acts 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; tenants may have to commute long distances if they are required to find a new home when their circumstances improve; and it could act as a disincentive for unemployed households to seek paid work if they might lose their tenancy as result.

Our response to the individual questions is set out below:-

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?

Whilst we are broadly supportive of the directions to the social housing regulator in terms of tenancy type, Northampton Borough Council believes that the needs of the household and the sustainability of the community should be the foremost consideration, above other considerations, and this should be more explicit. There should also be robust safeguards for vulnerable households.

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

Within Northampton, our average tenancy turnover period is 10 years. We appreciate that for certain property types and households a shorter term tenancy will be more appropriate, but for families as stated in question 1 answer we believe a longer term should be considered. We welcome the move away from a 2 year fixed term tenancy to a 5 year fixed term tenancy, as this is what the Council were considering as part

of the development of the Tenancy Strategy and also any negotiating around Section 106 agreements.

Whilst the draft directions do offer registered providers with adequate points to address their tenancy policy, we feel that there should be more guidance and regard placed on the Private Registered Partners to consider the local authorities Tenancy Strategy in the area they are operating in, as stated in the HCA's Affordable Homes Framework issued in February 2011.

It is the local authorities role to provide a tenancy strategy and therefore provide overall guidance to registered providers within its area; the directions could make more reference to this key relationship.

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

We welcome the protection of rights for those households that wish to transfer from a Social rented property on a secure tenancy into Affordable Rent tenure and retain their secure tenancy. We also support that existing tenants will retain their secure tenancies, and not be affected by the new flexible tenancy approach. As stated in question 1 we would want to see the consideration and circumstances of the household given priority over anything else.

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

Yes and we have agreed to be a pilot for the social mobility scheme through the social mobility vanguard project. Although the focus is on internet-based schemes, we are confident this will not impact too greatly on our customers as we offer computer terminals with internet access in our one stop shop. As part of the pilot we will also work to overcome any barriers for our customers.

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

Yes, we are very supportive of this approach. As part of our local offers to our tenants last year we are in the process of setting up tenant scrutiny panels to monitor our performance and hold us responsible for the local offers we have agreed with them. Local Offer performance information is created every month and posted on the internet for all our customers to see. This information is also used by the Housing Services Manager at the tenant area panels we have set up.

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 the authority is supportive of the general principles of providing tenants with the ability to make more decisions by themselves, we do not think the tenant cash back proposals and allowing tenants to procure their own minor repairs will work. For example if a tenant was to procure their own repair, would it then be the Council's responsibility to check the quality of the repair after, and would it be responsible for any later issues relating to that repair after its completion?

We feel more information is required to offer further constructive comments.

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

Yes, the proposed revisions to the rent direction do adequately reflect the introduction of Affordable Rent.

Northampton Borough Council have commissioned Housing Vision to conduct a report on the impact of affordable rent on Northampton and the outcome is that for most households on our housing register this tenure will be un-affordable. This does not discount households on Housing Benefit accessing this form of tenure, but we do have concerns that should their circumstances change, they could find themselves trapped in the tenure from a financial point of view.

We do have other concerns over how the Affordable Rent levels would be set on re-let or a new tenancy offer. We appreciate that there will have to be a new valuation every time a property is re-let, but will there be a cap imposed for Affordable rent dwellings offered over a longer flexible tenancy period such as 10 years? Over this long period of time, there is a risk that the rent could become higher than 80% of market rent based on RPI +0.5%.

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?

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 clear on the elements relating to Thermal comfort, which provide for a basis for energy efficient homes. The proposed changes to the Quality of Accommodation may want to go a step further and consider the use of renewable technology for registered provider homes.

I would be happy to discuss any of the points we have raised.

Yours sincerely

Lesley Wearing
Director of Housing
Northampton Borough Council

Northumberland County Council

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

Dear Sir/Madam

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

Please find below Northumberland County Councils response to the consultation paper. I also attach notes from the Northumberland Tenants Voice- a tenants group comprising of residents from various providers across Northumberland.

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 to be considered. However consideration needs to be given to the level of resources required to fulfil these obligations at a time when resources are being cut.

There is not disagreement about effective use of stock but there is an issue over destroying stable communities and forcing tenants who have forged relationships and bonds with an area out of it because they have secured a better financial standing,. The issue is supply and demand of adequate housing and available products to secure adequate housing.

The complexities that Housing organisations will be required to manage will be significant and thereby mistakes will be made and legal challenges will be inevitable.

Northumberland County Council consulted with a representative tenants group from various providers, the views of which were:

- The Group felt that the proposals for 2 year tenancies were inappropriate for the following reasons:
 - It went against the idea of building sustainable communities. They used the analogy of a revolving door, communities not remaining

constant so a community spirit and support network can build between neighbours.

- The idea that a resident could be asked to leave due to financial circumstances was not welcomed. This does not build a relationship with trust between the landlord and their residents.
- The group felt that there was potential for negative publicity to be directed towards the landlord around encouraging someone to leave a relatively secure tenancy into a private tenancy when they are still living close to their means.
- The proposals introduce a disincentive for residents to go and work. This may further impact on the welfare benefit bill and also the economy in the local area.
- The proposals may lead to an increase in Right to Buy applications and sales as residents may see this as the only opportunity to have certainty around their housing.
- The administrative costs and the resource level to review tenancies would increase with additional staff time required, lost rent and increased void repair costs.
- The idea of succession was raised in the group. Among the group it was agreed to be generally beneficial however could end up with a case of under occupation.
- The group agreed the idea should be able to be put to tenants of a possible move and this should be supported by the landlord. The group felt that the landlords should explore options to pay costs of moving and consider incentives.
- In Northumberland's the large number of applicants wanting to live in smaller accommodation is hindered by the availability of such property.

Overall the group disagreed with the idea of flexible tenancies. However the group felt that it should be highlighted strongly in the agreement that negotiations will be opened to the tenant if the property becomes under occupied.

The potential exists for people to lose their support network (s) if they are forced to leave their home and community because of flexible tenancies. Ultimately if they are forced to leave social housing it may mean they have to move out of the immediate area.

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 will answer most of the questions that a tenant or prospective tenant may have regarding the different types of tenancy. However, there does not appear to be any significant support for 2 year tenancies so why has this not been amended. The arguments put forward in question 1 stand also for this issue of minimum requirements. Supply and demand, alternative accommodation, incentives to better oneself leading to loss of accommodation.

Question 3; Does the draft directions set out the right minimum protections of registered providers?

Point b- extending probationary period. This could be clarified as to why such an extension is given. Otherwise the minimum protection rights are appropriate.

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

Mutual exchange schemes widen the choice for tenants and can make moving easier for existing tenants. This could also address some over/under occupation issues and could be used as a possible incentive to move. Most internet based mutual exchange systems will take and give the level of information included in the direction. Therefore, yes agree with the principle and detail. The tenants group supported this part of the direction in principle. However, in terms of its relationship with the new tenure reform proposed in the direction, it was not believed to fit. They believed that tenants would not move if it meant they were at risk of losing their secured tenancy. There was continued disagreement to the flexible tenancy.

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

This makes the requirements of the current standard more explicit, and places a greater duty on the landlord to ensure tenants have the capacity and capability to be effectively involved in the management of their homes and services. We agree with the principle, however in practice it is quite difficult to get enough tenants involved to have effective scrutiny. The inclusion of the management of repairs and maintenance services could prove difficult to operate. As a secure tenant they have the right to undertake some improvements to the homes now, with prior permission. Currently this is at their own expense and no calculation of any savings made is carried out. We would need to be very clear what constitutes an improvement, and therefore at the tenant's own expense, and what would be classed as a minor repair. In relation to the cash back scheme the Northumberland tenants group discussed this and the group felt that there were a number of safeguards which would have to be put in place if this were to work, and therefore the scheme may not be value for money.

- Consideration could be given to providing a list of approved contractors which could be published and provided to tenants with a list of costs of works. This would require regular updating.
- There should be a strong emphasis on health and safety issues.
- The value which is achieved from the Cashback scheme should be published.
- Monitoring required to ensure that any such scheme is not open to abuse.
- Tenants panels should influence the format of the information which is received.
- The tenants panel's should be producing the annual reports with officer involvement being minimal.

The group believed that in principle this Cashback scheme was a good idea however it requires many safeguards and close monitoring. Not included in the directions is a distinction of what 'routine repairs' are, this would need to be clarified as well as listing what tenants could be responsible for themselves.

Through the groups experiences they believed dedicated repairs and maintenance panels should be used in this approach also. This way tenants would be able to also negotiate a cycle of repairs and be a part of the procurement process in line with training provided to the tenants.

Overall the group felt that it would not be a widely used policy and that tenants prefer to report a repair and know that it would be completed by a competent qualified professional.

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 panels could become more involved in the repair and maintenance service, taking part in procurement of capital work and stores, agreeing a list of minor repairs that the tenants could carry out and how the share in the savings would be attributed.

One of the main reasons people go into rented accommodation is so that they do not have to take responsibility for repairing and maintaining the property, but have the peace of mind of telephoning the landlord to carry out the repair. Whilst I do think there will be some tenants that would be interested in participating, I believe they will be the minority and would possibly not result in any material savings being made.

There would be additional costs in calculating and distributing any savings to tenants.

No work has been undertaken on how many tenants might be involved in this area of activity.

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

Yes although local authorities may wish to have the same flexibility on Affordable Rents in the future.

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 the revisions reflect the expiry of the original target date and place a requirement on all Providers to achieve and maintain the minimum standard.

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

We believe the energy efficiency requirements should be more explicit. The term 'reasonable level' is very subjective and could differ greatly between landlords. The tenants Group felt that landlords should do more to promote and increase energy efficiency.

Yours sincerely

Andy Clarke
Housing Services Manager- Strategy

Norwich City Council

Implementing social housing reform: directions to the Social Housing Regulator

Below is a summary of the consultation questions and Norwich City Council's response.

General comments

Norwich City Council understands from the Government's localism agenda that the content of policies and strategies should be determined at a local level. They should be consistent with national legislation, codes of guidance and the principles of fairness and equity but the detail left to landlords and tenants within a local area. We are mindful that our registered providers work across a number of local authority districts and further prescription on policies and strategies would only provide additional complication and inefficiency. Therefore, the Council welcomes the statement in the Foreword from the Minister that he believes 'this is best done by trusting local authorities and social landlords to run their own businesses and by giving tenants more control over the decisions they make about their lives'.

As a member of The Association of Retained Council Housing (ARCH), Norwich City Council agrees with the consensus that the proposals should support the general message of enhancing localism, promoting the role of the landlord, rather than central control, and tenant engagement whilst reducing bureaucracy emerging from the government.

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 or issue?

The council agrees with the need to publish clear and accessible policies which outline its approach to tenancy management, including tenancy fraud, as stated in the consultation paper. The council feels that the direction could be made more explicit to ensure that vulnerable tenants will not be offered on a fixed term tenancy.

The council is choosing not to use fixed term tenancies for its tenants. Where our partners decide to use fixed tenancies for general needs tenancies, we would expect that a minimum 10 years should be granted in addition to a probationary period. This timeframe will allow people to establish themselves properly and to plan for future 'life stages'; and also give stability to landlords especially when trying to achieve community cohesion.

Question 2:

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

Existing tenants have been granted a tenancy that gives them the right to remain in their home for as long as they abide by the tenancy agreement conditions whether this is their first social property or they have moved from one to another. Their rights can not and should not be changed.

As noted in question one, the council feels that the direction could be made more explicit to ensure that vulnerable tenants will not be offered on a fixed term tenancy.

Question 3:

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

As noted in question one, the council strongly opposes a minimum fixed term tenancy of two years for general needs tenancies in addition to a probationary period. As noted in question two, the council feels that tenants should receive the same level of security irrelevant of the accommodation they move to within the sector. 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 follow with the guarantee that a tenant choosing to move will not lose their existing security of tenure.

Question 4:

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

Yes the council agrees with the principles of the proposed direction on mutual exchange. We are part of the Home Exchange scheme and currently this is a practical scheme for us to take part in.

Question 5:

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

As a local authority with an active tenant group, the council understands the value of engaging with tenants and incorporating their views into our policies and procedures. We are committed to ensuring tenants can influence and shape our housing service. The authority's blueprint vision for the housing service and continual improvement commits to taking tenants' views into account by:

- asking for views when planning any specific changes or developments to the housing service

- giving tenants the opportunity to influence how we improve the service

- listening to tenants

- learning from complaints.

The change of emphasis from an external inspection to internal scrutiny by tenants' panels places a great deal of additional responsibility on active tenants with the time and inclination to get involved.

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 council has major concerns with the Tenant Cashback scheme and believes that

models for the scheme should be developed as a result of the CLG pilots that are taking place. With little guidance available on the scheme's costs and adequate associated

3

safeguards on quality of repair, price and standards, it is not possible to address this question. The council would like to stress that as an area where good standards of work are crucial and poor craftsmanship can lead to health hazards or worse, it is essential that a robust mechanism for quality assurance is in place. Ensuring tenants who commission repairs are getting value for money and are not being taken advantage of is a key issue that the council would expect to be further researched prior to the scheme being introduced. The Impact Assessment for the Tenant Cashback scheme highlights the issue that the property will be occupied by tenants after the current tenants have left and they will have to live with any repairs carried out. It is also unclear as to how the scheme would work with the current leaseholder section 20 consultation process which requires the council to consult with leaseholders on any contract let.

Question 7:

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

Whilst this relates to private registered providers only, it appears clear that the proposed revisions to the rent direction reflect the introduction of the Affordable Rent regime.

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 changes to the direction on the Quality of Accommodation adequately reflect the expiry of the original target date for Decent Homes. The council welcomes the government's intention to allow temporary extensions where standards have not yet been met thus providing necessary flexibility to reflect different circumstances that exist in different localities.

Question 9:

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

The council feels that there are adequate references to energy efficiency. The quality of our stock is addressed through our asset management strategy. It is suggested, however, that the proposal be expanded to reflect current expectations on energy efficiency.

Implementing social housing reform: directions to the Social Housing Regulator.

Notting Hill Housing Trust's Response to the Department for Communities and Local Government Consultation.

Introduction

1. Notting Hill Housing Trust welcomes the Government's consultations on its proposed directions to the social housing regulator on the implementation of its social housing reforms and is grateful for the opportunity to respond.
2. Notting Hill is one of the largest housing associations in London, providing some 25,000 social homes. We are also a major provider of temporary accommodation for homeless families who have been accepted as homeless by their local authority and are awaiting a suitable permanent social rented home. Currently we provide some 2,500 homes that we lease from private sector landlords and make available to London boroughs to use to house homeless families, normally under rolling assured shorthold tenancies.

General comments

3. Notting Hill strongly welcomes the Government's social housing reforms. They will lead to a significant increase in the provision of new social housing, with the higher levels of income that associations will receive from affordable rent tenancies enabling us to expand new social house-building. We recently secured the largest grant allocation in London for the 2011-2015 funding period from the Homes and Community Agency. This will enable us to provide over 2,300 new affordable homes over the 2012-2015 period. Taking account of other homes already in the pipeline this has enabled us to increase our current development programme to over 4,700 homes over the next four years, setting us well on the way to achieving our corporate strategy aim of growth to 35,000 homes over the next five years.
4. We remain concerned however that the detailed proposals in the directions, coupled with the requirements of the HCA's Framework Delivery Agreement, risk imposing too many bureaucratic hurdles and detailed requirements which will make it much more difficult for associations to fully exploit the opportunities that the reforms provide. Housing associations must be left with sufficient flexibility to apply the new system in ways that match the circumstances of the areas in which they operate and the needs and desires of their tenants and would-be tenants.
5. We welcome the general principle set out in paragraph 45 of the consultation paper that the Government believes that the directions should contain the minimum amount of detail needed to achieve the desired goals, and where possible should be set at a high level. However the draft directions do not match this principle – they are substantially longer and more detailed than the directions that the previous Government made. Our detailed comments below reflect this concern.

6. With our colleagues in G15 we are pressing the HCA for changes and clarifications of the Framework Delivery Agreement to ensure that that does not constrain our activities unnecessarily. It will be important that in setting the standards that registered providers have to comply with the regulator (currently the Tenant Services Authority but in future the Regulation Committee of the HCA) adopts the same principle – that its standards contain the minimum amount of detail needed to achieve the desired goals, and where possible are set at a high level. To help ensure this it would be useful if the Secretary of State's directions, alongside the references to other aspects of the regulators fundamental objectives, also contained specific references to the need for the regulator to set the various standards in a way which achieves the regulator's tenth fundamental objective - to regulate in a manner which minimises interference and is proportionate, consistent, transparent and accountable.

Comments on the specific questions raised in the Consultation Paper

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?

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?

7. We will want to consult our tenants on the issues that they believe our published tenancy policies should cover, but we would expect these to include the various issues set out in paragraph 2(3) of the draft directions.

8. We do not support two aspects of this part of the draft directions. First, we do not agree with the proposal that tenancies must be for a minimum of 5 years except in exceptional circumstances when they can be for a minimum of 2 years.

9. Notting Hill has been using rolling or "evergreen" Assured Shorthold Tenancies (ASTs) for about 20 years in one part of our business. This is known as "Temporary Housing". In reality many families remain in this housing for considerable periods of time, waiting for a suitable council or housing association home to become available. Because we lease these homes from private landlords we are not able to give security of tenure. Consequently we let the home on an AST, with the presumption and intention that the tenancy will "roll over" at the end of the period (six months or one year), all being well. Families can therefore settle in an area, children can attend local schools etc. If the landlord wants to repossess his home we undertake to help the family move to a similar property in the area. Some of these tenants cause a nuisance either by their behaviour or by refusing to pay the rent. We use the fact that their tenancy is not secure to encourage them to

change their behaviour and this is normally successful. Even though they are much easier to obtain the number of evictions from this part of our business, for reasons of behaviour, is no greater than it is for our mainstream social housing business. As a landlord we have not become “tougher” in setting a standard of behaviour. It is simply that having the right to gain possession we are able to encourage people to change.

10. A further example is that we normally use probationary or starter tenancies in Notting Hill Housing Trust. This means that all new tenants know that their behaviour during the first year is important, in terms both of not creating nuisance and of getting their rent paid on time. Housing Officers report that the shorter tenancy, which they expect to change to a permanent tenancy after 12 months, has a strong motivating effect. Very few (two or three a year) tenants fail to progress to a permanent tenancy. Those that cannot conform to the behaviour expected by the community are normally moved to more supported housing. However it is unfortunately the case that a significant number of tenants start to behave badly after the first year is up – for example organising noisy parties almost as if they want to show us and their neighbours that they no longer have to be on their “best behaviour”.

11. Communities, and the tenants we consulted about the proposed tenure changes, have urged us to take stronger action against those whose behaviour is detrimental to their community and their enjoyment of their home. They have supported the idea of their landlord having greater powers to deal with people who are unable or unwilling to fit in and behave in a reasonable way. Having the powers will often be sufficient to secure behavioural changes without actually having to use them. Under the current assured tenancy system our tenants know that the courts will usually protect them even if they sublet their homes and profit from them, or are drug dealers, or are violent towards our officers or their neighbours, or behave anti-socially – for example making as much noise as they wish at all hours. The system also makes it much more difficult for us to help tenants who are mentally unwell and cannot maintain any relationships. The majority of tenants are dismayed that we can rarely get the courts to agree to evictions, despite evidence they often put themselves on the line to provide, due to the security of tenure we have to offer. The same problems will arise if we are required to grant tenancies for a minimum period, particularly if that is five years except in exceptional circumstances.

12. Our proposal is that landlords should be free to offer the type of tenancy which is right for the household, unfettered by a prescription on timescales. Notting Hill Housing Trust does not wish to move tenants out after an arbitrary period of five years. Instead we would always assume that the home will be let for life, assuming it is needed, and the tenant's behaviour is broadly acceptable to the community. However we already visit our tenants annually to see how they are getting on, to discuss their needs and wishes, to ensure the home is in good condition (which is a joint responsibility) and to ensure that the rent is being paid and benefits received. Where someone is inappropriately housed (for example their home is too big or too small, or presents access problems) we discuss options with them about possibly

moving, or making adaptations. An evergreen AST would be the best type of tenancy for most of these households and we would like the opportunity to offer this to those we believe will benefit from being housed by a principled social landlord, committed to helping tenants get the most out of life and supporting the communities in which they live.

13. Second, registered providers should not be restricted to extending probationary tenancies for a period of 6 months once the initial 12 month period expires. As we have noted above, we normally use probationary tenancies and in most cases 12 months is sufficient time for us to help tenants overcome any problems that they have with complying with the terms of their tenancies. But if it proves insufficient we should be free to decide the length of time for which the probationary period should be extended. Limiting the period is likely to make it more likely that we will decide not to confirm tenancies in the rare cases where problems have not been resolved in the initial 12 months. The right for probationary tenants to request a review when the provider decides to extend the probationary period will provide a sufficient safeguard against unreasonable use of this power.

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

14. Notting Hill already participates in mutual exchange and mobility schemes such as the *G15 London Moves* scheme, as do almost all other sizeable housing associations. As the consultation paper notes, the current regulatory regime already requires associations to participate in mobility and mutual exchange schemes where available. We do not believe, however, that the Secretary of State should introduce detailed requirements in this area, which risk cutting across effective local exchange schemes.

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

15. Notting Hill strongly supports the principle that tenants should be able to scrutinise registered providers' performance. We have recently established resident-led Local Scrutiny Panels to look at the performance and quality of services we deliver in a local area, and try to make sure that they meet the requirements of our permanent rented and shared ownership residents. These panels complement the many other ways in which we involve residents – for example:

- Resident Service Panels, which provide the opportunity for residents to work with us on specific aspects of our service such as repairs, and service charges, the special needs of disabled residents and the ways in which we communicate with residents;
- Our Design Group, aimed at helping us build well-designed, sustainable homes and communities;
- *Resident Monitors, who help us make sure cleaning, gardening and other services we provide are carried out to the highest quality;*

- *Focus Groups to gather ideas and feedback from residents on specific topics;*
- *Mystery shopping - we have a number of residents who volunteer to act as mystery shoppers and inspectors for us to assess how well we are doing against our service standards;*
- *Providing funding, training and other support for resident groups.*

16. We do not believe, however that there is a need to extend the direction in the way proposed in the consultation paper, which would specify in unnecessary detail the ways in which tenant involvement and empowerment is to be achieved. These details are best left to local agreement between providers and residents, with the outcomes rather than the systems and processes chosen overseen by the regulator.

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?

17. Notting Hill ran a savings scheme a few years ago called RentPlus under which tenants who saved regularly were given a bonus equal to some 6% of their savings at the end of the year. In addition tenants who chose to take on responsibility for minor day to day repairs and did not make any use of our day to day repairs service were given a bonus of £200. Over 50 tenants participated in the savings scheme and many of them took on their own repairs. However our experience was that allowing tenants to undertake their own repairs raises tricky asset management and health and safety issues. Empowering them to commission repairs themselves would raise further contract management challenges.

18. With the support of our Resident Repairs Working Party, which oversees our repairs service, we have recently switched to a repairs contract under which we make a set annual payment per property for almost all day to day repair work. This will yield significant savings, but make it tricky to ensure that allowing tenants to undertake their own repairs would generate savings in which they could share.

19. We hope that the Tenant Cashback pilots that a number of housing associations are undertaking will provide the answer to many of these issues. In the meantime we welcome the Government's decision not to prescribe how registered providers should run local Tenant Cashback schemes.

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

20. 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?

21. The previous Government required associations to ensure as far as possible that the homes they provide meet the decent homes standard by the end of 2010, and are maintained at that standard once they have met it. We ensured that almost all Notting Hill's housing met this standard by the deadline – the only exception was some of the homes that we acquired when Presentation Housing joined the Group, for which the TSA agreed a later deadline. However this is an externally imposed standard that has been very expensive to meet and which takes no account of the priorities of our tenants.

22. For the future we believe that associations should be required to draw up and implement asset management strategies which take full account of their tenants' views and ensure that the previous public investment in social housing is safeguarded, but it should be for their boards to determine what the quality standards should be. Whilst we have no problem with the outcomes set out in paragraph 6(3)(a) of the draft directive - that accommodation must contain no category 1 hazard, be in a reasonable state of repair, have reasonably modern facilities and services, and include facilities or services for the provision of a reasonable level of thermal comfort – we do not support the inclusion of references to the Decent Homes Guidance in that paragraph.

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

23. No – the requirements set out in paragraph 6(3)(a) referred to above are sufficient. Meeting high energy efficiency targets in some of the older housing that Notting Hill owns would be challenging and expensive.

Notting Hill Housing Trust

September 2011

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

RESPONSE FROM NOTTINGHAM CITY COUNCIL AND NOTTINGHAM CITY HOMES

Nottingham City Council, and its ALMO, Nottingham City Homes (NCH), welcome the opportunity to respond jointly to the above consultation.

We have answered the questions as they appear in the consultation paper below. We would however like to reaffirm the Council and NCH's position on flexible tenancies, even though the consultation questions do not ask directly for an opinion on this. We remain of the belief that flexible tenancies would have the effect of stigmatising social rented housing, according it a transitory status and undermining community stability and sustainability. Whilst they may have their place in areas of very small social housing stock and minimal churn, for a landlord like the City Council flexible tenancies feel unnecessary. We would rather manage our stock through, for example, incentives to under-occupiers. We also believe that flexible tenancies based on an economic threshold could bring a disincentive to entering employment. Current tenants when asked, although unaffected by any move away from lifetime tenancies, roundly rejected the suggestion, believing that it diminished social housing as a tenure of choice and aspiration.

Councillor David Liversidge
Portfolio Holder, Housing, Regeneration and Community Sector

28th September 2011

Responses to the consultation questions

1.Direction on Tenure

Question 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?

Yes. However, when consulted on the original proposal, Councillors and tenants generally opposed the suggestion of tenancies that were not for life **except** in limited circumstances, eg areas where it might be desirable to link security of tenure to certain behaviours.

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

Yes, but the response is similar to the above: it will only be relevant if we decide to offer a range of tenancies.

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

As response to questions 1 and 2. It is welcomed because it will mean that if, as seems likely, the Council continues to offer lifetime tenancies and tenants wished to transfer, say for reasons of under-occupation, they would not lose out by being offered a shorter term tenancy. We do not want to discourage tenants from downsizing.

2.Direction on Mutual Exchange

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

Nottingham City Homes already subscribes to the “Home Swapper” scheme, which is the largest scheme available of its kind. The Homelink (CBL) Inclusion Team provides support to all vulnerable citizens who wish to move, either directly or via its support network within the supported housing sector in the city, and this service can include help with Home Swapper. Other providers may well find such a requirement onerous in terms of the staff resources needed to offer support, however.

3. Direction on Tenant Involvement

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

There is a strong history of scrutiny at NCH. Tenants and leaseholders have a wide range of opportunities to influence and be involved in the scrutiny of performance. NCH provides opportunities for tenants and leaseholders to make recommendations on how services can be shaped and improved e.g. tenant service inspection team, mystery shopping, service delivery forums, vision management surveys and 3 C's etc.

NCH is planning to set up a formal scrutiny panel and tenant and leaseholder scrutiny is very much at the heart of its current involvement 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?

As schemes are currently being piloted it seems premature to be asking these questions, and both NCH and the Council believe that an evidence base first needs to be established and the models for schemes properly thought through. However, the opportunity has been taken to test tenant, councillor

and asset management staff opinion on the principle of the Tenant Cashback. These are each set out in turn:

Tenants: tenants were strongly against the idea, believing that they receive a good service and would not want to commission any other provider to carry out repairs to their homes. Although the focus group at which this was discussed was small, NCH in July had a satisfaction level of 9.13 out of 10 with its repairs service, 8.66 out of 10 cumulatively.

The principle reasons for tenant rejection of the Tenant Cashback were:

- Lose economies of scale
- Management of the scheme would be costly and overly bureaucratic e.g. pre and post quality checks, putting right repairs that had not been done correctly
- Cost of rectifying repairs not completed to a high enough standard – cutting corners
- Ensuring quality and reliability of alternative contractor
- Concerns about finding reputable companies
- Concerns that tenants might select cost over quality
- Could potentially lead to the gradual deterioration of the quality of the stock
- Would be difficult to ensure consistency
- Speed of the response by alternative contractors
- Vulnerable, disabled and elderly tenants at risk of exploitation
- Equality and Diversity considerations e.g. contractors good employers?
- How does a tenant know if the job has been completed correctly?
- What would happen if the company who did the work went into liquidation?
- Job losses at the repairs service therefore need to consider local employment
- Will tenants have to pay up front? Not always affordable

There was some disagreement between tenants about the likely take-up of a Tenant Cashback scheme. Most believed that it would be very low; however one tenant believed that up to a third of tenants might wish to pursue it, particularly in a “Do-it Yourself” model. There are probably many ex craftsmen living in social housing who would have the confidence and skills to do the job themselves (and may be doing so already). However, this was the only model – particularly if delivered on a co-operative basis - that had any support from tenants.

Tenants pointed to the efficiencies already being achieved via the procurement process which could be jeopardised by the Tenant Cashback.

Finally, tenants did not perceive the scheme as a means of empowerment. They already feel empowered through involvement in the repairs forum and the procurement group.

Councillors: Councillors have listened to tenant concerns, and share many of these. Councillors are generally opposed to the Tenant Cashback, but

they do believe that it ought to be a spur to existing holders of repairs contracts to improve their performance. There is clearly some crossover with the existing Right to Repair, but they believe that the principles of both should be extended to the private rented sector.

NCH Asset Management staff: There is an assumption made in the consultation document that savings will be made but there is no analysis of why that would be the case.

There is a clear conflict between the responsibility of a landlord as owner to maintain the property for its lifetime as opposed to a tenant who merely needs to ensure habitability for their tenancy. This would lead to short term decisions with long term consequences for the Council/Owner of the property.

Trying to manage the above problem could be very costly. Instead of having one repairs and maintenance contract with the contractor, there would be thousands of small contracts 'managed' by the tenant which would have to be policed somehow to ensure compliance adding costs. The NCH repairs service currently manages 3,000 jobs per week/ 150,000 per year to give some scale.

If this is a money making scheme for residents as suggested, the residents involved might be inclined to maximise the repairs supposedly needed. Again this would have to be policed, adding costs.

Generally Repairs Contracts pay trade, the tenants will pay retail - overall the same repairs (done to the same standard) will cost more. The supply chains are currently managed to ensure best prices for the Council and the longevity of the product. A tenant will always be paying retail rates for the same work and same materials. Although it might be perceived that there are significant management fees to be saved by allowing the tenants to go direct this is not the case.. As an example current PV installations being achieved by NCH are around £5k, retail is about £12k. If some tenants choose this cashback route and others do not there will still be the same overheads for the contractors with less income so the residual repairs will cost more - that is not efficient; it adds cost.

There are obvious concerns around Health & Safety: tenants will want the cheapest price. They will not necessarily be concerned if, for example, a company employs local labour or apprentices, erects scaffold properly or has CRB checked staff etc. The scheme could lead to the growth of door to door repairs salesmen for national companies driven by profit.

In summary this scheme in all likelihood adds costs both for the landlord and the tenant.

4.Direction on Rents

Question 7 is not relevant to local authority landlords.

5. Direction on the 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. As a RP which has a backlog of decent homes work it is to be welcomed that we will not be potentially be penalised in terms of the quality of accommodation direction for this reason.

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

The requirement in the draft directions mentions only “a reasonable level of thermal comfort”, so yes, it probably should be expanded to be more explicit. However, our stock is some of the highest performing in the City in terms of energy efficiency, and where there are characteristics which reduce the performance of certain properties, for example solid walls, there is a programme to address this. Taking a more strategic view across the social housing stock of our area, we would welcome within this direction a stronger encouragement to RPs to install energy efficiency measures in order to improve the performance of their properties, tackle fuel poverty and reduce carbon emissions.

NOTTINGHAM COMMUNITY HOUSING ASSOCIATION

Communities and Local Government - Consultation

Implementing social housing reform: directions to the Social Housing Regulator

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?

Should NCHA be a HCA development partner then we will continue to offer starter tenancies under the new affordable rent regime and will include this in a revised tenancy policy. This proposed direction is therefore welcomed.

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

It is unclear from this section whether Registered Providers will be able to use their existing complaints procedures when tenants complain about their tenancy decisions or whether housing associations will be included in the statutory appeal mechanism through a Tenants' Panel.

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

The decision to allow probationary or starter tenancies under the Affordable Rent regime is to be welcomed. The flexibility to offer the same level of security of tenure to a transferring social tenant to a new affordable home is also welcomed.

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

The direction on mutual exchanges is laudable although there seems to be little understanding of the resources required to operate internet-based schemes including support to the 50% or so of social tenants without access to the internet

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

Whilst NCHA welcomes the proposals for Tenant Scrutiny Panels to further enhance residents roles in evaluating performance, we do not agree with removing a tenants' right to go direct to the Housing Ombudsman Service after exhausting our internal complaints process. We therefore disagree with a further layer of bureaucracy by introducing a complaints function within the remit of a tenants' panel. We believe that the existing arrangements should remain in place.

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 concerns regarding the introduction of the Tenant Cashback scheme based around:-

- The cost of administering the scheme being disproportionate to possible efficiencies that would be shared between the landlord and the tenant.
- The dynamics of tenants getting repairs done to our properties. Where repairs are poorly handled by the tenant, potentially creating longer term repair issues for short term savings, the landlord may end up paying the longer term costs with the tenants benefitting from the shorter term savings.
- The quality of work commissioned by the tenant. Tenants may try to do the absolute minimum for as long as possible, pocket the savings and then terminate their tenancy and return our property in poor condition. We can put costly management controls in place and, of course, recharge the tenants but our recovery percentage for recharges is low.
- Health and safety - what liability would our tenants take on for a repair that went wrong and what liability would we have if our tenants did some work that resulted in serious injury or death to them, their family or a contractor (if they out-sourced some work); or if they seriously damaged one of our properties as a result of getting poorly considered work carried out - would our insurers be happy with this increased liability if we carried the risk? Or would our tenants need to prove to us that they have sufficient insurance in place to qualify for the initiative? Would our banks be happy with this management of the assets against which they have lent us money?
- Competence and training - if we allow our tenants to carry out certain works to our property then do we have an obligation to check their competency to carry out the task and/or provide them with training.

We will consider the results of the pilot schemes currently underway when they are available. We will then consider running our own pilot in order to address the concerns outlined above. Our pilot would be based on one estate with maybe 50 tenants involved. We would focus on responsive repairs which currently cost in the region of £400 per property p.a. on average. The level of savings are difficult to estimate at this stage.

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

Greater clarity is required in respect of affordable rent properties that are subject to service charges. Currently affordable rent valuations should assess a gross market rent without reference to separate service charges. Whilst this is analogous to the private sector it will introduce ambiguity into the existing model of variable service charges, tenant consultation on service charges and ensuring transparency when adjusting service charges to reflect actual costs.

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 fully agree and support the proposed revisions to the Quality of Accommodation direction.

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

We would support a more explicit and descriptive coverage of energy efficiency within the revisions to the Quality of Accommodation direction based around encouraging Registered Providers to deliver energy-based retrofit initiatives to raise properties to at least a minimum energy efficiency level which would need to be defined.

Paul Moat, Technical Services Director
David Richardson, Director of Housing Services
04 August 2011

Strategy and Performance

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Introduction

Orbit Group is one of the largest housing organisations in the country, providing more than 35,000 high-quality homes in the Midlands, the South East and the East of England. Our operating associations, Orbit Heart of England, Orbit East and Orbit South, help to build strong communities and meet local housing need in more than 100 local authority areas. Orbit Homes, our development and sales organisation, was named the CIH Housing Heroes 'Development Team of the Year' for 2011. Orbit Services offers a full range of back office functions and specialist support to external clients. We are a modern and dynamic social business with a shared ambition of 'Building Brighter Futures for People and Communities'

We welcome the opportunity to comment on the draft directions and hope that it will assist the department in drafting the final version.

Before responding to the specific consultation questions, we would like to make some general remarks.

Firstly, we have some concerns over the prescriptive nature which marks many parts of the draft directions. For instance, paragraph 42 of the consultation document states that "... the draft directions should contain the minimum amount of detail needed to achieve the desired goals, and where possible should be set at a high level...". However, in many places these draft directions go well beyond this by prescribing the actual processes by which outcomes are to be achieved. This clearly goes against the 'spirit of localism' as espoused by this Government.

Secondly, the draft directions should not be used as an implementation tool for specific policy initiatives. Including Tenant Cashback as part of the tenant involvement and empowerment direction is a particular case in point and which has a distinctive taste of 'policy passporting'. We believe that this is clearly outside the powers given to the Secretary of State under section 197 of the Housing and Regeneration Act 2008.

Response to consultation 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?

We welcome the fact the direction is not prescriptive in how to achieve the desired outcome. The wording "... 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" allows registered providers adequate flexibility to take account of their unique local circumstances.

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

It is vital that tenants are well-informed about the issues concerning their tenancy. The details set out in the direction will ensure that tenants receive this information. However, even without this direction, it would be in the landlord's interest to provide this level of detail (the raft of policies and strategies already published by registered providers shows how seriously this is being taken). Whilst not directly

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objecting to setting out the minimum requirements for a tenancy policy, we question the necessity for exactly this reason. At the same time we accept that it will help creating a level playing field amongst providers. As such, we believe that the draft direction sets out the right minimum requirements for landlords' tenancy policies.

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

We welcome the government's view that fixed-term tenancies with a minimum term of two years are only to be issued in exceptional circumstances and that this has been included in the draft direction. In our response to *A Fairer Future for Social Housing*, we expressed concerns as to the potential impacts of anything with a term of less than five years on our tenants, communities and the business itself. The draft direction does not allude to the circumstances in which 'lifetime' tenancies are to be issued. In the *Fairer Futures* paper, the Government concluded that for some groups "a guarantee of social housing for life for some new tenants" is the most appropriate form "*... we recognise that the needs of some are likely to remain broadly constant over the long term and social housing (although not necessarily the same social home) to remain permanently the most appropriate form of tenure for them because of the stability and security which it provides. This is likely to be the case particularly for older people and those with a long term illness or disability*".

We believe that certain groups should not be issued with a fixed term tenancies, such as vulnerable groups and those with specific support needs. We would include the over 55's and sheltered scheme residents in this group. It is important that there are clear definitions developed for these 'excluded' categories and we would like to see an amendment to the draft directions to give regard to this issue.

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

We believe that mutual exchange is an important means by which to promote mobility within the sector. We are already signed up to several online mutual exchange systems, as indeed will be the majority of registered providers.

However, we hold the view that the draft direction is unnecessarily prescriptive. The current TSA Tenancy Standard expects registered providers to "... participate in mobility schemes and mutual exchange schemes where these are available". Registered providers should be left to decide how they address this requirement.

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

We fully support tenant scrutiny and have put structures in place for this to take place. However, we take some issue with prescribing how tenant scrutiny is to be delivered, i.e. "supporting the formation and activities of tenant panels or equivalent groups...". Again, registered providers will know best how to make this work, reflecting their unique local circumstances.

We object to the use of the direction to introduce the Tenant Cashback scheme. As mentioned earlier, it is wholly inappropriate to use directions to the regulator as a policy implementation tool. This fundamental issue aside, we simply don't know enough about the policy details and the potential practical implications. Whilst an impact assessment has been published, plenty of questions remain,

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not least around costs, liability, health and safety as well as the interaction with housing benefit (i.e. HB could be reduced as a result of a Tenant Cashback payment). Until the results of the current pilot schemes are available, the implications cannot fully be assessed.

Clause (b) (iii) seems to be contradictory as well as unnecessarily prescriptive. It starts off by saying that landlords are to provide timely and relevant information in order to support effective tenant scrutiny and that this information is provided in a form which has been agreed with tenants. It then goes on to both prescribe the form and content of some of this information ("... such provision must include the publication of an annual report which should include information on repair and maintenance budgets").

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 including tenants at a number of levels of engagement in the provision of repair and maintenance services, namely:

- resident inclusion on all tender panels
- resident inspectors for post-inspection of repair works (this might include planned works in the future)
- resident forums as part of aid and adaptations work
- residents steering groups for future changes in products and standards
- customer approved documents, letters, etc.

The numbers can be very high but at present we only have limited engagement which will change as we demonstrate the effect of their work with Orbit.

There are clear benefits to this approach, including:

- higher resident satisfaction
- a sense of 'ownership' following the improvement work which might lead to a reduction in the number of repairs needed in the future
- giving residents choice as to the priority of improvement work (mostly to communal areas) with agreement reached over the sequence of improvements
- VFM savings by responding to what residents want and not what we think is needed
- countering a top-down culture by engaging with residents for the right reason.

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

We don't have any comments regarding this question.

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?

Whilst we agree with the overall sentiment of the proposed direction, we would like to make the following points on the details of the direction.

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One of the desired outcomes of the Quality of accommodation standard which this direction is to stipulate is that accommodation "includes facilities or services for the provision of a reasonable level of thermal comfort" (clause iv). We have some concern with a definition of 'reasonable', if this is not linked to 'affordability'. Landlords can get into a situation where they install measures which would provide reasonable comfort levels for those residents that could afford to run them. With rising fuel costs, the ability to obtain a reasonable level of thermal comfort will be more difficult where once it was satisfactory. Hence, this clause needs to combine 'reasonable' and 'affordable' to ensure it is future proof. The same applies to clause iii ("has reasonably modern facilities and services"), where affordability to operate a system will play a key role.

Whilst stipulating "that accommodation which is at the standard set out in the Decent Homes Guidance is maintained by the registered provider at that standard" is welcomed due to the fact that decent homes is a tried and tested and well-known standard, it is fair to say that it is not particularly robust when it comes to thermal efficiency. For instance energy efficiency as measured by SAP only needs to be above 35 in order to satisfy decent homes, which shows how 'poor' a property could be in terms of energy efficiency but still satisfying the Decent Homes standard.

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

We strongly believe that the draft direction should be framed in such a way as to support the UK's CO₂ reduction targets being achieved by 2050. With rising fuel costs, there is an imperative to put greater onus on making homes more thermally efficient and affordable to heat in order to achieve those stated 'reasonable comfort levels'.

Hence, we would welcome the direction to require the regulator to put into place:

- measurement targets against which energy efficiency performance is to be measured with a possible view do incrementally increase those targets over time to ensure the 2050 targets is to be achieved.
- some form of occupier education programmes (i.e. ensuring occupiers understand how to maximise the benefits of a thermally efficient home including technical measures installed) in order to reap the full benefits energy efficient measures.

We are happy to discuss the issues raised in this paper if DCLG wishes to do so.

Please direct any queries to Christoph Sinn, Research and Policy Manager, Orbit Group, Garden Court, Harry Weston Road, Coventry, CV 3 2SU, Tel. 02476 438341, christoph.sinn@orbit.org.uk

Chief Executive's Office: (01473) 228600
email: sjaves@orwell-housing.co.uk

Our ref: SRJ/APP

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By email: Directions@communities.gsi.gov.uk

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



Crane Hill Lodge
325 London Road
Ipswich IP2 0BE

Telephone: (01473) 218818
Fax: (01473) 286818
email: qwc@orwell-housing.co.uk
Web: www.orwell-housing.co.uk

Dear Sirs

Response to consultation on 'Implementing social housing reform: directions to the Social Housing Regulator'

I have detailed below the Association's responses to the questions contained within the consultation document.

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?

A general comment is that many landlords, because of choice based lettings schemes, will not have direct access to, and the customer will not have direct access from their perspective, to the landlord. It may therefore be more difficult to create procedures that allow complaints and appeals? However, the Association does support the phrasing set out in the proposed direction Section 2(3)(e), whereby a tenant should have a clear indication of when a tenancy expires and is due for renewal, together with an appeal process. It does, however, occur to the Association that this probably needs to be a system that is both swift and without further appeal or complaint outside the organisation as this could unreasonably delay the termination of the tenancy.

There is a potential additional layer of complexity relating to the use of choice based lettings (CBL). For larger authorities and associations it is clear in most cases where tenants should direct their enquiries and complaints about properties, but for smaller providers there are some issues as to who deals with prospective tenant complaints, depending upon how the system is hosted.

Other than these comments the Association generally supports the direction of travel set out in this section.



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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 appear to be appropriate and permit sufficient flexibility for registered providers to put in place a policy which suits local needs.

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

This is agreed, but subject to robust, easily-accessible support and advice being available to tenants, should their tenancy not be renewed.

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

The Association supports the direction of travel and the proposals regarding the mutual exchange system. However, as regards the latter, this is yet another cost to the organisation and great care should be taken in setting up the system whereby charges are nominal, particularly where a web-based system is used, which should be inherently cost-effective. Specifically, there are concerns that Internet based systems do seem to restrict the ability of tenants to access information and the system itself. There are also concerns regarding individual housing officers being used as a support system, as a default mechanism for the above, as this would absorb a lot of resources. Many organisations are already using regional web-based systems and there should be no compulsion to move to any newly-developed nationwide social home swap system. It is, however, accepted that participation in some Internet-based services is rightfully a prerequisite for all registered providers. It should be noted that some small providers offering additional support to tenancies do not have such access, which can be resource-hungry and not easily accommodated within their current structures, particularly if their stock is focused in a single area.

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

As regards the establishment of scrutiny panels to work alongside housing associations' senior officers and boards, this is welcomed by the Association.

There is some support for the provision of a designated person with a 'tenant panel', through whom complaints can be channelled. Also as regards complaints, a panel with tenant membership is supported as a useful final stage in organisations' processes.

As regards the tenant cashback model, there are real concerns in respect of the ad hoc approach and the quality of the workmanship associated with this. Furthermore, as more and more efficiencies are created through joint procurement within the housing association sector, which involves supply chains, then this is further questionable.

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?

There are real concerns regarding this as it will impact upon the quality of homes, the safety of properties, and increase the possibility of damage and subsequent rectification costs. The landlord (ie the housing association) needs to be in control of the maintenance and improvement of its own dwellings.

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?

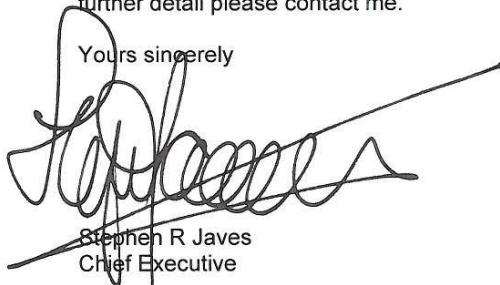
It may be difficult to create a 'one size fits all' standard?

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

It is felt that this should remain implicit within the revisions rather than giving more detail as it will be difficult to refine regarding the age and type of properties.

It is hoped that the above is of interest and should you require any clarification or further detail please contact me.

Yours sincerely



Stephen R Javes
Chief Executive

Oxford City Council

Implementing social housing reform: directions to the Social Housing Regulator - Consultation

Closing Date 29th September 2011

Commentary on proposed directions

General principles

The Government is proposing to issue five directions, on tenure, mutual exchange, tenant involvement and empowerment, rents and quality of accommodation. In the case of the latter three, our approach is to revise and reissue the existing directions on these issues. The draft directions are attached at Annex A.

The Government's intention is that the standards resulting from these directions should apply to all registered providers, with the exception of rents (which will apply to private registered providers only).

The directions are intended to apply only to the low cost rental accommodation of registered providers, as defined by the 2008 Act. Low cost rental includes Affordable Rent as well as traditional social rented housing. However it is intended that the directions will not apply to intermediate rent (which is technically a form of low cost rental) or to low cost home ownership accommodation. It continues to be for the Regulator to decide within its statutory framework what standards are appropriate for these groups.

The Government believes that the draft directions should contain the minimum amount of detail needed to achieve the desired goals, and where possible should be set at a high level (while setting clear boundaries where necessary).

Direction on tenure

In framing the draft direction on tenure, we have carefully considered the right balance between central prescription and flexibility. The draft direction begins by setting an overall outcome that we are seeking to achieve, but then offers flexibility for registered providers to decide how to deliver this outcome locally. However it is essential that this is done in a transparent way (hence the proposed requirement on registered providers to publish and maintain a clear and accessible tenancy policy) and that there are certain minimum guarantees that all tenants can expect.

The proposed overall outcome at the start of the direction (*"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"*) is intended to replace the required outcome on tenure in the Regulator's existing Tenancy Standard.

The current required outcome (*“registered providers shall offer and issue the most secure form of tenure compatible with the purpose of the housing and the sustainability of the community”*) effectively requires providers to grant lifetime tenancies to the vast majority of new tenants in general needs social rent 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 proposed requirement on registered providers to *“publish clear and accessible policies which outline their approach to tenancy management”* is of a similar form to the requirement in the existing Tenancy Standard. It also incorporates tackling tenancy fraud and preventing unnecessary evictions, issues covered in the ‘specific expectations’ section of the existing Standard. We propose that tenancy policies should set out how tenants or prospective tenants can appeal or complain against tenancy decisions – we envisage that registered providers will normally wish to refer to their existing complaints procedures, taking account, in respect of local authority landlords, of the statutory provisions for appeals which we are planning to introduce.

We expect that in developing, communicating and implementing their tenancy policies, registered providers will pay particular regard to the needs of more vulnerable tenants and their 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.

Where the current tenancy standard requires landlords to “offer and issue the most secure form of tenancy compatible with the purpose of housing and the sustainability of the community” the new directions change this emphasis, with reference to “tenancies being “compatible with the purpose of the accommodation, the needs of individual households, the sustainability of the community and efficient use of the housing stock”.

The draft direction on tenure, allied to the current options available, will enable social landlords to offer:

- Introductory Secure Tenancy
- Secure Tenancy
- Introductory Flexible Tenancy
- Flexible Tenancy (2-5 years in length)
- Shared Ownership

- Plus Affordable Rent

The application of these would appear to be a choice for individual landlords, which would be in keeping with a more ‘localised’ approach. However, there are risks and problems attached to this which give rise to concern.

1. Within a given region should landlords not all agree on a common tenancy policy, then some may offer more 'secure' or favourable tenancy options. It is likely that in this event, that landlord will come under greater pressure and demand for housing than others, with market demand, shifting in their direction, placing more pressure on them.
2. The variety of such tenancies may cause confusion, instability and prove not to be equitable.

A tenant may find themselves living in a street with a variety of different tenancy types held by their neighbour, whilst all share the same landlord. Will these tenancies have different rights, one would presume that the right to buy; for example, will not be part of a flexible tenancy?

We understand from the consultation that tenants exchanging homes will have the guarantee that they will have a tenancy of no less security, but the same guarantee does not apply to a tenant moving to an affordable rent property. This may cause problems insofar as: should a secure tenant in a high demand three bedroom house wish to downsize to a lower demand two bedroom flat by swapping, and who finds an attractive new build property let on an affordable rent and flexible tenancy basis will have no incentive to complete their exchange, as they will be paying more rent and have no guarantee that they will keep their level of security or tenure, although the landlord may have discretion to keep this. We would support at least the ability to have such discretion, if not a similar guarantee as might apply in a case not involving an affordable rent.

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

The Government believes that the minimum guarantee should be a two-year tenancy. However we would expect, and responses to the *Local Decisions* consultation suggest, that 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. We are proposing that registered providers' tenancy policies should explain how they will take account of the needs of vulnerable households, including through the provision of tenancies which provide a reasonable degree of stability for those households.

The draft direction makes clear that for new tenants, a flexible tenancy may be preceded by a probationary tenancy. Probationary tenancies are used by the majority of registered providers, prior to the grant of secure or assured tenancies, as an important tool to identify and deal with anti-social behaviour at an early stage. For the same reason, the Government wants to ensure that landlords are able to grant probationary tenancies prior to the fixed term of a flexible tenancy for new tenants.

The Government also wants to ensure that all registered providers have the same level of flexibility on the use of probationary tenancies, as part of encouraging their use for new tenants as standard practice. The draft direction therefore clarifies that private registered providers can extend probationary tenancies to up to 18 months (as local authority landlords can already).

The draft direction incorporates a requirement 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. This 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. This approach matches the Government's proposals in paragraph 2.51 of the *Local Decisions* consultation. The guarantee will apply where tenants are decanted to another property (regardless of whether it is a social rent or Affordable Rent property).

In developing a tenancy policy we will have regard to many factors. These will include, and must be balanced against, sometimes competing requirements:

- The view of our tenants
- The relationship we wish to have with our tenants through their tenancy agreement and associated documents (i.e. an equal, balanced, and transparent one)
- The sustainability of our community and wider responsibilities held by the Council and its partners, namely: the welfare of the elderly, vulnerable and children and the perceptions and reactions of others, in the event that we offer differing tenancies with differing security to differing members of our community
- A clear approach to: and ability to act against, those tenants whose deliberate actions contravene reasonable tenant behaviour (i.e. a simple and successful ability to stop anti social behaviour, etc.)
- The views of other social landlords in our region (see answer to question 1)
- The ability to make the best use of our housing stock
- The need to ensure the financial security of our business plan and self financed HRA
- Links and unwanted competition with other tenures (private rented sector)

Flexible tenancies

The driver for a change to the ability to offer varying tenancy types appears to be the bringing of social and private sector tenant's security closer together, plus the ability to act against those perceived to be earning salaries beyond those social rented tenants might be assumed to earn.

In the main, those we house will be on low incomes; over 50% are on Housing Benefit. In a high rental / high house value location such as Oxford, there is unlikely to be an appreciable number of tenants, whose income will increase

to a level where they can readily afford to move on from social housing, thus a flexible tenancy are unlikely to have an appreciable impact on this issue, within this location.

However; a flexible tenancy and the ability to offer this on a 'rolling' basis, may enable us to review under occupation in future years and take action to move tenants into smaller accommodation, which we are currently denied the chance to do under the 1985 Housing Act, except in the case of succession (excluding to spouses). Such a tenancy may be beneficial to us on this issue.

Affordable rents with flexible tenancies

The Local housing allowance for a 3 bed house in Oxford is currently £925 per month, the cheapest available market rent for a 3 bed house is currently £950, rising to well over £1000 in more popular areas (e.g. with popular schools). Charging 80% of market rent minimum starting rent of £740, would be inside the LHA and so a resident on benefit would be able to take on such a tenancy.

However, for those who are working and in the case of a couple with 2 children with each partner earning £20,000 pa, if in an affordable tenancy, they would receive £7.50 per week HB leaving a total rent of £917.50 per month to pay, one third of their take home pay, approx. £1600 left for all other expenses.

A couple where one partner is working and earning £20,000 pa would receive £848 HB leaving a rental of £102 per month to pay, approximately £1500 for all other expenses.

Such an approach may therefore be affordable in this area.

Being a shorter term / higher rental tenancy, it may also link with private sector tenures, with tenant mobility between these increasing. However, this issue will need to be reconciled with our tenancy strategy and the demands on this, illustrated at the start of this question.

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

As noted above, the Regulator published a revised Tenancy Standard on 13 April 2011 in order to enable registered providers to participate in Affordable Rent. The revised Standard provides greater flexibility for registered providers on the types of tenancy they can grant on Affordable Rent properties. The proposed direction will extend these flexibilities to traditional social rented housing as well. In doing so, the direction seeks to build on the requirements in the existing Standard. The key differences between the proposed direction and the current Standard are as follows:

- the draft direction provides more detail about the matters that tenancy policies should set out
- the draft direction makes clear that, in relation to general needs housing, the alternative to Assured or Secure periodic tenancies is to offer fixed term tenancies. The draft direction also clarifies the maximum length of probationary tenancies
- the draft direction sets out the circumstances in which existing social tenants are guaranteed the same level of security where they move home

Further consultation and clarity on this issue would be welcome. Precisely what rights a flexible tenancy should contain would be helpful.

For a short term tenancy of 5 years in length, the rights to: repair, succession (within the remainder of the tenancy length), be consulted, take in a lodger, might well be appropriate. However, a right to buy or acquire such a short term tenancy would seem wholly inappropriate within the wider context of a social landlord's housing strategy and duty to those in housing need.

In a city such as Oxford, the availability of sites for new build social housing is very significantly limited and those that do become available have such high land values as to make the viability of development extremely challenging.

We further understand that the right to buy would apply to newly built, local authority affordable rent flexible tenancies. Would this enable a fixed term tenant or even an investor funding a tenant to buy their home, without having made the same tenancy investment as say, a traditional long term secure tenant purchasing their home might once have done? If parity between private and public sector is hoped for, this certainly does not provide for it.

Whether it is a discouragement to build, particularly in light of the coming HRA reforms, required further analysis.

It might also be worth considering whether existing right to buy timescales apply. For example, if a flexible tenancy, approaching the end of their fixed term and being advised that it will not be extended, tactically chooses to then submit a right to buy, can they extend the term of their tenancy, or at least delay the landlords ability to repossess? Will the right to buy provision allowing deferral for up to 12 months after a value has been set on the

property remain, this having the effect of extending the tenancy for a further year?

Direction on mutual exchange

In formulating the draft direction on mutual exchange we have sought to build on the existing regulatory requirement to participate in mobility and mutual exchange schemes where available, and make clearer our expectation that registered providers should offer a better mutual exchange service to tenants.

The purpose of sub-paragraph 3(2)(a) of the draft direction is to require registered providers to subscribe to an internet based mutual exchange service which enables tenants to register their details for a mutual exchange and search for reciprocal matches.

Paragraphs 8.25-8.29 of the *Local Decisions* consultation document described work by Government and existing providers of internet-based mutual exchange services to develop a new national scheme which would enable tenants wishing to identify a mutual exchange to see all available matches. It is our intention that registered providers should subscribe to a provider who is part of this scheme (as provided by sub-paragraph 3(2)(b)(i)), but the draft direction retains the choice for landlords to subscribe to a number of individual providers if they prefer (see sub-paragraph 3(2)(b)(ii)). The intended outcome is that tenants should be able to access easily the details of as many available reciprocal matches as possible.

We want also to ensure that registered providers proactively promote the option of mutual exchange to tenants, including access to a service which the registered provider has subscribed to on their behalf. This is provided for in sub-paragraph 3(2)(c) of the draft direction. Registered providers will need to provide support for tenants who may not have access to a computer, or may not be able to use a computer without assistance (see subparagraph 3(2)(d)). This point was made particularly in relation to older or more vulnerable tenants in response to our earlier consultation on *Local Decisions*. We are not seeking to prescribe how support might be offered but suggest this could include access to computers in public buildings, or housing officer support to register and search for matches on behalf of a tenant.

It is our intention that all registered providers should subscribe to a service on behalf of their tenants, and in the majority of cases this is likely to prove the most cost effective option. However it may be the case for smaller registered providers, where they perceive a full subscription to not offer value for money, that they would consider paying the subscription fee for individual tenants on request. Individual registered providers will have the flexibility to make this choice. This new direction is intended to replace the required outcome on mobility in the Regulator's existing Tenancy Standard.

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

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Existing mutual exchange provision, via an internet based service requiring all social landlords to participate is welcomed.

It would be preferable if there were just one national scheme and that the regulation and governance of this scheme could be set or at least influenced by social landlords and their tenants.

The need for all landlords to provide the same advice and the same service, throughout the UK is also important, not only in the interests of fairness and access, but also to ensure that in the case of two tenants swapping between two landlords, that both landlords work to the same deadlines, etc.

In the event of an exchange, we assume that were this to involve a flexible tenant, that the remainder of their fixed term would transfer with them. Were this not to be the case, it will again open up the ability for the misuse of the exchange system, with exchanges taking place purely to create new fixed terms.

Direction on tenant involvement and empowerment

We are proposing to amend the existing tenant involvement and empowerment direction in order to:

- implement several recommendations set out in the Review of Social Housing Regulation on strengthening the ability of tenants to hold registered providers to account; and
- reflect the Government's Tenant Cashback scheme

The draft direction reflects three key recommendations set out in the Review. Firstly, that there should be a clear expectation in regulation that tenants are able to scrutinise registered providers' performance. The text in sub-paragraph 4(2)(a) of the proposed direction is designed to deliver this outcome. In particular we are proposing that tenants should have a wide range of opportunities to influence and be involved in *"the scrutiny of their landlord's performance and the making of recommendations to their landlord about how performance might be improved."*

Alongside effective scrutiny, the Government wishes to ensure that registered providers provide further opportunities for tenants to take responsibility for managing their homes, and support tenants in exercising this choice, including through the Right to Manage where this is appropriate. Sub-paragraph 4(2)(b)(i) reflects this policy.

Secondly, that registered providers should welcome scrutiny via a tenant panel (or equivalent group). The text in sub-paragraph 4(2)(b)(ii) of the draft direction reflects this recommendation. The proposed text is designed to sit

alongside the provisions in the Localism Bill for tenant panels that have been recognised as a designated person for the purpose of referring complaints to the Housing Ombudsman. It is recognised that tenant panels will not necessarily choose to fulfil the function of a designated person for the purpose of referring complaints.

Thirdly, that there should be a clear regulatory obligation on registered providers to provide timely, useful performance information to tenants in order to support effective scrutiny. The Review also proposed that the Regulator's statutory power to require registered providers to submit an annual report of their performance should be replaced with a regulatory obligation to provide an annual report of performance to tenants. The text in sub-paragraph 4(2)(b)(iii) of the draft direction reflects these commitments.

Sub-paragraph 4(2)(a)(v) of the draft direction reflects the Tenant Cashback model. The intention is to give tenants opportunities to be involved in the commissioning or carrying out of routine repairs, as agreed with their landlord, and to share in any financial savings made as a result. We believe that the publication of information about repair and maintenance budgets will help tenants to judge whether local schemes are sufficiently ambitious. Sub-paragraph 4(2)(b)(iii) is designed to achieve this outcome via registered providers' annual reports.

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

Tenant scrutiny of their landlord's service

The proposals to increase the involvement of tenants in the scrutiny of their landlord's performance, to propose ways that that performance might be improved and to have wider levels of involvement in the management of their homes is welcomed.

The requirement to have a designated tenant panel to fulfil this function is also supported. Oxford City Council has such a panel in place, however, we further recognise the importance of developing it further in the interest of tenant's capacity to function to the highest level of effectiveness, and therefore currently see to increase levels of tenant involvement and further propose to recruit an independent person to work with the panel supporting them in their scrutiny function.

The proposal to set a clear regulatory obligation for social landlords to provide timely and useful information to tenant panels to enable them to fulfil their scrutiny function and to publish an annual report to tenants is also supported. Guidance on what information this should be might be useful so as to ensure that there is a level of uniformity in this function across all landlords.

Tenant Cashback Scheme

Proposals for a tenant cash back scheme are not supported as this is considered an unnecessary proposal that is likely to act to the detriment of a quality housing service.

Such a scheme is likely to place excessive administrative costs on a landlord, these would include:

- a) The pre-inspection of work reported to ensure that it is genuinely required
- b) The inspection and guidance to the tenant on work proposed to ensure that the tenant is able to handle the job and understands and will meet any H&S risk attached to it
- c) The provision and advice on the location of asbestos in the home, to ensure that the tenant is pre warned before undertaking any work and in compliance with our duty as a landlord and contract commissioner
- d) Steps to ensure that the tenant does not cause further damage in the work that they do and involve the landlord in having to put this right
- e) Post inspection to satisfy ourselves that work has been done and payment is appropriate
- f) The cost and process of making payment, checking receipts, etc., and the issue of whether we will be paying the tenant for materials only, or for their time also? If for their time, on what rate would this be charged?
- g) What work would be covered under this scheme, right to repair jobs only, or other work?

In addition to the above, the proposal also presents other issues that must be answered:

- The proposal also talks of sharing savings made, how would these be calculated?
- In the event of an injury to the tenant, a member of their family or a neighbour, who would carry liability?
- Who should carry insurance in this aspect, would this be the tenant and will the landlord have to recompense them for this?
- It would be wise in some cases to ask for a method statement for some jobs along with a risk assessment. This might appear excessive, but consider the task of clearing leaves from a gutter, the H&S regulations applying to this, and the genuine risk of injury should not be underestimated.

There is also the issue of appeals, how we deal with these and their cost.

Given the above, we believe that this proposal will offer no benefit to the service and may well prove to cost more than it is intended to save.

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 would not support the setting up of a tenant cashback scheme.

However, perhaps far more meaningfully, we would like to achieve greater involvement of our tenants in the running of our responsive, planned and capital work programmes.

Through this, our expectation is to facilitate greater levels of scrutiny, developing into involvement in the setting of future priorities, landlord accepted repair responsibilities, asset management plans and approach to maintaining the decent home standard.

This we aim to achieve through our tenant panel, where it can be set as a target and monitored for achievement.

Direction on rents

The Government is proposing to update the existing direction on rents to reflect the introduction of the new Affordable Rent model. The formula for traditional social rents will remain unchanged. The Government intends that the resulting standard will continue to apply to private registered providers only.

Our proposed amendments to the direction are consistent with the 2011-15 Affordable Homes Programme Framework. The wording is very similar to that already used by the Regulator in its recent amendments to the rent element of its Tenancy Standard. The revised direction is therefore unlikely to result in material changes to the existing regulatory framework.

In particular, the draft direction provides that:

- 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
- in line with the Housing Minister's statement to Parliament on 9 December 2010, Affordable Rent properties are outside the Government's rent restructuring policy and the social rent formula
- Affordable Rent properties are subject to separate requirements relating to initial rent setting, annual increases and periodic rebasing as set out in the direction

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

As the distinction between social and affordable rents remains in place we do not have a comment about the directions.

Direction on quality of accommodation

We are proposing some minor revisions to the existing quality of accommodation direction. These changes are needed to reflect the fact that the original date for compliance with the Decent Homes Standard (31 December 2010) has now expired.

We are proposing to remove the fixed date for compliance from the direction. The resulting Quality of Accommodation Standard would instead work in much the same way as other standards, where compliance is required with immediate effect rather than within a certain period.

The existing direction gives the Regulator's scope to provide 'extensions' to the date by which registered providers must comply with the Quality of Accommodation Standard. The draft direction attached at Annex A retains this flexibility in a slightly modified form. As registered providers are expected to maintain their stock at a decent level on an ongoing basis, the direction would give the Regulator scope to grant a temporary exemption for specific properties where the requirements of the standard should be met by an agreed date. Our expectation is that such an exemption would only be granted to local authorities with a backlog of work now and then only in exceptional circumstances in the future.

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?

Yes

Peabody's response to 'Implementing social housing reform:
directions to the Social Housing Regulator'

1

Peabody was established in 1862 by the American banker and philanthropist, George Peabody. We own and manage approximately 20,000 homes across 25 London boroughs, providing affordable housing for more than 50,000 people. Our aims have always extended beyond housing and our 21st Century mission is 'to make London a city of opportunity for all by ensuring that as many people as possible have a good home, a real sense of purpose, and a strong feeling of belonging'.

As a major provider of affordable housing in London, we recognise the need for change and support the requirement for increased freedom and flexibility in the way social housing is let, including both who we house and the terms on which housing is offered. This is necessary not only to increase housing options for those in need of affordable, good quality homes but also to maximise funding opportunities to develop new homes to address the longer-term issues of housing supply. We are happy for our response to be published.

General comments

Peabody welcomes the opportunity to respond to this consultation on the proposed directions to the Social Housing Regulator and understands the need to update the directions for the Government to implement its social housing reforms. However, we believe that at several points the draft directions fail to fully appreciate the distinction between different kinds of registered providers: local authority landlords and private registered providers, which are primarily comprised of housing associations. An example of this conflation is the suggestion in the consultation document (paragraph 37) that all registered providers received government funding for the Decent Homes programme, when in fact only local authorities did. We believe that the misperception that housing associations are public bodies has resulted in a set of overly prescriptive stipulations that could both undermine the independence of the housing association

sector, and run counter to the spirit of localism. Furthermore, we are disappointed that the draft directions represent an attempt to 'policy passport', by using the umbrella of top-down regulation to introduce policies that happen to be currently supported by central Government.

Direction on tenure

We are cautious about the need for direction on tenure. While the content of the draft direction in this instance represents a liberalisation of the tenancy regime, we are concerned by the possibility that successive governments could in future apply the direction far more restrictively.

2

That important point aside, we are supportive of the introduction of flexible tenancies and are broadly in agreement that the relevant factors for registered providers to determine what type of tenancy to offer have been set out in the draft direction. Recognition that certain groups, such as the elderly, tenants with a disability and families with children, require tenancies that provide 'a reasonable degree of stability' is also welcome.

However, the draft direction on tenure does not refer to local authorities' tenancy strategies. The Localism Bill, on the other hand, clearly stipulates that registered providers should 'have regard to' local authorities' tenancy strategies in formulating their tenancy policies. As a consequence, we are concerned that the draft directions will require private registered providers to implement tenancy policies, only for them to be subject to change when local authorities publish their tenancy strategies, possibly up to 12 months following the Localism Bill's enactment.

Direction on mutual exchange

We support the principle that registered providers should facilitate mobility for tenants as far as possible. However, we believe that the draft direction in its current form is too rigid and narrowly focussed on an IT-based mutual exchange system. We would encourage a much more flexible approach to facilitating mobility.

Peabody currently offers opportunities to our tenants to find mutual exchange

partners through House Exchange and HomeSwapper because we are keen to maximise opportunities for our tenants to move. We also participate in the g15 London moves scheme, a pilot project helping g15 social housing tenants living in London, to move around London. We wish to draw attention to the evidence that the majority of tenants seeking to move wish to stay within their town or city.¹ Therefore, we question the emphasis on a nationwide swap scheme.

Direction on tenant involvement and empowerment.

We naturally support the principle of registered providers being fully accountable to residents, but query whether the requirements of the existing direction need extending as proposed. Peabody is already fully committed to resident involvement in the formulation of housing related policies, decisions on how services are delivered, scrutiny of landlord performance, and recommendations for improvements in performance, without further regulation. As a responsible housing provider, committed to excellent customer service, we continually seek to better understand the needs of our residents and involve them in scrutiny functions. Our extensive resident involvement structure includes two resident board members, our Resident Review Committee (who act as our scrutiny panel), regional forums, mystery shopping, resident inspectors, and resident involvement in policy reviews.

1 Report of the Mobility Taskforce. National Housing Federation. August 2010, p. 55. Available at: <http://www.housing.org.uk/pdf/Mobility%20Taskforce%20report%20August2010.pdf>

3

Peabody is very supportive of the principle of involving residents in how local areas are managed, and providing a strong voice for the direction for their neighbourhood. We wish to point out though, that the Right to Manage, as a statutory requirement, only applies to local authorities.

We aim to work flexibly with residents to tailor appropriate models of involvement that provide the most efficient and cost effective way of delivering local scrutiny and accountability. While we agree that timely and useful information to support effective

scrutiny is clearly necessary, we are sceptical that the direction has to stipulate such detail.

Tenant Cashback scheme

We are not supportive of the Tenant Cashback scheme as it is currently presented, and we note that there is as yet no cost/benefit analysis. We do not support the scheme because of the significant problems set out below:

□ Ensuring quality and consistency of repair. Major repairs might arise if minor repairs were not completed quickly enough or to a high enough standard, potentially resulting in additional costs.

□ Managing the risks, including health and safety risk, posed to tenants, neighbours and landlords, of unsafe workmanship and the likely increase in landlord insurance premiums.

□ Many tenants will prefer their landlord to arrange repairs because it will be easier and faster, and some will feel that a repairs service is a core part of their tenancy agreement.

□ Administration of the scheme could be an additional cost and resource for housing providers that may detract from any potential savings. Tracking and retaining asset data would be significantly more complicated.

□ Lenders will expect properties to be well maintained. Landlords will have to find additional ways to provide assurances that the value and quality of property is secure, if they are not in control of the repairs process.

□ The Tenant Cashback scheme could dilute landlords' ability to generate volume efficiencies through contractual arrangements. In addition to these challenges, we do not in any case think it is necessary to impose resident involvement in repairs through further regulation. Tenants already have an existing right to repair that allows them to request an alternative contractor and claim compensation if a landlord fails to complete a routine repair within a set timescale.

Direction on rent

We believe the draft direction on rent is broadly aligned with the introduction of the Affordable Rent regime.

4

Direction on quality of accommodation

Energy efficiency is a key priority for many registered providers, including Peabody.

At our recently completed development of 56 new affordable homes at Peabody

Avenue in Westminster, all properties meet level three of the Code for Sustainable

Homes, with features that include: super-insulation, super-efficient ventilation, water

saving appliances and double and triple glazing. For our existing stock, we are

installing solar photovoltaic panels on suitable roofs, saving one tonne of CO2 per

year for each system installed and reducing fuel bills for our residents by approximately £150 each per year.

We believe it is the responsibility of individual providers to make homes more energy-

efficient through their asset management plans and to discuss specific priorities with

residents. As such, we do not believe the direction needs to be overly prescriptive

with regards to energy efficiency. We support this direction as proposed, which

effectively continues the existing requirement.

Conclusion

While we are supportive of some aspects of the draft directions, we think that as they

stand they do not sufficiently reflect the Government's own assertion that the 'draft

directions should contain the minimum amount of detail needed to achieve the desired goals'. Overall, we are concerned that the level of detail stipulated, particularly with regards to the Tenant Cashback scheme and mutual exchange, will

undermine the flexibility of registered providers to deliver the most appropriate local

services for their residents.

Places for People's response to the CLG Implementing social housing reform consultation
Page 1 of 11

Response to the Communities and Local Government's Implementing social housing reform: directions to the Social Housing Regulator consultation

Places for People
September 2011

Places for People's response to the CLG Implementing social housing reform consultation
Page 2 of 11

1.0 Introduction

1.1 Places for People is one of the largest property management, development and regeneration companies in the UK. We own and manage more than 62,000 homes and have assets of £3.1 billion.

1.2 Our vision is to provide aspirational homes and inspirational places and our approach looks at all aspects of communities rather than focusing solely on the bricks and mortar provision of homes. Places for People's innovative approach to place management and placemaking allows us to regenerate existing places, create new ones and focus on long-term management.

1.3 This paper sets out the response from Places for People to the consultation by Communities and Local Government (CLG) on Implementing social housing reform: directions to the Social Housing Regulator.

1.4 As stated in our response to the CLG's previous Local decisions consultation, we welcome the Government's reforms to the social housing system. We feel that on the whole, the changes will provide social landlords with more flexibility to deliver services effectively.

1.5 We feel that in order to be effective, Government direction to the social housing regulator has to avoid placing too great a burden on the sector. We believe that the co-regulation approach is the right one and that registered providers should have the freedom and flexibility to make the right decisions for their customers. In light of this, we feel that the current draft framework of directions strikes the right balance overall

1.6 In one or two areas, we believe that the Government should strengthen the direction, particularly when the directions touch upon the sustainability of tenancies and communities.

1.7 We believe that some of the proposed directions, most notably those on mutual exchange and tenant involvement, go into too much detail and are at risk of cutting across the work that many landlords are already doing in these areas, as well as potentially being at odds with giving registered providers the flexibility of delivering approaches that work locally. In our view, the policy reasons for directing the regulator on these two areas are less compelling than in the obvious areas of rents, tenure and quality of accommodation.

Places for People's response to the CLG Implementing social housing reform consultation
Page 3 of 11

1.8 Any queries with regards to our response should be addressed to:

2.0 Response to consultation 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?

2.1 We agree that the draft direction on tenure sets out the relevant factors that providers need to take into account when granting tenancies. The move away from offering the most secure form of tenancy is a significant cultural change for the sector but in our view, the new direction gives providers enough freedom to grant secure tenancies where appropriate and therefore offers the right amount of protection to tenants.

2.2 We have previously expressed concern that the proposed reforms, if not applied appropriately, will have a negative impact on the long-term sustainability of the community with the associated social and economic problems. Whilst we note that the direction has retained the wording on the sustainability of the community, we believe that the direction should state the importance of this more explicitly. We recommend that the proposed wording is amended to say The Regulator must set the Tenure Standard with a view to achieving, so far as possible, that registered providers issue tenancies which safeguard the sustainability of the community and are compatible with.

2.3 Places for People has decided not to offer any fixed-term tenancies for the time being but to continue offering tenancies on a period assured basis (we will, however, continue to offer fixed term tenancies of a probationary nature). This is because we retain the view that truly sustainable communities benefit more from long-term tenancies which allow people to develop a stronger connection with their neighbourhood. We will review our position following the passing into legislation of the Localism Bill.

Places for People's response to the CLG Implementing social housing reform consultation

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

2.4 We agree that the proposed direction on tenure sets out the right minimum requirements for providers tenancy policies. We also welcome the CLG s recent clarification, taking into account the responses received to the Local decisions consultation paper, that registered providers are required to set out in their tenancy policy under what circumstances they would grant tenancies of fewer than five years.

2.5 The proposed direction on the Tenure Standard sets out that registered providers must have regard to local authority tenancy strategies when setting their own tenancy policies. We feel concerned that some local authorities may have political reasons to set out strategies which are in favour of issuing shorter-term tenancies, which may be in conflict with registered providers aims to safeguard the sustainability of communities. We feel strongly that the proposed addition to the direction on Tenure mentioned above is crucial to mitigate against this risk and recommend that the Minister ensures that the proposed additional clause is retained.

2.6 We also recommend that the Minister remove the specific direction on the type of advice that registered providers will give to tenants if they should opt not to reissue a tenancy upon expiry of the fixed term. Registered providers will offer this type of advice as a matter of course and we do not feel this clause is necessary in the direction on tenure.

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

2.7 As set out above, we believe that the draft direction does offer the right protection for tenants, in particular for vulnerable tenant groups which are explicitly named in the draft Tenure Standard.

2.8 The Housing Minister s recent addition of the requirement for providers to publish in their tenancy policies the exceptional circumstances in which they will grant tenancies of terms shorter than five years will add to the protection offered to tenants, which previously may have been in more danger of being offered shortterm fixed tenancies. As stated above, we therefore feel that it is crucial that this additional clause is retained.

Places for People s response to the CLG Implementing social housing reform consultation

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

2.9 We share the Government's commitment to encouraging mobility in the social housing sector. Internet-based mutual exchange schemes are a useful tool for enabling tenants to move home; however, the draft direction is in our view unnecessarily detailed about the nature of the exchange service that providers must sign up to. We recommend that the Minister simplify the draft direction to state simply that registered providers must offer to tenants an appropriate and accessible mutual exchange service without payment of a fee.

2.10 We are also disappointed that the draft direction does not appear to encourage providers to use local solutions to promote tenant mobility. In our view, ministerial direction should allow providers enough flexibility to decide what approach is most appropriate locally. The simplification of the direction as suggested above will free up providers to use more flexible approaches locally.

2.11 Places for People has robust mechanisms in place to ensure that our customers are able to access mutual exchange services: Membership of HomeSwapper, which is a national online mutual exchange service. HomeSwapper offers a high-level matching service to customers. We currently have nearly 3,000 customers registered with this scheme and 522 successful swaps took place over the last 12 months.

Our dedicated Housing Advice Team deals with all allocations queries, including those from customers wanting to move home. Customers without internet access are supported by the local housing teams who enable them to register their interest and monitor progress.

We have a regular programme of HomeChecks during which Neighbourhood Officers discuss the customer's current housing requirements. The Neighbourhood Officers' local knowledge means that successful swaps can also be facilitated in this informal way.

2.12 We feel that the Government's intention to promote a scheme where tenants can view all available matches (as referred to in paragraph 57 of the Comments section of the consultation) will not result in a higher success rate with exchanges. Although such a service will give the appearance of more matches, in our experience a tailored service offering high-level matches (such as HomeSwapper described above) is in fact more effective. As mentioned, we do not believe that the Minister should direct on the detail of the mutual exchange service that registered providers should offer.

Places for People's response to the CLG Implementing social housing reform consultation

Page 6 of 11

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

2.13 We agree with the National Housing Federations view that ministerial direction on tenant involvement and empowerment is somewhat superfluous; however we do agree with the principle of the draft direction in this area. We believe that tenants should be able to scrutinise their landlord s performance on the basis of the performance framework agreed with them and that this should be the principal scrutiny regime for registered providers.

2.14 In our opinion, the publication of an annual report is overly prescriptive. As long as there is a mechanism for communicating key information to customers, we do not believe that it is necessary to ask providers to publish their performance information in one annual document in order to be effective.

2.15 We welcome the proposed direction on enabling tenants to take more control of housing management functions where appropriate. We do, however, feel that the Right to Manage needs to be carefully administered in order to prevent difficulties in delivering essential services to customers due to a lack of overall control.

2.16 We agree that registered providers should support the formation and activities of tenant panels but, as mentioned above, do not believe that ministerial direction is needed in this area. We also feel that the term tenant panel , although not categorically defined, has rather old-fashioned connotations which are unlikely to encourage providers to be innovative in their approach to scrutiny.

2.17 Our recommendation is that the Minister should remove clause 2 (b) from the draft direction in order to simplify the direction and retain only the key areas where registered providers should involve their tenants without being prescriptive about how they should do so.

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?

2.18 Places for People has a strong track record of involving tenants in major procurement decisions. Each of our major assetmanagement contracts was assessed by a panel which included tenant representatives and this panel was involved at each stage of the tendering process, including awarding the final contract.

Places for People s response to the CLG Implementing social housing reform consultation

Page 7 of 11

2.19 The tenant representatives also help to manage the major contracts and resolve any issues with contractors, such as difficulty in gaining access to properties. In our experience, this level of customer engagement is contributing significantly to the successful delivery of our major works programme and tenant feedback has been very positive.

2.20 As well as our major asset management contracts, customers also help us to manage regional maintenance contracts. For instance, we have recently helped to set up a customer group in London which has assisted with the tender selection process of our south east maintenance contract. These customers are now running review meetings with the contractor and will be organising a focus group event to inform what areas of performance need to be prioritised.

2.21 We strongly believe that the above examples of tenant involvement in repairs and maintenance services represent the right approach for registered providers. Moreover, this approach is the only viable one for providers with a national repairs service, who are unlikely to find that any local arrangement could compete on value for money (particularly if costs such as additional administration, compliance, service standards etc are accounted for).

2.22 Specifically in response to point 65 in the CLG's commentary on the draft direction, we feel that the level of detail about repairs and maintenance budgets that providers would be able to communicate within an annual report is unlikely to help customers make an informed choice about commissioning or carrying out repairs services. We would anticipate that any requests from customers for cashback schemes are likely to be triggered by scrutiny of performance (quality, cost and process), complaints or dissatisfaction with the service, at which point more detailed modelling should be done to evaluate the benefits of any proposal.

2.23 In our view, a proactive approach to cashback schemes would be more successful and productive. We will therefore continue to negotiate with customers a range of empowerment opportunities to become more involved in the maintenance of their homes in a structured and strategic way that is therefore more likely to be operationally and financially viable. This is especially important for those providers which are geographically spread and which have national procurement strategies.

2.24 As recommended above, removal of clause 2 (b) from the draft direction on tenant involvement would free up providers to take a more proactive and viable approach to Tenant Cashback.

Places for People's response to the CLG Implementing social housing reform consultation

Page 8 of 11

2.25 Places for People is currently in the process of exploring opportunities for empowering tenants to take a more active role in completing their own repairs where this is appropriate. Tenants would benefit from help with accessing the skills and materials required. We are considering a partnership with a national home improvement retailer to facilitate the process. Our intention would be to integrate the approach into our national repairs strategy and monitor its effectiveness. In our view an approach which gives tenants an incentive to take a greater stake in the upkeep of their homes, whilst retaining the

efficiencies of a nationally procured repairs and maintenance service, is most likely to be financially and strategically viable.

2.26 In response to the specific consultation question, it would be difficult to determine exactly what impact customers have had on the cost or value for money of a given service as it is by design a collaborative approach and the customer impact would be impossible to separate out.

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

2.27 We believe that the proposed revisions to the rent direction are appropriate to reflect the introduction of Affordable Rent, as they do not significantly diverge from the changes already made to the current Tenancy Standard by the Tenant Services Authority (TSA).

2.28 We note that whilst the draft direction makes reference to the rents formula set out in the Rent Influencing Regime Guidance, it does not contain the actual formula itself, to allow for any future changes to the formula. We welcomed the fact that the TSA has chosen to retain the current rent formula of $RPI + 0.5\%$ and that it has set this formula for the four-year period of the next investment framework. We feel that rent formulae should be set for a period at least equal to the investment framework to allow registered providers to put together meaningful financial plans for the same time period.

2.29 We also welcome the fact that the rent formula of $RPI + 0.5\%$ is explicitly quoted in the draft direction. In combination with the retention of the rent formula for the four-year period, this will boost investor confidence in the sector, without which registered providers could face less favourable lending arrangements.

Places for People's response to the CLG Implementing social housing reform consultation
Page 9 of 11

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?

2.30 We agree with the proposed revisions to this standard in order to allow providers to meet the Decent Homes Standard on a continuing basis, following the expiry of the original compliance date.

2.31 We would, however, need to discuss with the Regulator the options for increasing rents to help fund the additional cost of maintaining the Decent Homes Standard.

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

2.32 Given the significant contribution of existing housing stock to UK carbon emissions, we believe it is crucial that the direction on Quality of Accommodation should make explicit reference to energy efficiency.

2.33 In our view, ministerial direction in this area should be linked directly to the financing of energy efficiency measures and renewable energy through the use of the Green Deal, Energy Performance Contracts, Energy Services, the Feed-In Tariff and the Renewable Heat Incentive. We believe that the role the sector will play in the greening of national and international housing stock needs to be made more explicit in this context.

3.0 Conclusions and recommendations

3.1 We believe that the proposed framework of draft directions to the regulator strikes roughly the right balance in terms of not being over burdensome to the sector and allowing providers the freedom and flexibility to make decisions.

3.2 In one or two areas, we feel the draft direction is either not explicit enough or too detailed. Our recommendations are therefore as follows:

- that, in order to strengthen the commitment to sustainable communities, the proposed wording in the tenure direction is amended to The Regulator must set the Tenure Standard with a view to achieving, so far as possible, that registered providers issue tenancies which safeguard the sustainability of the community and are compatible with that the Minister ensure that the proposed additional clause in the direction on tenure (that registered providers are required to set out in their tenancy policy under what circumstances

Places for People's response to the CLG Implementing social housing reform consultation

Page 10 of 11

they would grant tenancies of fewer than five years) is retained.

- that the specific direction on the type of advice that registered providers will give to tenants if they should opt not to reissue a tenancy upon expiry of the fixed term is removed.
- that the Minister simplify the draft direction on mutual exchange to state simply that registered providers must offer to tenants an appropriate and accessible mutual exchange service without payment of a fee.
- that clause 2 (b) from the draft direction on tenant involvement and empowerment is removed, in order to simplify the direction and retain only the key areas where registered providers should involve their tenants.

- that rent formulae should be set for a period at least equal to the investment framework to allow registered providers to put together meaningful financial plans for the same time period.
- that the direction on Quality of Accommodation should make explicit reference to energy efficiency.
- that direct links should be made between the energy efficiency element in the ministerial direction on Quality of Accommodation and the financing of energy efficiency and renewable energy through the range of Government initiatives currently available.

Places for People's response to the CLG Implementing social housing reform consultation

Page 11 of 11

Appendix 1: About Places for People

Places for People is one of the largest property development and management companies in the UK, with more than 62,000 homes either owned or managed in a mixture of different tenures. With over 2,000 employees, it is a unique organisation that provides a diverse range of products and services to build quality, safe and sustainable communities.

Places for People is active in 230 local authorities. Places for People regards itself as a housing and regeneration organisation that puts people first. We provide solutions that not only cover a range of different housing tenures but also offer a range of support services including affordable childcare, elderly care and financial services all the things that contribute to making neighbourhoods of choice; prosperous, popular and truly sustainable. Places for People currently has around 40,000 affordable rented properties, over 6,000 properties available for market rent and just under 10,000 properties where we retain a freehold stake as part of either shared ownership or right to buy arrangements in a number of developments throughout the UK. We also own and manage around 6,000 homes for older and vulnerable people. Our portfolio is designed to Create neighbourhoods of choice for all and covers the following broad mix of products:

- Places for People Neighbourhoods investment, regeneration and placemaking
- Places for People Homes neighbourhood and property management
- Places for People Individual Support support for independent living
- Places for People Property Services in-house maintenance services
- Places for People Development master planning and building new developments

- Places for People Financial Services financial products for customers
- Places for Children - early years childcare
- Cotman HA - managing around 3,000 homes across East Anglia
- Emblem Homes and Blueroom Properties homes for sale and rent

We want all our neighbourhoods to be places where people are proud to live. To do this, our developments need a mix of homes, easy access to shops, schools, healthcare and leisure activities, safe public spaces, good transport links and job opportunities.

When we create new places for people to live we plan a mix of tenures and house types designed for communities that have people from different social backgrounds. All of our homes whether for sale or for rent are designed and built to the same high standards with the same specification, making different tenures indistinguishable.

Plymouth Community Homes

Response to CLG Consultation on Implementing Social Housing Reform

Direction on Tenure

Q1: 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 sets out the relevant factors.

When issuing the Tenure Standard, we would favour an approach that avoided over-prescription around the detail of policies that should be published.

While we welcome and agree with the principle of issuing clear and accessible policy, the draft direction indicates that, for example, “*the circumstances in which tenancies of a particular type (will be issued)*” and “*the circumstances in which tenancies may or may not be reissued at the end of a fixed term*” are areas that should be set out. We would wish to be in a position to give, in our policies, examples of the main areas – but not that such policy should be seen as exhaustive. The new regime, utilising flexible tenancies, will take a little time to “bed in”, and we would wish to be able to indicate broad areas in relation to the factors mentioned above, rather than document all possible permutations.

Q2: Does the draft direction on tenure set out the right minimum requirements for a registered provider’s tenancy policy?

Yes, now that the two-year tenancy is to be used exceptionally only.

The extension of probationary tenancy length allowed by the direction, for housing associations, is welcomed.

Q3: Does the draft direction set out the right minimum protections for tenants of registered providers?

The draft direction gives a good deal of flexibility to providers, and we welcome this as a way to balance the needs of differing client groups. It will, however, be important for housing associations to find fair, transparent and

accountable ways to examine the question of “continuing housing need” at the end of any fixed-term tenancies they choose to grant.

Q4: Do you agree with the principle and detail of our proposed direction on mutual exchange?

We welcome the greater choice of home-swaps that this direction will offer to our tenants, while being mindful that there is not an “approved” national bureau-style service that all housing providers will use. In the short term, we see that this may mean that tenants still cannot see all possible matches via an internet-based one stop shop. We think it likely that, in time, a consensus may emerge around which provider gives the best service to tenants – and that this may then mean there is a further decision to be made.

Q5: 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 and detail of the involvement and empowerment (*with some provisos on Tenant Cashback*) revisions. We see responsiveness to customer service preferences - and transparency about our progress towards delivery of such – as important to our mission as a housing association.

On Tenant Cashback, we are not averse to the principle of tenants having the opportunity to commission or undertake an agreed range of repair tasks (we involve tenants in other aspects of service specification and commissioning) however, we do not see the Cashback scheme as an option that is likely to lead to cash savings. On the contrary, as an association with its own repair workforce, it is likely that there would be both direct and indirect costs incurred in running such a scheme. We are; however, keen to examine the outcomes of the pilot schemes in order to gain information about how others have achieved savings – while maintaining safety; probity and quality of repair.

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?

At present our mechanisms are Customer Improvement Groups, in which customers and managers identify and agree on necessary changes within our delivered services of which repair and maintenance is a part. We have also now redesigned Tenants and Contractor groups (TAC) which actively engages tenants in the evaluation, appointing and ongoing management of major contracts regarding repairs and maintenance. We will look at further

ways to involve tenants in the future, including examining how we can respond to cash-back schemes.

Q7: Do the proposed revisions to the rent direction adequately reflect the introduction of Affordable Rent?

In summary, we consider that it is important that the direction makes a clear distinction between rent and service charges, otherwise we believe that inconsistencies will emerge, in respect of service charge recovery. We expand on this point, below.

In more detail:

We can see that – at tenancy commencement - rent for affordable homes can be at 80% of market rent, including service charges. However, in common with many other registered providers, we operate a variable service charging system and so the service charge element may go up or down each year.

We do not want to revert to a fixed charge for services - within an overall rent - as this could mean that, later on during the term of the tenancy, we may be undercharging or overcharging for services, and we would lose the current transparency that we are able to give tenants, on exactly what is being paid for.

We are also concerned that, if the cap on annual increases applies to the combined “rent and service charges” sum, this will mean that – in the case of significant rises in the cost of the services – there will necessarily be a squeeze on the *rent* element of the combined sum. This could mean the contribution from net affordable rents to our development programme may reduce. In particular, the costs of utilities such as communal electricity are volatile and have increased significantly in recent years.

A further issue arising from the cap on a combined rent and service charge would be difficulty in introducing new services. Our association has a stock characterised by large numbers of flats with communal halls and stairways. Over time, we would see such blocks becoming occupied by a mix of social rent and affordable rent tenants. As a new LSVT, we are working with tenants to improve communal areas, but the legacy position is that not all blocks will have been fully consulted on which additional services they would like, by the time we introduce tenants on affordable rents. It seems to us that - in mixed “social” and “affordable” blocks where tenants express the desire to have new services - we would only be able to actually raise income to cover the service from the social tenants. To do so from the affordable tenants (if above the annual RPI+1/2 %) would simply be a paper exercise, in which the service charge element was shown as increased, while the rental element decreased to stay within the 80% envelope. The reality may be that we would therefore not introduce the desired service.

By way of example

Market rent £100 pw inclusive of service charge

Affordable rent £80 pw inclusive of service charge

We identify current service charge as say £5 per week.

Therefore rent is £75 + service charge of £5.

Say RPI+1/2% is 3% but because of electricity cost increases the service charges need to go up by 15%

Scenario 1

If we charge a composite £80 then the maximum increase is £2.40 at 3%

If we are transparent with our service charges then the service charges will have gone up by £0.75 and the rent by £1.65. This means that the rent is only going up by 2.2% which is below RPI of 2.5% and would start to reduce the internal subsidy required to support new development and most likely below what a private rented property would be increasing by.

Scenario 2

If we charge separately then

Rent at £75 increases by 3% being £2.25

Service charge at £5 increases by 15% which is £0.75

Giving a total increase of £3

Clearly this is 60p more than in scenario 1 but maintains transparency, ensures services are paid for as well as protecting the subsidy for new build, maintains consistency with how every other tenant is charged in PCH and better complies with legislation and best practice on service charges.

In addition it is possible using the methodology of scenario 2 that in some years the service charge may go down and then the overall increase would be lower than in scenario 1. In this case under scenario 1 there could well be an overcharge either on rent or service charges.

Scenario 2 also lends itself to the introduction of new services. So if we did provide a new service which cost £2 per week then in scenario 1 we should charge £2.75 for the increase in service charges alone but we would be restricted to charging £2.40. This can only be achieved by reducing the rent element by 25p.

In scenario 2 the rent will increase by £2.25 and services by £2.75 but the principle of still paying for what is received by way of services will remain intact.

We would recommend therefore that the direction is worded to be something along the following lines

(a) rent for accommodation (inclusive of service charges) is set at a level which is no more than 80% of the estimated market rent for the accommodation (inclusive of service charges), based on a valuation in accordance with a method recognised by the Royal Institute of Chartered Surveyors,

(b) rent (exclusive of service charges) for accommodation increases each year by an amount which is no more than— RPI + 0.5%,

(c) registered providers should endeavour to keep increases in housing benefit eligible service charges to no more than - RPI +0.5%

(this is the current standard line taken by TSA as taken previously by Housing Corporation

Q8: Do you agree with the proposed revisions to the quality of accommodation direction to reflect the expiry of the original date for compliance?

As a recent LSVT transfer, our position in respect of compliance is part of the agreed Business Plan for the early years of our company.

More generally, there may be quite wide variations among providers in the interpretation of “reasonable” in respect of repair; facilities; services and thermal comfort.

Q9: Energy efficiency is implicit in the revisions to the Quality of Accommodation Direction; should we make it more explicit?

Our position is neutral on this point. We can see both pros and cons for making the standard of thermal comfort more explicit. We will be approaching the thermal comfort question from a number of angles including: reducing “whole-house-running costs” (helping tenants live in economic homes); health (warm, dry homes) and reducing our corporate carbon footprint.

Radcliffe Housing Society

Response to Government directions to the Regulator over housing standards

The following comments are from Radcliffe Housing Society, 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.
Approved by the Board 6th September 2011

Nigel Wood
Chief Executive

Radian group Ltd

Radian provides social and affordable housing for rent and sale to over 17,000 households and specialist support to vulnerable people across the South.

Tenure Reform

We believe legislation on tenure length is unnecessary, having previously stated our preference for tenancies with a minimum length of five years. We would not wish to have what constitutes 'exceptional circumstances' prescribed as each case should be judged individually on a local basis. We welcome the freedom of flexible tenancies and the availability of probationary tenancies but reserve the right to grant lifetime tenure where appropriate. We understand the decision to protect the tenure rights of existing tenants and accept this is necessary to encourage mobility. We are satisfied we can produce a tenancy policy and have supporting systems that will satisfy the regulator and protect the rights of all tenants.

Mobility

We operate a well publicised mutual exchange scheme and actively support tenant participation in it. We agree with the principle of encouraging mutual exchange and have signed up to the national homeswapper scheme. However, we believe the proposed direction is overly prescriptive as it fails to consider local priorities agreed by landlords and tenants and that the majority of exchanges are over short distances. We have concerns that a legislatively enforced national scheme will result in unknown costs which tenants will ultimately pay.

Tenant Involvement and Empowerment

In the face of changes to the regulatory system we agree setting a standard for tenant engagement and involvement is acceptable; we are already governed by geographically based independent resident panels. Nonetheless, we believe it is unnecessary to direct providers to provide timely and useful information and to prescribe the format of such information, as this should be agreed by tenants and landlords rather than prescribed in legislation.

We are fully prepared to provide repair and maintenance budget information to tenants but believe this should be in a format agreed by tenants and landlords and not legislatively prescribed. We have concerns that the administration and operation costs of the Tenant Cashback Model would negate any savings but are interested to see the outcome of the pilot schemes. It is not possible for us to say at this time what model we would use, how many tenants would participate and what the costs and benefits would be.

Rent

We are currently developing our Affordable Rents offer, taking into consideration the operational changes involved and our desire to build strong and sustainable communities consisting of diverse tenancy types. We are satisfied that the direction reflects the introduction of Affordable Rent and welcome the extension of the current rent regime as this will give landlords confidence going forward.

Quality of Accommodation

As our properties have all complied with the Decent Homes standard we accept the revisions and see no issue with satisfying the regulator regarding the quality of our accommodation in the future. We believe there is no need to make energy efficiency more explicit as it is sufficiently covered in the proposed direction.

Overall Comments

Overall, we are concerned that all social housing is being classed as public, despite much of it not being inherently so. While the 2010 Regulatory Framework avoided detailed stipulations the Government now appears to be attempting to directly regulate social housing on a detailed level through these proposals.

We believe this approach is contrary to both the Government's stated localism aims and its assertion that it does not want to use regulation to impose policy. We are concerned that if these proposals are accepted the 'power to direct' could be used in the future to increase national control and involvement in providers' policies. This would further reduce the Government's stated intention to allow social housing providers to be independent and focus on local priorities in agreement with tenants.

RESPONSE TO CONSULTATION QUESTIONS
FROM REDCAR & CLEVELAND 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?

As we responded to the previous consultation paper, “Local decisions: a fairer future for social housing”, we do not believe that there is a case, certainly locally, for moving to fixed-term tenancies instead of lifetime tenancies. This is a view shared by our Large Scale Voluntary Transfer (LSVT) partner and their tenant representatives.

A key policy objective for both ourselves and our residents is the creation of mixed and balanced communities. Fixed-term tenancies will not assist in this objective and may, indeed, undermine it. They are also contradictory with the government’s wider social policy objectives regarding worklessness.

Notwithstanding the above, we believe that two years, even in exceptional circumstances, would be far too short in duration to provide any form of stability for households in need of affordable housing. Whilst we welcome the clarification that the minimum period for fixed-term tenancies would, normally, be five years, we believe this period should be at least 10 years in duration.

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

Broadly speaking, yes it does. However, there should be greater clarification that vulnerable households will not be offered a fixed-term tenancy.

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

We welcome the proposal in the consultation paper that existing tenants will have their rents and security of tenure protected whilst continuing to live in their current home. We also welcome that such rights will transfer with those tenants if they move to a new home.

To do otherwise would not only be unfair but would act as a clear disincentive for such households to move when appropriate, leading to a less efficient use of the existing affordable housing stock.

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

The situation regarding mutual exchange needs clarification. The current situation is that, following a mutual exchange, each tenant takes on the other person's tenancy. For an existing tenant who is exchanging with a tenant on a

fixed-term tenancy, therefore, this would not guarantee that they would not lose their existing security of tenure.

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

The opportunity for tenants to have greater scrutiny and influence with their landlords is to be welcomed. However, the change of emphasis from external inspection to internal scrutiny by tenants' panels places a great deal of responsibility on a small number of individuals. Adequate thought should be given as to how such panels can be properly advised and supported.

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?

Not applicable. Redcar & Cleveland Borough Council ceased to be a landlord following LSVT of the council's housing stock to Coast & Country in 2002.

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

It would appear that the proposed revisions to the rent direction adequately reflect the introduction of the Affordable Rent model.

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 changes to the Quality of Accommodation direction clearly reflect the expiry of the original target date for Decent Homes and the requirement for social landlords to ensure they maintain their stock at a decent level. The stated intention to allow temporary extensions, where standards have not yet been met, should be used sparingly.

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

The proposal only reflects the Decent Homes requirement of "a reasonable level of thermal comfort". This is inadequate in modern society. We believe that this definition should be expanded to reflect current expectations on energy efficiency.

Regenda Group: Response to the consultation on Implementing Social Housing Reform. Closing Date 29.9.11

Overall

We welcome the overarching comments made in the document that we will be allowed to 'run our own business' and that our tenants will have 'more control over the decisions that we make about their lives'.

In relation to the main points in the consultation our feedback is as follows:

Questions 1,2 and 3 Tenure Reform

Yes, there is enough direction on this matter and but we are still uncertain as to the actual benefits of fixed term tenancies but that said we are supportive of the decision to allow RP's to decide whether or not we wish to introduce fixed term tenancies. We welcome the increase in the minimum fixed term tenancy to 5 years, 2 in exceptional circumstances. Like most landlords we have real concerns about the stability of our neighbourhoods and the lack of security that fixed term tenancies will give to new tenants.

The directive does give enough direction as to the minimum protection for tenants.

Question 4 Mutual Exchanges

We feel that there does not need to be a directive on mutual exchanges as we have provided mutual exchanges through an internet based system for a number of years and will continue to promote this form of letting. Whilst we welcome an easier system for tenants to move we are concerned at the possible cost of a nationwide social home swap system and do not see how this could provide any more value for money than the service we already operate. It is unusual for Regenda tenants to wish to transfer to other parts of the country and most of our exchanges occur within the same region. However this may not be true for all landlords.

Question 5 Tenant Involvement and Empowerment Standard

Yes, we agree with the revision.

Question 6 Tenant Cashback

We do not agree with this approach and are concerned that it may lead to higher costs and benefits are outweighed by the risks. There is real concern that the cashback scheme will result in poor workmanship to our homes and a possible increase in our maintenance budgets. We do however welcome any initiative that gives tenants choice and control. But in terms of tenant cashback we have read the DCLG's own impact assessment on the scheme and agree with the risks identified. There is real possibility that:

- The repairs and maintenance budget will increase due to less standardisation and loss of economies of scale
- Poor quality work will need redoing
- Homes will become unsafe
- Costs savings will not be realised due to cost of corrective action
- Properties will be in a poor state of repair
- Lenders will see us a higher risk

Question 7 Affordable Rents

Yes, the proposed revision reflects affordable rents and Regenda will be charging a proportion of Affordable Rents.

Question 8 Quality of Accommodation

We agree to the directive regarding the quality of the homes that we must provide.

We have read the response that is being submitted by the National Housing Federation and agree with the contents of their feedback.

Royal Borough of Kensington and Chelsea

The Royal Borough of Kensington and Chelsea welcome the opportunity to comment on the Directions to the Social Housing Regulator. We also welcome the clarity and detail to the wider reform announced to social housing provided by the draft Directions.

As a strategic housing authority, the importance of local focus of any standards or regulation is important. With nearly 50 Registered Providers (RPs) in the borough, we support the framework provided by the draft Directions. However, there is concern that the draft Directions do not state the requirement for a provider to take into account local housing need when issuing tenancies. The existing Tenant Services Authority Standard on Tenancy states:

Registered providers shall let their homes in a fair, transparent and efficient way. They shall take into account the housing needs and aspirations of tenants and potential tenants. They shall demonstrate how they:

...

- *contribute to local authorities' strategic housing function and sustainable communities*

However, the link to the local authorities' strategic housing function is not referenced in the draft Directions (section 2.2). One of our roles as a strategic housing authority is to identify housing need (as statutorily defined) and we would like to see the Directions reflect this to ensure future Standards set by the Regulator take into account local housing need when allocating tenancies.

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 that tenancies should be issued according to the type of accommodation, the needs of the household and the local community and makes best use of stock. These are reasonable and relevant factors on which a tenancy should be offered and issued, but the balance between these four factors can at times be difficult due to the constraints of time, the high demand for housing and most recently the introduction of Affordable Rent.

Consideration should be given to ensure any standards set by the Regulator also take into account local housing need (as statutorily defined through priority need and reasonable preference characteristics). The Strategic Tenancy Policy requirement on local authority will incorporate meeting this local housing need, and we believe the draft Directions could state more clearly how the offer and issue of tenancies supports the meeting of housing need locally and links to the local authority Strategic Tenancy Policy.

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

The draft Direction sets out what needs to be covered in a tenancy policy clearly, but further guidance is sought to ensure parity between different tenancies polices to prevent 'tenancy shopping' by applicants, in regards to rent charged and tenancy terms. The Strategic Tenancy Policy will provide some clarity at a local level, but in the absence of firm guidelines, further comment in the Directions would be welcomed.

The amendment to the Directions to state that only in exceptional circumstance will tenancies be granted for less than five years is welcomed as it adds clarity to the use of fixed tenancy terms and gives local control over the use of the two year minimum term tenancies through the identification of exceptional circumstances.

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

The draft direction gives sufficient minimum protection to tenants and the following section is particularly welcomed: *'registered providers grant tenants who have been moved into alternative accommodation during any redevelopment works a tenancy with no less security of tenure on their return to settled accommodation'*.

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

We agree with the principle on mutual exchange and we have offered a bespoke mutual exchange service for the borough for many years, as well as offering access to a nationwide mutual exchange service through our tenant management organisation, Kensington and Chelsea Tenant Management Organisation (TMO).

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

As a strategic housing authority, we support the principle of tenant involvement and empowerment in the draft Directions. We agree with local resident involvement and support stock-holding RPs in the Royal Borough to work with their tenants locally.

Our Council housing stock is managed through a tenant-led management organisation. Therefore tenants are pivotal to all decisions which are made about our stock and we agree with the principles on which the Direction on tenant involvement and empowerment is based for a social 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?

We agree with the draft Direction that social tenants should be involved in the repair and maintenance services of their landlord. We support local RPs to adopt a model of tenant involvement in these services.

As a social landlord, we are currently improving the way tenants are involved in repair and maintenance services outside the existing tenant engagement structure (which is detailed in the Resident Engagement Strategy) through setting up an Asset Management Panel and working with tenants in the planning of the Capital Programme and Asset Management Strategy.

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

The proposed revisions to the rent direction set out the details for Affordable Rent adequately. We have been working with our local RPs since the announcement of Affordable Rent to discuss their individual plans as providers and to determine how the new tenure will work in the Royal Borough.

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 the Decent Homes Programme has now ended, the removal of the target date for compliance is sensible.

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

Without fully understanding the implications of The Green Deal for social housing providers, it cannot be guaranteed there will be sufficient funding available to achieve specific energy efficiency Quality of Accommodation Direction. However, should funding arrangements become clearer through the development of The Green Deal, then the inclusion of a more explicit standard (in the future) is considered appropriate.

Sanctuary Housing's response to the Directions to the Regulator consultation September 2011.

The **first consultation question** asks whether the draft direction on tenure sets out the relevant factors that registered providers should consider when deciding what type of tenancy they should offer and issue.

Answer - We agree that this sets out the relevant factors but there needs to be more explicit reference to a national approach to defining and supporting vulnerable tenants within this context.

The **second consultation question** asks whether the draft direction sets out the right minimum requirements for a registered provider's tenancy policy.

Answer - The issues of vulnerability need to be strengthened. In particular, clarity over which types of tenants should always have a lifetime tenancy and minimum tenancies for those with certain types of dependency. In relation to lifetime tenancies we believe this should be strongly linked to those tenants who are permanently economically constrained through serious disability. For those with additional dependency issues such as caring for young children we believe there should be longer term minimum tenancy periods to protect the development and education of the child. We believe unless there central guidance in this approach there will be blockages in the allocations and transfers process as certain types of tenants become unable to find suitable accommodation in different geographical areas or specific RP properties.

The **third consultation question** asks whether the draft direction sets out the right minimum protections for tenants of registered providers.

Answer - From reading the directions we feel that for an existing tenant who is seeking a mutual exchange with a tenant on a fixed term tenancy, the position post exchange needs further clarification. The current situation is that, following a mutual exchange, each tenant takes on the other person's tenancy; this does not chime with the guarantee that a tenant choosing to move will not lose their existing security of tenure.

The **fourth consultation question** asks if respondents agree with the principle and detail of the proposed direction on mutual exchange.

Answer - We feel the draft direction generally reflects the government's intention but the wording on support for tenants needs to be expanded to make it clear that this includes assistance for people who may not be confident in using the internet. Without this some vulnerable groups may be excluded and further marginalised. This requirement may present significant operational problems for local providers and discourages the development of effective local approaches in this area.

The **fifth consultation question** asks whether respondents agree with the principle and detail of the proposed revisions to the direction on tenant involvement and empowerment.

Answer – We are supportive of both the principle and detail of the proposed revision to the direction on tenant involvement and empowerment. We are also aware of the challenges that external tenant panels will face in providing an appropriate democratic filter. Greater clarity is needed on the remit of the proposed tenant panels. In this approach there are also challenges as to how consistency will be maintained across the sector and this also needs further guidance.

The **sixth consultation question** asks 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.

Answer - We welcome the approach of encouraging tenants to be empowered to take ownership of their own properties but also recognise the challenges this will bring to both residents and the organisation. Again further guidance on this to address issues of quality of repair, insurance implications and high administrative burdens on local providers would be welcomed.

The **seventh consultation question** asks if the proposed revisions to the rent direction adequately reflect the introduction of Affordable Rent?

Answer - We support the proposed revisions to the rent direction and feel they adequately reflect the introduction of the Affordable Rent regime

The **eighth consultation question** asks if we agree with the proposed revisions to the Quality of Accommodation direction to reflect the expiry of the original target date for compliance?

Answer - We feel that the changes to the Quality of Accommodation direction adequately reflect 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.

The **ninth consultation question** asks if energy efficiency is implicit in the revisions to the Quality of Accommodation Direction; should they make it more explicit?

Answer - We would like to see the energy efficiency requirements being made more explicit; 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.

Sentinel Housing Association

Thank you for the opportunity of responding to your Implementing social housing reform: directions to the Social Housing Regulator Consultation.

Sentinel Housing Association Limited owns and manages over 7,500 homes in North Hampshire. Sentinel was originally formed through the transfer of the Council housing from Hart District Council and half of Basingstoke and Deane Borough Council and has since become a major housing association for community and regeneration and new homes in the area.

We would comment on your Consultation 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?

We welcome the ability for registered providers to have much greater flexibility in the types of tenancy that can be offered with reference to the purpose of the accommodation, the needs of individual households, the sustainability of the community and the effective use of stock. We also agree with the Government's revised proposal that flexible tenancies of two years should be exceptional and that the majority of tenancies should be for longer terms of at least five years.

Question 2 : 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 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?

Following the Government's further direction on the position post exchange for existing tenants seeking a mutual exchange with tenants on fixed term tenancies, the proposals 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?

We agree with the principle of creating greater flexibility through more opportunities for mutual exchange but the proposed directions appear to be overly detailed and should give registered providers the ability to develop their own effective local approaches in partnership with tenants and other stakeholders in this area.

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

In the spirit of co-regulation between registered providers and tenants and less proactive regulation of consumer protection issues by the regulator, the proposed direction is overly detailed and there is no need for Government direction in this area.

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?

Similarly, Government requirements about tenant involvement in the management and commissioning of repairs and maintenance services in the draft directions is unnecessary and overly prescriptive. Registered providers should have the freedom to formulate their own arrangements, with their tenants and other stakeholders. A Government prescribed system, such as the tenant cash back scheme, could cause landlords to incur additional costs that are not offset by value for money and efficiencies, which would be to the ultimate detriment of tenants. Questions also remain over adequate safeguards on health and safety and the quality and overall standards of works in such a system and it would be essential that robust mechanism for quality checks and value for money assurances are in place.

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

The proposed revisions appear to reflect the introduction of the Affordable Rent regime.

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 appear to reflect the expiry of the original target date for Decent Homes compliance.

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

We consider further detail to be unnecessary.

Sheffield City 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?

Yes but in Sheffield, full Council passed a motion on 3rd November, 2010, expressing the belief that lifetime tenure for local tenants is an important principle that must be upheld and confirming opposition to ending lifetime tenure for council tenants in Sheffield.

It is suggested that the following factors need to be included when the Regulator sets the standard:

- * That more information is required on how registered providers (RP's) ensure they meet their aims and objectives within their letting policies if they intend to offer certain tenants shorter and less secure tenancy agreements. How will they decide who gets what type of tenancy?
- * Certain estates should be identified to have intensive management regimes, possibly with supported tenancy provisions.
- * Encouragement to greater use of provisional tenancies (intermediate tenancies have no advantage as a management tool for dealing with ASB).
- * More supported tenancy provision; possibly hostel and flats based (or even core and satellite) schemes. Many tenants and potential tenants are very bad at maintaining a tenancy appropriately and cost landlords a lot of money in repairs, lost rent and ASB blighting an area.
- * Pressure on Adaptations budgets and the fact that adapted properties are not always particularly desirable. This can be found especially where the minimum has been done to keep someone in a property that is in fact totally unsuitable and which will not be re-lettable to disabled people. Landlords should be given the opportunity of refusing to do adaptations to some properties and instead invest in improving existing adapted units and in incentivising moves to them. There could be the provision made for altering some tenancy agreements so that people know the property they have chosen to live in would not be adapted, but an incentivised move offered instead. This could only apply to certain property types and locations that are not accessible to people with disabilities, such as locations on hills and where access to the whole property is not realistically and affordably an option.
- * To compensate for the above, landlords could be required to offer an enhanced provision to encourage moves to already adapted properties such as assisted packing, free removals and assisted un-packing, decoration of properties and higher standard upgrades to adapted units (similar to clearance support offered by some landlords).
- * Target hardening extra work to improve security of landlord's properties - especially and/or starting with adapted and/or elderly persons units.

Question 2: Does the draft direction on tenure set out the right minimum requirements for a registered provider's tenancy policy? The detail will be in the standards set by the Regulator.

The Localism Bill also contains a requirement for local authorities to produce a Tenancy Strategy to which local RP's must have to have regard in preparing their tenancy policies. As previously mentioned, in Sheffield, full Council passed a motion on 3rd November, 2010, expressing the belief that lifetime tenure for local tenants is an important principle that must be upheld and confirming opposition to ending lifetime tenure for council tenants in Sheffield. Therefore an Tenancy Strategy will reflect this view.

It is felt that more detail is required as what would prevent RP's granting minimum two year assured short hold tenancies to all tenants?
Will more vulnerable households be offered longer tenancies?

Subject to the reservations on vulnerable tenants, it is suggested that RP's should be encouraged to seek the views of their current tenants and stakeholders before formulating their policy and that the standard should cover issues such as stock and tenant profile in the local community, and relevant bidding patterns.

The Standard could also cover whether Tenancy Policies should be clear about the review and appeals process and any set criteria for assessing whether a fixed term tenancy should be extended or ended.

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

Yes but the standard set by the Regulator will have to contain detail and when the RP's have published their policies the Regulator must monitor to ensure compliance with the standard and take enforcement action if necessary.

The changes may also give tenants a perverse incentive not to improve their financial circumstances, given the disruption, for example to children's schooling, that moving home can cause. A person who does all he can to improve his situation should not be in a worse position than his comparator who has done very little. Greater protection, such as increased notice periods and additional help and support to find alternative accommodation, should be provided.

Direction on mutual exchange:

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

SCC fully supports a national Mutual Exchange scheme as a national standard. This has been done before as the 'Homes Mobility' scheme, but without widespread use of the internet, which will make this kind of scheme more accessible and possibly more successful. Its success will be in the number that use it as it relies on household's being able to match with other

households across the UK. It will need to be launched and promoted heavily to ensure uptake is high and the option is promoted to customers. Landlords will need to look at integrating this as a housing option, facilitate use of IT for customers to access, make bids etc. Whilst the draft direction generally reflects the government's intention, it is felt that the wording on support for tenants could be expanded in the standards set by the Regulator, to make it clear that this includes assistance for people who may not be confident in using the internet.

Consideration should be given to a recommend minimum period of (say for example) 6 weeks before the original tenancy ends after the mutual exchange has taken place. This is to ensure that real mutual exchange takes place and mitigate against fraudulent exchanges. This has always been a problem, but a nationwide scheme will facilitate a significant increase in the problem as receiving authorities will have so little access to information about the incomers.

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 feel that the tenant involvement standard should also be set with a view to ensuring participation by as diverse a range of tenants as possible.

Tenant participation tends to be unrepresented by the young. Any revisions need to tackle this in order for tenant involvement to be inclusive and to reflect the whole community. The standard should address how tenant participation can be encouraged and give guidance to issues such as incentives for involvement.

Consideration should be given to training for tenants so that they can undertake this task effectively - there is a need to understand the often broad and complex issues affecting performance to successfully scrutinise 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?

This question would suggest that the Tenants Cashback scheme has not been properly researched or costed and that adequate safeguards on quality of repair, price and standards have not been addressed.

Although the principles behind the Tenants Cashback initiative are admirable, in the current form it is both ill-conceived and a serious risk to the self financing programme. The standard should address the issues of the landlord's statutory duties in respect of repair and maintenance, the need to provide best value and procurement obligations.

It would appear that the Tenants Cashback scheme for commissioning repairs needs to receive more thought. Given that this is an area where good

standards of work are crucial and poor craftsmanship can lead to health hazards or worse, it is essential that a robust mechanism for quality assurance is in place. There is a need for an agreed method for assessing requests for tenant involvement so that they can be effectively, efficiently and transparently be assessed.

SCC supports the idea of providing employment and opportunity for tenants to be able to provide services for the homes they live in. This avenue needs to link into training and employment schemes maybe considering joint funding of training in skills such as joinery, painting etc.

Direction on rents:

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

It would appear that the proposed revisions to the rent direction reflect the introduction of the Affordable Rent regime. The standards set by the Regulator need to address the following questions: What happens if a tenants fixed term tenancy ends and the property is re-let to them under a new tenancy? There is scope here for high rent rises, especially where rents in the private rented market are disproportionately rising. Does there need to be some restrictions on rent rises in these situations?

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

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. Although there is an argument for not being over-prescriptive, the proposal at the moment is not that helpful, it is so vague that it is almost meaningless. There is a need for more explicit criteria, which could possibly be either based on the SAP rating or on specific building specifications used.

Summary

- Social housing must be adequately regulated because it houses some of the poorest, most socially excluded and most vulnerable people in our society. Forty-seven per cent of social tenants were living in poverty after housing costs in 2009/10, compared to 22 per cent of households in all tenures¹.
- Shelter was approached for advice by 12,605 social tenants² in 2010/11, meaning that a fifth of our clients in this period lived in the social rented sector. It is vital that central and local government are responsible and accountable, via an adequate regulatory framework, for ensuring that the rights and wellbeing of social tenants are protected.
- People put a high value on security, illustrated by the aspiration of many households to own their own home. In a survey³, 41 per cent of respondents said that people should aspire to own their own home because it is more stable and secure.
- There is a risk that the removal of security in the social sector could push more households into unsustainable home-ownership. Shelter research⁴ shows that 46 per cent of mortgagors find it a constant struggle, or struggle from time to time, to keep up with their mortgage payments.
- We fully support the existing direction on tenure, which aims to '*offer and issue the most secure form of tenure compatible to the purpose of the housing and the sustainability of the community*'. We would like to see it retained. This would still allow landlords considerable flexibility to let on Flexible or Assured Shorthold tenancies if this was compatible to the purpose of the housing and the sustainability of the community, and prevented unnecessary evictions.
- We do not believe that the draft direction on tenure sets out the right minimum protections for tenants. The Government has presented no rationale or evidence for setting the statutory minimum fixed term at two years. The best way to ensure that tenancies of under five years are genuinely exceptional is through an amendment to the Bill, rather than through the Tenancy Standard. However, in the absence of a higher statutory minimum we warmly welcome the revision to the draft direction on tenure, requiring the

¹ These figures apply to the UK as a whole. National Statistics (2011) *Households Below Average Income: an analysis of the income distribution 1994/5-2009/10*, DWP

² These figures apply where the tenure of the tenant was recorded.

³ http://www.bsa.org.uk/docs/publications/helping_mortgage_borrowers.pdf (page 8)

⁴ YouGov survey (April 2011) which surveyed 2118 adults and is representative of all UK adults. Field work was undertaken between 21st April - 3rd May 2011.

regulator to set the Tenancy Standard with a view of achieving that general needs tenancies are for a minimum fixed term of five years, or exceptionally for a minimum term of no less than two years.

- We strongly recommend that the criteria against which 'exceptional circumstances' are judged are set out in a Statutory Code of Guidance or, failing that, the direction on tenure and regulatory guidance.
- We would also like to see the Localism Bill amended in line with the revised draft direction, so that clause 137(1) (tenancy strategies) requires councils to set out in their tenancy strategies the exceptional circumstances in which tenancies of less than five years should be issued. This would ensure councils (rather than individual social landlords) can make a strategic decision about the 'exceptional circumstances' in which shorter fixed-terms should be offered and would have a role in ensuring compliance. It would ensure more local transparency and accountability. In the absence of such an amendment to the Localism Bill, we strongly recommend that the criteria against which 'exceptional circumstances' are judged are set out in a Statutory Code of Guidance or, at the very least, in the direction on tenure and regulatory guidance.
- We strongly support the requirement in the draft direction that landlords' tenancy policies should set out *'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'*. However, we urge the Government to go further and set out in the direction on tenure that certain groups of vulnerable people should continue to be granted full security of tenure. This would be consistent with the Government's previous consultation and impact assessment of its reform proposals (listed on page 16).
- To ensure consumer protection, equality, transparency and the accountability of social landlords, there should be tighter minimum requirements on landlords' tenancy policies. It is essential that the process for granting, reviewing and reissuing fixed-term tenancies should be set out in legislation, a Statutory Code of Guidance or, at the least, the direction on tenure and regulatory guidance.
- The Localism Bill (flexible tenancies) sets out clear statutory provisions for local authority landlords on the process for reviewing, recovering possession of and reviewing decisions to seek possession of flexible tenancies. These provisions will be supported by statutory regulation. We strongly recommend that these important principles are included in the direction on tenure so that it will be equally applicable to housing association landlords reviewing, recovering possession of and reviewing decisions to seek possession of Assured Shorthold Tenancies. This would achieve consistency between the expectations on local authority and housing association landlords.
- There should be a requirement that the advice and assistance given to tenants on finding alternative accommodation, in the event that the landlord decides not to reissue the tenancy, seeks to ensure that such accommodation is suitable to the needs of the household. The test of suitability could be the same as that contained in the Statutory Code of Guidance on Homelessness.

- It is important that the direction on tenure should ensure that, when carrying out tenancy reviews, reviewing officers proceed on the basis of a presumption that a new fixed-term tenancy for a term at least equivalent to the current or previous fixed term should be granted to the tenant. Such a direction would help to improve the accountability of landlords as they will have to demonstrate greater objectivity, transparency and accountability before seeking possession of a tenant's home.
- We strongly welcome the strengthening of regulatory guidance to increase tenant involvement in, and scrutiny of, their landlords' policies, priorities, standards and performance - as well as providing them with greater scope to manage and maintain their homes. The greater involvement of tenants should help to improve overall standards of service and performance. However, we have some concerns (listed on pages 20 and 21) about tenants being the main means by which the performance of social housing is to be regulated. We have particular concerns about the means to enforce standards or seek independent intervention and redress in unresolved complaints.

Introduction

The Government has set in train a major reform of the system of regulation of social housing lettings and management. This reform programme is being delivered through:

- The Localism Bill's proposal to give local authority landlords the power to issue Flexible Tenancies with a statutory minimum fixed-term of two years, rather than permanent, Secure Tenancies.
- The proposal to remove the regulatory requirement to 'provide social tenants with the most secure tenure compatible with the accommodation', thereby allowing housing associations to let their general needs homes on Assured Shorthold Tenancies with a statutory minimum fixed term of two years, rather than on permanent, Assured Tenancies.
- Giving landlords the scope to allow fixed-term tenancies to run into periodic tenancies.
- Allowing individual social landlords to set out in their own tenancy policies (among other things) the basis on which tenancies will be granted, the length of the fixed term, the circumstances for renewal, and the means to appeal or complain about decisions on fixed terms and renewals.
- The abolition of the Tenant Services Authority, with only 'backstop' consumer regulation functions transferred to the Homes and Communities Agency. This significantly refocuses regulatory activity to the extent 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 serious detriment to tenants (or potential tenants)⁵: The HCA will not carry out proactive inspection or monitoring of landlords.

- The move to a 'co-regulation model' of setting, monitoring and regulating standards. This shifts responsibility for proactive intervention to tenants and, in particular, Tenant Panels.
- Restricting the scope for redress in individual cases of complaint. The Localism Bill seeks to prevent unresolved complaints against a social landlord from being referred directly to the Housing Ombudsman. Instead, they will have to be referred by a designated person (namely an MP, a local councillor or a designated Tenant Panel).

We are concerned that the outcome of such deregulation will be that:

- There will no longer be a guarantee that social housing will provide permanent, settled homes. Tenants will have no choice to remain in their homes as long as they require; even if they are 'model tenants', the duration of their tenure will be decided by the landlord and the policy relating to tenancy length and renewal could be amended at any time. This will give them little scope to plan for the future or feel settled in their homes. It may also deter them from getting involved in Tenant Panels and tenants' associations or making complaints about the landlord.
- Tenants who take issue with their landlords' tenancy policies, or believe they have been breached, will have very limited individual means of redress. They will only be able to make complaints to the Housing Ombudsman if an MP, local councillor or tenant panel agrees to refer their case. The Homes and Communities Agency will only inspect and take regulatory enforcement action against the landlord where there are grounds to suspect a serious failure. The courts will have little scope to intervene, even where a household faces eviction and homelessness.
- The Localism Bill Impact Assessment⁶ estimates that if the size of the social rented sector remains constant, then in 30 years' time between 29 and 39 per cent of social tenants will have Flexible tenancies. By this time, a significant proportion of social tenants will no longer have a long-term stake in their homes and communities. They will be short-term renters in the way that private tenants have become since that sector was deregulated in the late 1980s, conscious that their tenancy could be brought to an end at the expiry of the fixed term or once it becomes a periodic tenancy. Owner-occupation will be the only means to obtain a permanent, secure home.
- The proposals include no statutory or regulatory requirement for fixed-term tenancies to be renewed at the expiry of a fixed term, meaning that tenants could find themselves in insecure, periodic tenancies⁷ for many years.

⁵ CLG (July 2011) *Implementing social housing reform: directions to the Social Housing Regulator: consultation*, page 12, paragraph 13

⁶ CLG (January 2011) *Localism Bill: a fairer future for social housing: impact assessment*, page 39

⁷ This will be true in the case of Flexible tenancies provided by local housing authorities, if the landlord has served (i) a notice of intention not to renew six months before the fixed term is due to

- There is no government prescription as to the criteria that landlords' tenancies should meet, other than the (revised) draft direction that general needs tenancies should be for a minimum fixed-term of five years, other than in exceptional circumstances.

- The co-regulation model of Tenants' Panels could work well where tenants have capacity, resources and adequate representation. However, tenants will have no means to enforce standards. Where Tenant Panels do not exist, and other forms of tenant involvement are limited, there will be no proactive monitoring of landlords.

- There is considerable concern about the proposal to prevent direct referral to the Housing Ombudsman. The Law Commission has recommended that this measure should be removed⁸.

- Without a Statutory Code of Guidance for landlords, there will be very little scope for the courts to intervene. In respect of the fairness and reasonableness of tenancy policies, the courts are generally reluctant to intervene in such matters, although in exceptional cases they may do so on the basis of breaches of human rights legislation, such as the right to an independent and impartial hearing. Where the landlord seeks possession, there will be no requirement to prove grounds: the courts' only scope for intervention to prevent homelessness will normally be breaches of statutory procedure, such as the incorrect service of notices.

- There will be no role for local government in scrutinising and monitoring registered providers' tenancy policies or performance. This could make it difficult for councils to address local housing need. While local housing authorities will be under a new duty to develop and publish Tenancy Strategies, setting out broad objectives for responding to local housing need and priorities, they will have no means to require individual landlords' tenancy policies to address issues of local strategic concern, such as the need for mixed and stable homes. This could seriously undermine the shift to a localist approach to meeting housing need.

- The Government's review of social housing⁹ gave only two reasons to regulate social housing:
 - The lack of competitive pressures towards good, efficient service provisions; and
 - The presence of substantial public subsidy

expire, and (ii) a two month notice seeking possession by or on the final day of the fixed term, then the tenancy would become periodic until a possession order was granted by the court. It will also be true in the case of Assured Shorthold Tenancies granted by private registered providers (housing associations), where the landlord has served a notice of intention not to renew six months before the expiry of the fixed term. Such a periodic tenancy could continue for years.

⁸ The Law Commission (July 2011) *Public Services Ombudsman*, page 32, recommendation 5

⁹ CLG (October 2010) *Review of social housing regulation*, page 4, paragraph 2.1

We believe that consumer protection is an equally important reason to regulate social housing. Social housing houses some of the poorest, most socially excluded and most vulnerable people in our society. Forty-seven per cent of social tenants were living in poverty after housing costs in 2009/10, compared to 22 per cent of households in all tenures¹⁰. Shelter was approached for advice by 12,605 social tenants¹¹ in 2010/11, meaning that a fifth of our clients in this period lived in the social rented sector. It is vital that central and local government are responsible and accountable for ensuring that the rights and wellbeing of social tenants are protected. We would therefore like to see a regulatory framework that retains or contains important additional safeguards to protect tenants and ensure they feel secure in their homes.

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?

We do not believe the direction on tenure sets out the relevant factors that landlords should consider when deciding what type of tenancy they should offer and issue. We fully support the existing direction on tenure which requires landlords to demonstrate that they *'offer and issue the most secure form of tenure compatible to the purpose of the housing and the sustainability of the community'*¹² and specifically expects them to *'support tenants to maintain their tenancy and prevent unnecessary evictions'*¹³. We would like to see the existing direction on tenure remain. This would still allow landlords considerable flexibility to let on Flexible or Assured Shorthold tenancies if this was compatible with the purpose of the housing and the sustainability of the community, and if it was done in a way that prevented unnecessary evictions.

A greater supply of permanent homes is needed to solve our housing crisis. Therefore, we strongly oppose any measure that converts homes let on a permanent, secure basis to temporary, fixed-term homes. Security of tenure is a vital feature of a permanent, settled home, whether it is owned or rented.

We strongly oppose the removal of security of tenure in general needs social housing. While we accept that it will provide greater flexibility to social landlords, we reject the argument that it will give tenants *'more control over the decisions they make about their lives'*¹⁴. Tenants renting their homes on a temporary, fixed-term basis will

¹⁰ These figures apply to the UK as a whole. National Statistics (2011) Households Below Average Income: an analysis of the income distribution 1994/5-2009/10, DWP

¹¹ These figures apply where the tenure of the tenant was recorded.

¹² Tenant Services Authority (March 2010) *The regulatory framework for social housing in England from April 2010*, Tenancy Standard (required outcomes), page 25

¹³ Tenant Services Authority (March 2010) *The regulatory framework for social housing in England from April 2010*, Tenancy Standard (specific expectations), page 28

¹⁴ CLG (July 2011) *Implementing social housing reform: directions to the Social Housing Regulator: consultation*, Foreword, page 4

inevitably find it much more difficult to plan for the future and feel settled in their homes and neighbourhoods. They will have much less control about the decisions they make in their lives, because the landlord will be able to decide whether they can remain in their current home, or whether they should move elsewhere, with very little scope for challenge or appeal.

The Government proposes that the direction on tenure should be amended from:

- *'registered providers shall offer and issue the most secure form of tenure compatible with the purpose of the housing and the sustainability of the community'*¹⁵ to
- *'registered providers shall 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'*¹⁶.

CLG argues that it has been only the wording of the existing direction on tenure that has prevented housing association landlords, who may already - by law - grant fixed-term Assured Shorthold Tenancies, from granting these in their general needs lettings. However, successive government policy has intended social housing to be let on a permanent basis. When security of tenure was introduced into the social rented sector, including housing associations, in the Housing Act 1980, Minister Michael Heseltine said *'My aim in framing the charter has been to bring to council tenants the recognition that they have de facto security and the incentives for those who wish to take a greater interest in the condition of their home and its environment'*¹⁷. A paper on tenure commissioned for the Joseph Rowntree Foundation Housing Market Taskforce concludes *'the secure tenancy granted by the local authority landlord was created simultaneously with the Right to Buy. It is a consequence of the effort to extend home-ownership and reduce the power of the local authority landlord. It is an important extension of citizenship offering stability and security for those who would otherwise be vulnerable in the housing market'*¹⁸.

The current Government describes its reforms to security of tenure as *'the most radical shake up of social housing for 50 years'*¹⁹. The removal of security of tenure in the social sector is indeed a radical step that seeks to fundamentally change the purpose of social rented housing from a tenure that provides permanent, genuinely affordable and decent homes to a temporary and short-term 'ambulance service', aimed at encouraging tenants back into the housing market at the earliest opportunity.

¹⁵ Tenant Services Authority (March 2010) *The regulatory framework for social housing in England from April 2010*, Tenancy Standard (required outcomes), page 25

¹⁶ CLG (July 2011) *Implementing social housing reform: directions to the Social Housing Regulator: consultation*, Annex A: Proposed directions, paragraph 2(2) tenure, page 24

¹⁷ Hansard: 15 January 1980

¹⁸ Carr, H., Cowan, D., Hunter, C and Wallace, A. (December 2010) *JRF programme paper: Housing Market Taskforce, Tenure rights and responsibilities*, University of Bristol, page 25

¹⁹ CLG (July 2011) *Implementing social housing reform: directions to the Social Housing Regulator: consultation*, Foreword, page 4

Our arguments against removing the 'required outcome' of letting on the most secure form of tenure were set out in detail in our response to the previous CLG consultation on the reform of social housing²⁰. Most importantly, our worry is that it will exclude households who cannot afford owner-occupation from a permanent, settled home. The Localism Bill Impact Assessment²¹ states that *'the question of security for social housing tenants is a widely debated area and it is often argued that households place a value on greater tenure security'*. It goes on to say:

'There is little evidence on how much tenants would be willing to pay to avoid losing security. It is common for private tenancies to be provided with minimum terms of 6-12 months though, which suggests that many existing private renters are not willing to pay a rental premium in order to secure the benefits of longer contracts. This implies that security of tenure might have only a slight adverse impact on households, although it could be the case that social rented households place a higher premium on security than the average household - either as a result of being more vulnerable or older than private renters.'

We fully reject this argument. Private tenancies are let on fixed terms of less than twelve months because private landlords are unwilling to let on longer fixed terms. This is the main reason that the Government's changes to homeless legislation require private rented accommodation offered as a final discharge of homeless duty to be for a minimum fixed term of twelve months. In its summary of responses²² to the consultation on these changes, CLG reported that *'of the local authorities who felt 12 months was not the right period, 72 per cent felt that the period should be longer (normally 24 months)'* but some authorities *'recognised that negotiating one with a landlord could be difficult.'*

We argue that people put a high value on security of tenure and that the evidence for this is the aspiration of many households to own their own home. In a survey²³, 41 per cent of respondents said that people should aspire to own their own home because it is more stable and secure. The removal of security in the social sector could push more households into unsustainable home-ownership. Shelter research²⁴ shows that 46 per cent of mortgagors find it a constant struggle or struggle from time to time to keep up with their mortgage payments. FIC/ CCS estimate²⁵ that, of the 11.3 million

²⁰ Shelter (January 2011) [Shelter response to CLG consultation Local decisions: a fairer future for social housing](#), pages 5-6 and 14-15

²¹ CLG (January 2011) *Localism Bill: a fairer future for social housing: impact assessment*, page 44

²² CLG (February 2011) *Local decisions: next steps towards a fairer future for social housing: summary of responses to consultation*, pages 42-43, paragraphs 6.21-6.23

²³ http://www.bsa.org.uk/docs/publications/helping_mortgage_borrowers.pdf (page 8)

²⁴ YouGov survey (April 2011) which surveyed 2118 adults and is representative of all UK adults. Field work was undertaken between 21st April - 3rd May 2011.

²⁵

http://www.ccs.co.uk/Portals/0/Documents/media/reports/additionalreports/Report_Debt_and_household_incomes.pdf

outstanding mortgages, 1.2 million (11%) are in some form of distress – whether in arrears, already repossessed or subject to forbearance by lenders.

The Impact Assessment does, however, acknowledge that *'ending security of tenure raises issues surrounding worklessness and vulnerable people'*. We agree with this: *'The issue of security emerged as particularly important. The security and stability offered by the social rented sector, which was frequently contrasted with the perceived insecurity of the private rented sector, provided an anchor point in lives that had often been in a state of flux and were characterised by uncertainty and turbulence. Confident about their residential security, social tenants often talked about being able to turn their attention to addressing other challenges in their life. For people more distant from the labour market, these challenges included health problems, disabilities and caring responsibilities. For people closer to the labour market these challenges included securing and maintaining work. The finding suggests that any moves to undermine security of tenure in the social rented sector are likely to have an adverse impact on levels of worklessness, as well as undermining the wellbeing of some of the most vulnerable tenants.'*²⁶

In addition, we believe that the introduction of fixed-term tenancies into general needs social lettings will:

- Undermine the sustainability of communities, increase the transience of neighbourhoods, and increase social exclusion, leading to the need for increased housing management resources. The Impact Assessment²⁷ has not considered these social and financial costs. However, research shows that 'high levels of residential turnover are perceived as destabilising, undermining attachment to place and contributing to neighbourhood decline and social exclusion'²⁸.
- Deter tenants from social investment in their homes and communities. The Impact Assessment has not attempted to quantify this social cost. However, research²⁹ in Camden, North London showed that private tenants with assured shorthold tenancies scored lower than those with more secure forms of tenancy on nine indicators of community engagement. The difference was particularly marked in voting, and involvement in local groups or organisations. The majority of respondents also agreed that the length of the tenancy affects the 'sense of community'. There is a danger that the introduction of fixed-terms could seriously undermine the Government's attempts to improve tenant involvement and empowerment, such as tenant panels.
- Act as a disincentive to tenant financial investment in, and maintenance and improvement of, homes, leading to physical neighbourhood decline and/or increased maintenance

²⁶ Robinson, D. (2008) 'Worklessness and Social Housing' in Fitzpatrick, S. And Stephens, M. (eds.) (2008) *The future of social housing*, London: Shelter

²⁷ CLG (January 2011) *Localism Bill: a fairer future for social housing: impact assessment*, page 43

²⁸ Taylor, M. (July 2008) *Transforming disadvantaged places: effective strategies for places and people*, York: JRF, page 7

²⁹ Reynolds, L. (May 2005) *Safe and secure? The private rented sector and security of tenure*, page 25-26

budgets. The Impact Assessment has not considered these costs, although it suggests that there would be greater void costs if there is a greater turnover of the stock. It assumes that vacated homes will be empty for a week on average leading to total costs of between £7m and £61m over thirty years. We think that basing void cost estimates on an assumed vacancy rate of only one week is conservative.

- Require costly, intrusive and resource-intensive tenancy reviews. The Impact Assessment estimates the cost of a two hour tenancy review to be £47, with the total cost of reviews falling between £35m and £74m over thirty years.
- Incur costs in challenging reviews and decisions and enforcing decisions, including possession proceedings and eviction warrants. The Impact Assessment assumes that one in twenty households would refuse to vacate properties at the end of the fixed-term, resulting in the need for possession proceedings. It estimates that between 11,000 and 91,000 possession orders would be required over a 30 year period at a cost to landlords of around £175 per case. It also acknowledges there would be Legal Aid implications but does not attempt to quantify these.
- Result in costs of advice and support to households refused a renewal to enable them to find suitable alternative accommodation in the private rented sector or to access low-cost homeownership. The Impact Assessment estimates that, on average, the amount of staff time spent supporting households that move out of the social sector following tenancy reviews might range from one to three hours, costing landlords between £24 and £71 per case. The total cost of such advice and support is estimated to be between £4m and £96m over thirty years.
- Cause detriment to vulnerable tenants, who may struggle with the practical process and worry about the potential outcome of reviews. The Impact Assessment does not attempt to quantify these costs, however research shows that reporting changes of circumstances for in-work housing benefit is a huge burden for customers³⁰.
- Put tenants in a weaker contractual position, meaning that they may be reluctant to demand repairs or improved services because of a (real or perceived) risk of this being a factor in a review of their tenancy. The Impact Assessment does not attempt to quantify these social costs but this is a common concern of private tenants renting on fixed-term contracts.
- Act as a powerful disincentive to tenants improving their financial means, and risk undermining the incentives of Universal Credit. Fixed-term tenancies were introduced into the social sector in New South Wales, Australia in 2005. The Tenants Union of New South Wales contends that the disincentive impacts of fixed-term tenancies may have had a counter-productive impact, outweighing any gains resulting from freeing up public housing stock through the ejection of tenants having improved financial circumstances:

³⁰ Karabiner, S, and Raha, C. (2009) *Housing Benefit - a literature review*, DWP

*'...had the loss of eligibility policy not been implemented...a greater number of tenants might have found work, increased their incomes, become sufficiently secure in their employment and moved out of public housing on their own volition.'*³¹

The conversion of existing social rented homes, let on a permanent, secure basis, to homes let on fixed-term tenancies must not be undertaken lightly. To be justified, such a policy must deliver substantial benefits. The Government's main rationale for reducing security of tenure in the social sector is that it will provide more flexibility to social landlords to make better use of the stock so that it can be let to people in greater housing need. The reduction in security of tenure of social tenants is a high price to pay to increase the number of social re-lets. It is important that it has a swift and significant impact in terms of meeting housing need.

The CLG Impact Assessment³² calculates that 'there will be no impact on the number of households moving out of the social sector until 2016 at the earliest. This is borne out by research from New South Wales, Australia, where fixed term tenancies were introduced into the social sector in October 2006. Less than one per cent of fixed-term tenancies reviewed thus far have been terminated'³³.

The Impact Assessment calculates that for the purposes of assessing impacts, between 70 and 90 per cent of Flexible tenancies will be renewed at the end of the fixed term (either in the same dwelling or another social home). It concludes that *'even over the next 10 years (to 2020), there would be an average of 200 extra social lettings per year in the low scenario. In the central and high scenarios this would be 2,000 and 7,000 more lettings per annum respectively'*. It would not be until the late 2030s that the impact of Flexible tenancies on the number of moves out of the social sector would reach its peak, with between 18,000 and 120,000 moving out of the sector in one year. This is a generation away. Over the next 30 years, it is estimated that there would be a total of between 200,000 to 1.4m extra moves by social tenants as a result of Flexible tenancies.

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

We do not agree that the draft direction on tenure sets adequate minimum requirements for landlords' tenancy policies. We acknowledge, as the consultation states, that the proposed requirement³⁴ on registered providers to *'publish clear and accessible policies which outline their approach to tenancy management, including preventing unnecessary evictions, tackling tenancy fraud and granting discretionary succession rights'* is of a similar form to the 'specific expectation' in the tenure section of the existing Tenancy Standard³⁵. This requires providers to *'publish clear and*

³¹ Fitzpatrick, S. & Pawson, H. (May 2011) *Security of tenure in Social Housing: An International Review*, page 20

³² CLG (January 2011) *Localism Bill: a fairer future for social housing: impact assessment*, pages 37- 41

³³ Fitzpatrick, S. & Pawson, H. (May 2011) *Security of tenure in Social Housing: An International Review*, page iv

³⁴ CLG (July 2011) *Implementing social housing reform: directions to the Social Housing Regulator: consultation*, Annex A: Proposed directions, tenure 2 (3), page 24

³⁵ Tenant Services Authority (March 2010) *The regulatory framework for social housing in England from April 2010*, Tenancy Standard (specific expectations), page 28

accessible policies which outline their approach to tenancy management. They shall develop and provide services that will support tenants to maintain their tenancy and prevent unnecessary evictions. The approach should set out how registered providers will make sure that the home continues to be occupied by the tenant they let the home to.'

However, the context is critical. The existing expectation to publish landlord policies on tenancy management is within the context of the 'required outcome' that landlords 'should offer the most secure form of tenure compatible with the purpose of the housing and the sustainability of the community', and within the wider context of previous successive government policy to offer security of tenure to social tenants. The changes to Government policy (the new proposed 'required outcome' of regulation and the scaling back of enforcement of regulation via the abolition of the TSA) mean that landlord policies on tenancies will become the only means of achieving accountability in the way that fixed-term tenancies are granted and renewed.

In this context, we believe that stronger minimum requirements on landlords' tenancy policies are needed to ensure consumer protection, equality, transparency and the accountability of social landlords. It is essential that the process for granting, reviewing and reissuing fixed-term tenancies should be set out in:

- Primary legislation in the case of the types of household who should be offered full security of tenure and fixed terms longer than the statutory minimum; and
- A Statutory Code of Guidance in the case of the circumstances in which tenancies will be issued, reissued and the process for doing so. This should be similar to the Statutory Code of Guidance on Homelessness. It is important that tenants have the ultimate safety net of being able to challenge individual landlord policies and their operation via the courts. For this to be possible, the Localism Bill should require social landlords to 'have regard' to a Statutory Code of Guidance.

Example: If a means test threshold were to be applied by the landlord in deciding whether to reissue a fixed-term tenancy, it is unacceptable that the landlord could decide an arbitrary figure for this threshold at any time, via an amendment to its tenancy policy. This would leave tenants in constant uncertainty over whether the threshold would be set below their financial means and they would subsequently lose their home. It could also lead to a damaging 'postcode lottery' of means-test thresholds, particularly in metropolitan areas. This could result in areas with more generous thresholds seeing an increase in applications for social housing and could therefore kick-start a 'race to the bottom' among social landlords in terms of thresholds. If a means test threshold were to be applied by councils, it should be set in relation to a formula set out in a Statutory Code of Guidance, based on local average or median incomes.

Appeals or complaints against tenancy decisions

We support the proposal that landlord tenancy policies should set out how tenants or prospective tenants can appeal or complain against tenancy decisions. However, we have concerns that the main mechanism for housing association tenants should be their landlord's existing complaints procedure. Landlord complaints procedures are often bureaucratic and paper-based, and often do not provide for comprehensive investigation. Where such procedures are used to as the main source of appeal in cases where the household is at risk of losing its home, there could be human rights implications, specifically in relation to Article 6 of the European Convention on Human Rights, which requires an independent and impartial hearing for matters of civil rights and to Article 8 (right to respect for private and family life and the home).

The Localism Bill (Clause 141: flexible tenancies) sets out clear statutory provisions for local authority landlords on the process to be followed when reviewing, recovering possession of and reviewing decisions to seek possession of flexible tenancies. These provisions will be supported by statutory regulation. We strongly recommend that these important principles are included in the direction on tenure so that it will be equally applicable to housing association landlords reviewing, recovering possession of and reviewing decisions to seek possession of Assured Shorthold Tenancies. This would achieve consistency between the expectations on local authority and housing association landlords.

We would also like to see the both the Localism Bill and the direction on tenure requiring the six months notice of the decision not to grant another tenancy to include within it (in the section informing the tenant of their right to request a review of the landlord's proposal) information that the tenant should have the right to seek independent advice on requesting a review of the landlord's proposal. This could have a similar form of words to that of a Notice to Quit or Notice Seeking Possession.

Needs of vulnerable households

We agree with the expectation that in developing, communicating and implementing their tenancy policies, registered providers will pay particular regard to the needs of more vulnerable tenants and their children, such as tailored interventions where tenancy conditions are not being met and by providing additional support through any complaints or appeals process. However, as already stated above, we would also like to see vulnerable tenants being made aware of their right to seek independent advice and support in seeking a review of the landlord's proposal not to renew the tenancy.

Tackling tenancy fraud

We are concerned that the wording of the direction has been amended from:

- *'The approach should set out how registered providers will make sure that the home continues to be occupied by the tenant they let the home to', to:*

- *'tackling tenancy fraud'.*

We recommend retention of the existing wording. There is no question of unauthorised sub-letting being a 'fraud' in the criminal sense of stealing or obtaining something by deception. Unauthorised sub-letting of a social tenancy is a civil matter only. Assuming there is an actual sub-letting of the whole (not just part) of a property, this has the following consequences:

- It will be a breach of the conditions of the tenancy agreement (which normally prohibit 'sub-letting, assigning or parting with possession'): this will give the landlord a ground for possession (or, in the case of a secure tenancy, will end the secure status).

- If the tenant has left their home for good, or the evidence suggests that they have, then they will lose their statutory protection because the property will no longer be their 'only or principal home'. This means that the landlords can terminate the tenancy by serving a notice to quit (and the court has no discretion to refuse a possession order).

We strongly agree that where a person is no longer occupying a dwelling as their only or principal home, it is very important that landlords take action to recover possession so that the home can be allocated to another household in housing need. However, while it is important that landlords take action to tackle clear-cut cases of abuse, it is also important to remember that tenants may be absent from their homes for legitimate reasons. We would not like to see landlords encouraged to use intrusive

tactics to make tenancy checks, such as hidden CCTV and by allowing private investigators access to personal records not available to the public. Tenants are entitled to the quiet enjoyment of their homes.

Additionally, people may knowingly or unknowingly³⁶ take a sub-let of a social tenancy because they have nowhere else to live. People in this position are very vulnerable to eviction if the landlord seeks possession. We would like any guidance to social landlords to encourage them to take the needs of the sub-tenant into account to ensure that they have reasonable notice and, where appropriate, advice and assistance to find a suitable alternative home.

Preventing unnecessary eviction

We have concerns that the wording of the direction has been changed from:

'They shall develop and provide services that will support tenants to maintain their tenancy and prevent unnecessary evictions', to

'interventions to sustain tenancies and prevent unnecessary evictions'

We recommend retention of the existing wording. If unnecessary eviction is to be adequately prevented, it is extremely important that services, rather than simply interventions, are available to people who may struggle to maintain the tenancy, perhaps because of financial difficulties or lack of support.

Suitable alternative

We would like to see an amendment to the wording on the requirement for tenancy policies to set out:

1.(3)(h) The advice and assistance to tenants on finding alternative accommodation they will give in the event that they decide not to reissue the tenancy.

We would like this to be amended to:

1.(3)(h) The advice and assistance to tenants on finding suitable alternative accommodation they will give in the event that they decide not to reissue the tenancy.

It is very important that accommodation offered is suitable to the needs of the household. The test of suitability could be that contained in the Statutory Code of Guidance on Homelessness.

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

We do not believe that the draft direction sets out the right minimum protections for tenants for the reasons set out below.

We remain opposed to fixed-term tenancies in social housing. The Government has presented no rationale or evidence for setting the statutory minimum fixed term at two years. In fact, when the Prime Minister first announced the policy of introducing fixed term tenancies into social housing, he suggested five to ten years:

'But there is a question mark about whether, in future, should we be asking, actually, when you are given a council home, is it for a fixed period, because maybe in five or

³⁶ In the vast majority of cases, the sub-tenant will not be aware that their landlord is only a tenant themselves - they will assume that they own the dwelling through, possibly through the Right to Buy

*10 years you will be doing a different job and be better paid and you won't need that home, you will be able to go into the private sector.*³⁷

The CLG impact assessment³⁸ assumes that 'the average length of flexible tenancies will be four, five or six years'. It is therefore concerning that the Government is setting the statutory minimum fixed term at just two years. The inadequacy of short fixed terms is recognised by social housing providers and others responding to the Government's consultation on the issue. The CLG's summary of consultation responses states:

*'A large majority of respondents expressed the view that two years would rarely or never be enough for a general needs social tenancy. There was a strong and widely shared sense that two years would represent an inadequate period of stability both for individuals or the community and would create unacceptable administration and void costs for landlords.'*³⁹

The same document cited a tenant respondent as stating:

*'New tenants have usually moved into a council property following years of instability with regard to their housing situation or as a result of traumatic financial experience. A two year fixed term would be scarcely better than the situation they are leaving behind.'*⁴⁰

We believe that the best way to protect against the dangers of tenancies of under five years is through an amendment to the Bill, rather than through the Tenancy Standard. Nevertheless, we welcome the revision to the draft direction, published on 28 July 2011, requiring the regulator to set the Tenancy Standard with a view of achieving, so far as possible, that:

'2.(4)(a) Where registered providers grant general needs tenancies, these are for a minimum fixed term of five years, or exceptionally for a minimum term of no less than two years, in addition to any probationary tenancy period.'

This is clearly an improvement on the original draft direction, which stated that:

'2.(4)(a) Where registered providers grant general needs tenancies, these are for a minimum fixed term of two years, in addition to any probationary period.'

However, we remain convinced that even if their use is limited, tenancies of as little as two years carry substantial risks far outweighing any potential benefits. Not only could two year tenancies undermine households' housing stability, they could significantly weaken the sustainability of communities and lead to the further residualisation of social housing.

Exceptional circumstances for offering fixed-terms of less than five years

Landlord tenancy policies will have to set out *'2.(3)(d) any exceptional circumstances in which they will grant tenancies for a term of less than five years in general needs housing following any probation period'*.

But it is of major concern that neither primary legislation nor the Tenancy Standard seeks to define which 'exceptional circumstances' would be considered appropriate for

³⁷ <http://www.bbc.co.uk/news/uk-politics-10855996>

³⁸ DCLG (January 2011) *Localism Bill: a fairer future for social housing: impact assessment* (page 36)

³⁹ DCLG (February 2011) *Local decisions; next steps towards a fairer future for social housing: summary of responses to consultation* (paragraph 3.24)

⁴⁰ DCLG (February 2011) *Local decisions; next steps towards a fairer future for social housing: summary of responses to consultation* (page 18)

a two year tenancy, or set out criteria against which such circumstances should be considered. We strongly recommend that the criteria against which 'exceptional circumstances' are judged are set out in a Statutory Code of Guidance or, at the very least, in the direction on tenure and regulatory guidance.

Without such guidance, the courts will be reluctant to examine the 'exceptional circumstances' set out in landlords' policy. This would hamper the ability of a potential tenant or tenant panel to challenge the 'exceptional circumstances' set out in their landlord's tenancy policy, or a decision based on these.

This is particularly worrying in the light of the abolition of the TSA and the remaining regulatory role of the HCA being restricted to addressing serious failures of standards. This means there will be no proactive regulation to ensure that two years are being used as the exception rather than the rule. It could allow a situation whereby many tenants were offered fixed-terms of less than five years on the basis that they were people in housing need. Prior to the revised draft directions on tenure there were indications that some social landlords were planning to use the two year minimum for the vast majority of tenancies, despite ministerial statements that they should only be used exceptionally. Given that, we remain concerned that some landlords will consider too broad a set of cases to be "exceptional".

We would like to see the Localism Bill amended in line with the revised draft direction, so that clause 137(1) (tenancy strategies) would require councils to set out in their tenancy strategies the exceptional circumstances in which tenancies of less than five years should be issued. This would ensure councils (rather than individual social landlords) can make a strategic decision about the 'exceptional circumstances' in which shorter fixed-terms should be offered and would have a role in ensuring compliance. It would ensure much more local transparency and accountability.

Needs of vulnerable households - direction for on-going security

We would like to see an amendment to the Localism Bill designed to ensure that certain groups of people who are in need of settled or stable accommodation, and whose situation is unlikely to change, are exempt from the flexible tenancy regime. We promoted an amendment to this effect jointly with Crisis at Lords Committee stage of the Bill, requiring regulations setting out those groups for whom flexible tenancies are not appropriate, and stipulating that among those vulnerable classes must be the over-60s and those with a medical or welfare need for secure accommodation. We envisaged that there would be statutory guidance to assist local authorities in assessing concepts such as long-term illness or disability, and medical or welfare needs, and a local authority would be required to have regard to such guidance in deciding whether a person falls within one of the prescribed groups. We are therefore pleased that the consultation on draft directions to the regulator states that:

'We would expect, and responses to the 'Local Decisions' consultation suggest, that 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.

We are proposing that registered providers' tenancy policies should explain how they will take account of the needs of vulnerable households, including through the provision of tenancies which provide a reasonable degree of stability for those households.'

We strongly support the requirement in the draft direction that landlords' tenancy policies should set out *'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.'

However, we urge the Government to go further and provide within the direction on tenure that certain groups of vulnerable people should continue to be granted full security of tenure. This would be consistent with the results of previous Government consultations and impact assessments:

- In its *Local Decisions* consultation⁴¹, the Government acknowledged that:

'We recognise that the needs of some are likely to remain broadly constant over the long term and social housing (although not necessarily the same social home) to remain permanently the most appropriate form of tenure for them because of the stability and security which it provides. This is likely to be the case particularly for older people and those with a long term illness or disability.'

- In its summary of consultation responses, the CLG recognised that:

*'There was a general agreement amongst respondents about the importance of ensuring that the elderly and those with a long term illness or disability were properly protected.'*⁴²

*"Older people will be unlikely to change their circumstances enough to no longer require rented housing. As a general principle, it would seem right to give those with long term illness or disability a social home for life especially where adaptations are needed" (housing association).*⁴³

- The Impact Assessment of the Localism Bill stated that:

*'It is unlikely that flexible tenancies would be granted to households with ongoing or high support needs, such as elderly tenants (who account for 6 per cent of general needs lettings). Other types of households that might not be granted flexible tenancies might include those that are unable to work due as a result of sickness, disability or being retired. In total these groups accounted for one quarter of all general lettings in 2008-09. Independent research into the characteristics of social tenants has previously found that around a quarter of new general needs lettings go to social tenants whose need for a secure home is likely to be long-term or for the foreseeable future.'*⁴⁴

At the Localism Bill's Commons 3rd Reading, the Minister Andrew Stunnell MP said: *'It will often be appropriate to provide longer—in some instances, lifetime—tenancies. If an elderly lady is offered sheltered accommodation or a bungalow, any sensible landlord will doubtless provide a lifetime tenancy'*. At Commons Committee stage he also said: *'If a bungalow is allocated to a lady of retirement age, it would not be likely that there were any grounds for her having a flexible tenancy'*.

⁴¹ CLG (February 2011) *Local decisions: next steps towards a fairer future for social housing: summary of responses to consultation* (2.50)

⁴² DCLG (February 2011) *Local decisions: next steps towards a fairer future for social housing: summary of responses to consultation* (paragraph 3.33)

⁴³ DCLG (February 2011) *Local decisions: next steps towards a fairer future for social housing: summary of responses to consultation* (page 20)

⁴⁴ DCLG (January 2011) *Localism Bill: a fairer future for social housing: impact assessment* (page 35)

If consultation respondents and the Government believe that flexible tenancies are inappropriate for older people and those with long-term illnesses and disabilities, these groups should be given due protection by the regulatory guidance by requiring landlords to provide them with secure forms of tenure. It cannot be right that in order to tackle the housing crisis the rights of some of the most vulnerable households are crucially undermined.

We see no reason for social landlords to be given flexibility in this matter if it risks not providing adequate protection to people who are vulnerable and likely to remain in need of a secure home. While we may be able to assume that many landlords will grant secure tenancies to such people as a matter of course, it is possible that others will not act as responsibly and if this is the case some of the most vulnerable households will face the constant threat and anguish of the possibility of losing their homes.

It is unnecessary and needlessly bureaucratic for tenants over the age of 60, and those with a long-term medical or welfare need for secure accommodation, to be placed on fixed term tenancies. The well-being of vulnerable groups would be at risk from the regular reviews associated with flexible tenancies. Regular tenancy reviews, and the – perhaps misplaced – fear of losing the home would create anxiety for older people and, for example, those with poor mental and physical health, as well as practical difficulties in providing evidence of need. It would potentially create knock-on costs for support and health budgets.

Jimmy's story

Jimmy is in his late 60s and lives in Yorkshire. He had originally lived in a council home with his wife. However, since his divorce, he had spent 12 years moving from one tenancy to another. He lived in at least five different private rented homes. By the time he was referred to Shelter's Older Persons Project, Jimmy's health was very poor. The short-term nature of his tenancies made Jimmy feel unsettled and this was, in part, deterring him from gaining access to medical services. Shelter assisted Jimmy in making an application for social housing and he was offered a bungalow with a secure tenancy. Having a secure home again has made a huge difference to his life. Knowing that he could stay as long as he wished gave him an incentive to turn his bungalow into a real home. He bought a fridge freezer and the nutritional value of his food improved enormously. Having a stable home also gave him a feeling of independence and he felt more able to take control of his own decisions. This made him feel able to socialise and his confidence greatly improved. He subsequently felt able to address his health and access services: he now receives regular physiotherapy for his mobility and his health is much better.

Probationary tenancies

The draft direction makes clear that for new tenants, a flexible tenancy may be preceded by a probationary tenancy. The Government also wants to ensure that all registered providers have the same level of flexibility on the use of probationary tenancies, as part of encouraging their use for new tenants as standard practice. The draft direction therefore clarifies that private registered providers can extend probationary tenancies to up to 18 months (as local authority landlords can already):

'2.(4)(b) Where registered providers use probationary tenancies, these are for a maximum of 12 months, or a maximum of 18 months where reasons for extending the probationary period have been given and where the tenant has the opportunity to request a review.'

Social landlords, and particularly housing associations, already have considerable flexibility to let on fixed term tenancies, in the form of Assured Shorthold Tenancies, introductory tenancies and family intervention tenancies, and on non-secure or non-assured lettings of temporary accommodation or supported housing. Housing association landlords already have the power to extend probationary periods for tenants where there are ongoing concerns about anti-social behaviour. They can do so without any requirement for a review process, while local authorities must give the tenant the opportunity to request a review if they propose to extend the probationary period on an introductory tenancy from twelve to eighteen months.

We are concerned at the absence of any statutory regulation or tenancy standards governing decisions to end or extend probationary tenancies, or requiring housing associations to convert a probationary Assured Shorthold Tenancy into a fully Assured or non-probationary, fixed-term Assured Shorthold Tenancy when the tenant successfully completes the probationary period. We suggest that such regulation should be introduced.

Renewal of non-probationary, fixed-term tenancies

We also strongly recommend a direction that fixed-term tenancies should not be allowed to run into periodic tenancies. Instead, there should be a regulatory requirement for non-probationary, fixed-term tenancies to be renewed at the expiry of a fixed-term. Without such a requirement, periodic tenancies will result. Tenants could remain in their homes on such an insecure, periodic⁴⁵ basis for many years, with no entitlement to be issued with another fixed-term.

Presumption in favour of renewal of all fixed-term tenancies

It is important that the direction on tenure should ensure that, when carrying out tenancy reviews, reviewing officers shall proceed on the basis of a presumption that a new fixed-term tenancy for a term at least equivalent to the current or previous fixed term should be granted to the tenant.

The changes to social housing proposed in the Localism Bill and the draft direction place a great deal of power in the hands of landlords and leave tenants with limited access to the process which governs the decision over whether they are to lose their home. While a direction on presumption of renewal will not significantly change this rebalancing, it will at least provide some improved safeguards for tenants.

⁴⁵ This will be true in the case of Flexible tenancies provided by local housing authorities, if the landlord has served (i) a notice of intention not to renew six months before the fixed term is due to expire, and (ii) a two month notice seeking possession by or on the final day of the fixed term, then the tenancy would become periodic until a possession order was granted by the court. It will also be true in the case of Assured Shorthold Tenancies granted by private registered providers (housing associations), where the landlord has served a notice of intention not to renew six months before the expiry of the fixed term. Such a periodic tenancy could continue for years.

As things stand, the process tenants will have to undergo when their flexible tenancies come to the end of the fixed term is weighted almost entirely in favour of the landlord. Many tenants will be unaware of what factors are relevant to the landlord's decision and find it difficult to successfully advocate for renewal of a tenancy or struggle to provide proof of need. A direction on presumption in favour of renewal would help to ensure that when this process is being undertaken there is greater protection and clarity for tenants (many of whom will be particularly vulnerable) towards the end of their tenancy.

This can be achieved by placing the onus on the landlord to justify refusing to extend the tenancy rather than expecting the tenant to undergo a potentially complicated reapplication process. We can assume that most landlords will behave in a responsible manner, but it is also important to guard against any behaviour by landlords that has a disproportionate impact on certain types of tenants. There is a risk that landlords would be able to refuse to renew tenancies of residents who are viewed as risky, troublesome or overly demanding.

The direction would guard against this by ensuring that landlords must show 'good reason' not to renew a tenancy. In order to justify a decision not to renew the tenancy, the landlord would have to show that it was in accordance with its own policies, and in the interests of good housing management. The decision would also need to comply with Article 8 of the European Convention on Human Rights, in that it should be proportionate, bearing in mind the personal circumstances of the tenant.

The administration of a brand new bureaucratic system of housing assessments across local authorities is likely to be a significant undertaking and may well lead to mistakes being made. As a result it is vital that tenants have basic protections written into the legislation that would provide for default renewal of the tenancy if landlords either fail to carry out a lawful review or are unable to justify a negative decision.

A direction would help to improve accountability of landlords as they will have to demonstrate greater objectivity and transparency before seeking possession of a tenant's home. Ensuring that landlords provide good reason for taking possession of a property and that these reasons are clearly outlined, would help to ensure that they can be scrutinised and held to account by tenants and other local people.

This issue has been recognised by Ministers. At Commons Committee stage the Minister Andrew Stunnell MP said: *'We expect landlords to discuss housing options with tenants well before the fixed term of their tenancy comes to an end. What needs to be underlined is the fact that, in many cases, we would expect the tenancy to be renewed'*. For the reasons outlined above, we feel it is important that this expectation, in terms of presumption of renewal of tenancy, is written into Bill, rather than left to the variances of landlord policy.

Transfer of existing tenants to affordable rent homes

The draft direction incorporates a requirement 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. This 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:

'2.(4)(d) Registered providers grant those who were social tenants on the day on which section 132 of the Localism Act 2011 comes into force, a tenancy with no less security where they choose to move to another social rented home (this requirement should not apply where tenants choose to move to accommodation let on Affordable Rent terms).'

We are opposed to this part of the draft direction, as it undermines the rights of existing tenants. In some localities, existing tenants seeking a transfer may have little choice but to move to an Affordable Rent home. It may be the only realistic offer available via the landlord's transfer policy or the local housing authority allocation scheme. This will particularly be the case where most of the social housing is let by housing associations who have entered into Affordable Rent contracts with the HCA, committing them to convert a substantial proportion of their existing social rent re-lets to Affordable Rent homes.

The draft direction also risks undermining attempts to free up larger homes and tackle overcrowding because under-occupying Secure or Assured tenants will be unlikely to accept a transfer to a less secure tenancy.

Direction on mutual exchange

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

We strongly support the Government's commitment to increase mobility within social housing and to improving opportunities for tenants who wish to move via mutual exchange and home swap schemes. It is very important that national mobility and mutual exchange schemes must be adequately resourced and easily accessible to tenants.

The draft direction on mutual exchange seeks to build on the existing regulatory requirement for landlords to participate in mobility and mutual exchange schemes where available, and make clearer the expectation that landlords should offer a better mutual exchange service to tenants. This includes requiring registered providers to subscribe to an internet based mutual exchange service which enables tenants to register their details for a mutual exchange and search for reciprocal matches. The intended outcome is that tenants should be able to access easily the details of as many available reciprocal matches as possible, preferably via a national mobility scheme. We would like the direction to go further and require landlords to provide social housing management staff with the resources to liaise with people who might be willing to move, and encourage them to prioritise mutual exchange and mobility scheme moves and be flexible with re-letting timescales ('void turnaround') if this would encourage people to move.

DETR guidance⁴⁶ states that *'staff who specialise in dealing with under-occupiers can play a very important role by spelling out the options, encouraging people to consider different areas or property types, giving confidence, overcoming all the obstacles to a*

⁴⁶ DETR (April 2001) *Managing underoccupation: a guide to good practice in social housing*, paragraphs 1.7.6 to 1.7.7

move, and helping to find the right property. They can also take a proactive role in identifying suitable voids for under-occupiers and in approaching people who have not yet registered an interest in moving. The interviews for this guide showed that tenants appreciate having a single point of contact – someone they can trust who understands their circumstances and aspirations. Landlords with a smaller stock and tenant base might not be able to sustain a full time post, but the job does combine well with other responsibilities – e.g. advising elderly people or dealing with pre-notified voids. In three of the London borough case study areas, each specialist post was facilitating about 50 – 100 moves a year. As with incentive schemes, it is difficult to say how many of these moves would have taken place anyway, or by how much they have been accelerated. However, the cost does compare favourably with new build or renovation schemes, and with the more generous incentive schemes.'

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?

The draft direction on tenant involvement and empowerment seeks to strengthen the ability of tenants to hold their landlords to account. It reflects three key recommendations set out in the Government's review of social housing regulation:

- There should be a clear expectation in regulatory guidance that tenants are able to scrutinise their landlord's performance:

'4(2)(a) Tenants should be given a wide range of opportunities to influence and be involved in:

(i) The formulation of their landlord's housing related policies and priorities

(ii) The making of decisions about how housing related services are delivered, including the setting of service standards

(iii) The scrutiny of their landlord's performance and the making of recommendations to their landlord about how performance might be improved.

(iv) The management of their homes, where applicable, and

(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 of savings made.'

And landlords should provide further opportunities for tenants to take responsibility for managing their homes:

'4(2)(b)(ii) supporting their tenants to exercise their Right to Manage or otherwise exercise housing management functions, where appropriate.'

- Landlords should welcome scrutiny via a Tenant Panel (or equivalent group)::

'4(2)(b)(ii) supporting the formation and activities of tenant panels or equivalent groups and responding in a constructive, timely manner to them'

- There should be a clear obligation on social landlords to provide timely, useful performance information to tenants in order to support effective scrutiny, such as annual performance reports⁴⁷.

We strongly welcome the strengthening of regulatory guidance to increase tenant involvement in, and scrutiny of, their landlords' policies, priorities, standards and performance - as well as providing them with greater scope to manage and maintain their homes. The greater involvement of tenants should help to improve overall standards of service and performance.

However, we have some concerns about tenants being the main means by which social housing is to be regulated:

- Our main concern is the very limited ability for tenants to take enforcement action against landlords, to ensure that the regulatory standards have 'teeth'. At present, the TSA can proactively inspect and monitor performance. Where a landlord is found to be in breach of standards, such as a poor maintenance service, the TSA has a number of enforcement powers, ranging from issuing an enforcement notice to requiring the landlord to transfer the management of its homes to another provider. Tenants will have no such enforcement mechanisms available to them - they would have to call upon the 'backstop' consumer regulation role of the HCA but only in cases of serious failure.
- We are particularly concerned about the ability of tenants to seek redress in individual cases, such as where the landlord refuses to renew an individual tenancy. In such cases, tenants would have to make use of the landlord's internal review or complaints procedure, perhaps with assistance from a Tenant Panel. If they remained dissatisfied with the outcome, they could then request a reinvestigation, which may be carried out by the Tenant Panel. If they still remain unsatisfied, they would need the continued support of the Tenant Panel, or a local MP or councillor, in order to refer the case to the Housing Ombudsman. Without a Statutory Code of Guidance, there would be little scope for alternative or further legal redress via the courts.
- We are concerned about the capacity of tenants to take on the main role in regulating social housing, particularly tenants experiencing multiple disadvantage, social exclusion, support needs or communication difficulties. The review of social housing made it quite clear that there would be *'no binding requirement that panels be established'* and that *'ultimately, should tenants not wish to form panels then this should be their choice'*. We wonder how scrutiny of landlord policy and performance will be achieved in neighbourhoods where tenants simply do not have the resources nor the capacity to carry out a regulatory role.
- Further, we are concerned that Tenant Panels could be unrepresentative, serving only the interests of a minority of tenants, or those living in a particular neighbourhood or estate. The review makes clear that neither legislation nor regulatory guidance will seek to closely define how panels should be constituted. For example, it is possible that tenants who continue to have Secure or Assured tenancies, with much greater rights and a greater stake in their homes, will have more reason and capacity to be involved, when it

⁴⁷ CLG (July 2011) *Implementing social housing reform: directions to the Social Housing Regulator: consultation*, Annex A: Proposed directions, paragraph 4(2)(b)(iii) Tenant involvement and empowerment, page 26

could be those with Flexible or Assured Shorthold tenancies who are in greater need of redress and enforcement action.

- Finally, we are concerned that it may be difficult for individual tenants to turn to Tenant Panels to advocate on their behalf, carry out a review of a landlord's decision or refer their case to the Housing Ombudsman. This will be particularly likely where the case involves very personal information, such as medical conditions, disabilities, personal crime (such as sexual assault) or personal relationships (such as domestic violence). These are not the sort of issues that most of us would be comfortable divulging to, or discussing with, our neighbours or fellow 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?

It will be important that models for involving tenants in repair and maintenance services, such as Tenant Cashback, address the concerns outlined above.

Direction on Rent

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

The Revised Tenancy Standard on rents was published by the TSA on 13 April 2011 in order to enable housing associations to bid for Affordable Rent funding. In our response to the TSA's consultation on the revised standard, we said that Affordable Rent homes do not represent an adequate or sustainable offer for people who find themselves in housing need because they are unable to obtain a secure or affordable home in the market.

The Government is proposing to update the existing direction on rents to reflect the introduction of the new Affordable Rent model. The formula for traditional social rents will remain unchanged. The Government intends that the resulting standard will continue to apply to private registered providers only. The wording is very similar to that already used by the Revised Tenancy Standard on rents. The Government's view is that the draft direction is therefore unlikely to result in material changes to the existing regulatory framework. In particular, the draft direction provides that:

- 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.
- In line with the Housing Minister's statement to Parliament on 9 December 2010, Affordable Rent properties are outside the Government's rent restructuring policy and the social rent formula.
- Affordable Rent properties are subject to separate requirements relating to initial rent setting, annual increases and periodic rebasing as set out in the direction.

We can foresee no technical difficulties between the draft direction on rents and the above-mentioned requirements relating to the Affordable Rent delivery model. However, we believe that, in some areas, Affordable Rented homes may not be of a low enough cost for many households to afford, with regard to local incomes, without dependence on housing benefit. For example, in Inner London, rents at 80 per cent of market rents would not be affordable to many eligible households, determined with regard to local incomes. Research for East

Thames Group⁴⁸ has found that in Newham, 65 per cent of households would be unable to afford a three bedroom home at 80 per cent of market rents.

In our response to the TSA's 2009 consultation on housing regulation⁴⁹, we stated: *'The average income of social housing tenants is around £13,970 per annum. Of course, many social housing tenants have most or all of their rent paid by Housing Benefit. But for those whose incomes place them just above housing benefit thresholds – including those on low pay, and on fixed incomes such as pensioners – even small increases in rents or service charges can have a significant impact on budgets and also on work incentives.'*

The Explanatory Notes to the Welfare Reform Bill⁵⁰ (paragraph 325) state that 'in the short to medium term, housing benefit for social-rented sector tenants (including those who rent properties with the new shorter tenures and affordable rents) will continue to be based on the actual rents, including in the new 'affordable rent' tenure, subject to the new size criteria mentioned above'. This implies that housing benefit may not always be based on the actual Affordable Rent charged.

One of the main advantages of social rents is that they allow people to enter low paid employment without the need to claim housing benefit, or to increase their income without facing benefit withdrawal. Affordable Rents are likely to force an increasing number of tenants into dependency on benefits to pay their rents, as the higher rents would require a much higher employment income for people to cease claiming housing benefit. Because Affordable Rents will be based on local market rents, this will particularly disadvantage households living in areas where market rents are high, which tend to be areas where housing need is greatest.

Research by Family Mosaic Housing Association⁵¹, into the impact of the new Affordable Rent model on new tenants in London and Essex concludes that 'for those tenants receiving benefits, the proposed new affordable housing model creates, or worsens, the poverty trap, acting as an additional disincentive to gain employment'. Of the fifty tenants surveyed, only three (all living in Essex) would be able to afford to pay 80 per cent of market rents and still have 70 per cent of their income to live on. The research for East Thames Group⁵² found that a household of two adults and two children, requiring a three bedroom Affordable Rented property in Newham, would need an annual household income of £43,384 to avoid housing benefit eligibility. Increased dependence on housing benefit increases the welfare bill for the taxpayer. The Family Mosaic research concluded that, at 80 per cent market rent, the yearly housing benefit bill for just fifty properties would increase from £164,060 to £411,372. There will certainly be housing benefit increases associated with social re-lets converted into Affordable Rent. This means that the capital funding savings made

⁴⁸ East Thames Group, Impact of the Affordable Rent Model: Newham (unpublished)

⁴⁹ Shelter (September 2009) *Response to the TSA discussion paper - Building a new regulatory framework*, page 7

⁵⁰ House of Commons (16 February 2011) *Welfare Reform Bill, Explanatory Notes*

⁵¹ Family Mosaic (February 2011) *Mirror, signal, manoeuvre: our drive to provide more social housing*

⁵² East Thames Group, Impact of the Affordable Rent Model: Newham (unpublished)

via Affordable Rented housing could well be lost through higher revenue subsidy in the form of housing benefit payments. We acknowledge that some households moving into Affordable Rented housing may be moving from the more expensive private rented sector and may therefore be able to float off benefits: however, in higher rent areas the difference between the 30th percentile of the local rents and 80% of market rents may be marginal or negative, meaning these moves may not lead to an overall reduction.

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?

We agree with the proposed minor revisions to the existing quality of accommodation direction, which are needed to reflect the fact that the original date for compliance with the Decent Homes Standard (31 December 2010) has now expired.

However we suggest one amendment to the direction on quality of accommodation, as follows:

'6.(1)(3) The Regulator must set the Quality of Accommodation Standard with a view to achieving the following, so far as possible -

(a) that accommodation -

(i) contains no category 1 hazard

(ii) is in a reasonable state of repair and condition

(iii) has reasonably modern facilities and services, and

(iv) includes facilities or services for the provision of a reasonable level of thermal comfort

(b) that accommodation which is at the standard set out in the Decent Homes Guidance is maintained by the registered provider at that standard.'

By requiring the regulator to achieve accommodation that is both in a reasonable state of repair and condition, there will be redress for tenants whose accommodation may be in a good state of repair but contains other risks to health, such as infestations.

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

We think it would be helpful if energy efficiency were to be made more explicit. This could help to address fuel poverty among social tenants.

For further details, contact:

Deborah Garvie

Senior Policy Officer

Shoreline Housing Partnership

Implementing social housing reform: directions to the Social Housing Regulator - Consultation

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 agree that it is reasonable to expect us to consider the needs of individual households, the sustainability of the community, and the efficient use of our housing stock when issuing tenancies.
QUESTION 2 Does the draft direction on tenure set out the right minimum requirements for a registered provider's tenancy policy?	Yes, we agree with the minimum requirements set out for a tenancy policy.
QUESTION 3 Does the draft direction set out the right minimum protections for tenants of registered providers?	We agree with the protections offered for current tenants of registered providers.
QUESTION 4 Do you agree with the principle and detail of our proposed direction on mutual exchange?	Yes, we are in agreement that a national internet-based scheme to facilitate mutual exchange, with appropriate support offered to those unable to access this independently is a positive move.
QUESTION 5 Do you agree with the principle and detail of our proposed revisions to the direction on tenant involvement and empowerment?	In so far as the direction is not restrictive, giving landlords the flexibility to determine, in consultation with tenants, whether they wish to be involved directly in commissioning repairs where this will produce savings, we agree with the principle of the revision.
QUESTION 6 What type of models for involving social housing 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?	Shoreline will await the reports and results from the current pilots with anticipation and will use this information, in consultation with our wider tenant body, to determine the most appropriate model for us given the age and type of our stock.
QUESTION 7 Do the proposed revisions to the rent direction adequately reflect the introduction of Affordable Rents?	Yes.
QUESTION 8 Do you agree with the proposed revisions to the Quality of Accommodation direction to reflect	Yes.

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?	It could be beneficial if the new direction was more explicit in its expectations of engagement with the “Green Deal” arrangements, provided this was not prescriptive nor imposed any cost burden on us.

Dear Sirs

I am writing to comment upon two aspects of the draft directions and my interest arising from my former role as an elected local authority member, housing association chair and housing lawyer.

The two areas where I believe that the directions do not go far enough – although welcome are:

1. Tenant Mobility – whilst it is obviously important for all registered providers to subscribe to a mutual exchange scheme, the Government should move towards persuading providers to have a full-fledged mobility scheme which does not depend upon mutual exchanges. Such a scheme could be along the lines of the former HOMES scheme which was based upon vacancies being made available more widely and enhance the opportunity for people to move particularly for social reasons. Furthermore mutual exchanges are less likely to reduce overcrowding or under-occupation in social housing than a scheme based upon greater freedom to move without the direct swap involved with mutual exchanges.
2. Tenant involvement – the former Housing Corporation had a requirement that tenants should become board members of housing associations owning and managing housing stock. This requirement was deleted by the TSA and this approach has now been reflected in the proposed direction. I consider it essential that there is a mandatory requirement for tenants to have at least one (and ideally more) place(s) on the board of housing associations and to have far greater involvement on local authority decision-making forums.

Hopefully these directions mark a preliminary way forward for further development in the near future.

This email represents my own views rather than those of this firms.

Simon Randall

Sitra

This consultation sets out the Secretary of State's proposals for directions to the Social Housing Regulator to set standards on tenure, mutual exchanges, tenant involvement, rents and quality of accommodation.

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?

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?

In our response to the November 2010 consultation "Local decisions: a fairer future for social housing", we expressed our concerns at its proposals to reduce security of tenure and increase the use of fixed term tenancies. We noted that insecurity and short term tenancies create anxiety for tenants, lack of attachment to neighbourhoods and higher costs for housing managers.

Our members work with vulnerable adults who have in many cases had a long series of temporary and insecure homes. Many will have to move-on from supported housing into short-term assured shorthold tenancies in the private sector. Facing continuing insecurity in the social housing sector too will do nothing to assist recovery and the rebuilding of lives for those with hope of a social housing allocation. All research and experience on the ground in this field confirms that a secure and good quality home is the foundation for working with disadvantaged people to support their recovery and re-engagement in society and their local communities.

We are disappointed that these concerns have not been addressed in the current consultation. While we can hope that social housing landlords will not take up the opportunities to increase tenant insecurity being offered to them, we regret that the Regulator's standards will not support this. We believe that the current wording "to offer and issue the most secure form of tenancy compatible with the purpose of the housing and the sustainability of the community" already offers sufficient flexibility to landlords.

With regard to local policies and use of discretion, as referred to in our previous response, we agree that tenants should be encouraged and supported to hold local authorities and local social housing landlords to account. However it is the case that disadvantaged and socially excluded people are those most likely to be unable to engage in local political debate or decision-making and therefore most reliant on the safeguards of the law and national policy direction.

It is for this reason that we are concerned about the consequences of the proposed weakening of the Regulator's role in what have been classed as

consumer standards, where the Regulator is to intervene only in cases of serious failure.

Mutual exchanges

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

We have no comment on the detail of the proposed scheme but consider that the inclusion of detailed direction on a particular approach to mutual exchanges appears to be unnecessary and out of line with references elsewhere to a focus on top level standards. As the Regulator will have reduced capacity to monitor compliance with standards, we do not believe there is good reason for prioritising this particular subject.

Tenant involvement

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?

We have welcomed the emphasis in the current regulatory framework on co-production and accountability to tenants. We have also noted that traditional, formal mechanisms for involvement, like tenants' panels, have often been unable to involve those with multiple disadvantage, communication difficulties or experience of long term social exclusion.

We acknowledge that valuable work is being done to train and prepare tenants to use panels effectively but would emphasise that a much broader approach to involvement and accountability than is suggested in these proposals is needed to engage vulnerable tenants.

The proposed direction to landlords to provide a wide range of opportunities to their tenants for scrutiny, reports and participation in management is welcome, though this appears to be no real departure from the principles of the current standards. However the narrow focus on the selected mechanisms of tenants' panels and cashback for repairs set out in the proposed directions would appear to us to do little to facilitate the involvement of those with diverse support needs.

Many of our members, especially specialist providers of housing with support or care, have developed a wide range of successful and creative opportunities for involvement and coproduction which suit their tenants. The general principles of the involvement standard can support this and organisations like Sitra, TPAS, TAROE and others continue to encourage innovation and good practice in this area.

While it is for each tenant to choose the way they want to be involved, it appears to us to be unlikely that the two selected mechanisms referred to,

tenants' panels and cashback for repairs, would be taken up by, or be helpful to, many vulnerable or disadvantaged tenants.

As the Regulator will have reduced capacity to monitor compliance with standards, there is no apparent merit in focusing its limited resources on just two of the very many and varied ways that landlords and tenants have developed to work together.

Rents

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

We note that these directions do not constitute any significant change from current requirements.

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?

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

We note that these directions do not constitute any significant change from current requirements.

Six Town Housing

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 welcome the Government's plans regarding private landlords using probationary tenancies and the proposals for greater flexibility over successions.

We feel that social housing should not be seen as a transient form of tenure, but as a valuable form of tenure in its own right; Security and stability should remain the bedrock of social landlord's allocation and tenancy policy framework in order that sustainable communities can be created and maintained. Existing progress of community cohesion strategies could be jeopardised by these proposed tenancy changes and could negate the good work already done in communities to ensure cohesion and sustainability.

We suggest that two years will not offer sufficient time for some new tenants to lay down roots or settle in the community. This is particularly important for new and vulnerable tenants who are forced to move because of adverse circumstances at their previous home.

We are also mindful of the implications moving home can have on individuals, particularly with regard to education and employment opportunities and also of the impact transient populations can have on existing, cohesive communities.

Dependent on the tenant's circumstances, we recommend flexible tenancies are offered for a minimum, ranging from two to five years and such tenancies should include a probationary period, as is the case with introductory tenancies. All of the legal remedies should remain available to deal with any breach of tenancy.

We believe there is potential for the reforms to be undermined by the planned welfare reforms and the shortage of affordable housing.

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

We believe that flexible tenancies should supplement existing measures, rather than replace existing secure and introductory tenancies. The guidance should specify that landlords must take full account of the local strategic policy on tenancies. Other than this, we feel that the tenancy policies should be determined at a local level to allow flexibility.

We believe the Tenancy Standard should adopt such principles that would ensure it does not disadvantage vulnerable groups and ensure consultation with service users is carried out. It should also ensure that there is some commonality within the standard that would allow

comparison of service provision between neighbouring authorities. Furthermore we believe the principals of the standard should be drawn up with regard to the landlord's strategic policy.

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

We believe that housing for older people should be offered as a home for life in a property that meets their needs i.e. an elderly tenant living in a one bedroom property should be guaranteed a lifetime tenancy. This would serve to provide security and certainty, whilst making the best use of housing stock. Whereby an existing secure tenant opts to move to a smaller home, to avoid under-occupancy; or move to a property that better meets their needs we feel that they should be offered a lifetime tenancy.

This principal should also apply where the property has been adapted to meet the needs of a disabled tenant.

Lifetime tenancies should not guarantee rent protection and these tenants should be subject to the new 'affordable' rent.

Tenants who choose to move for any other reason should not be offered another life time home.

Direction on mutual exchange

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

We welcome the proposal for a nationwide home swap scheme.

However, we feel that mutual exchange should be considered on three levels – within the local provider, between providers within the local geography and between any provider nationally.

The support provided to tenants should not just focus on ensuring they have access to an internet based system (eg: provision of the service through access points, etc), but should also consider issues where the use of an internet based service is not appropriate (eg: age, disability, use of English as a first language, etc)

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 principals of tenant involvement and empowerment however we feel due regard should be paid to ensuring certain safeguards are implemented when drawing up the standard.

We are mindful that the issues raised by tenant feedback, in particular complaints, can be viewed in two defined categories as those that arise as

a result of local policy decisions and those that are due to a failure to meet the standards set. We would anticipate that the regulator would make these distinctions when considering issues raised by tenants.

While we continue to support the formation of tenant panels to hold registered providers to account and scrutinise service delivery we recognise this has the potential to promote an adversarial approach. The spirit in which this duty will be discharged is key to its success and as such we feel the use of the terminology 'scrutinise' may not be helpful.

We are mindful that recommendations made by tenant panels to improve performance should be tempered by a clear process to resolve issues around expectations and affordability. Further to this we would anticipate an informed understanding, by the tenant panels as to the service provider's programmed work plans and budgetary constraints.

We welcome the principal of groups that act as "democratic filters" and feel there should be strong links between them and any tenant panel which scrutinises an organisation. .

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 agree with the model for involving social tenants in repair and maintenance services, however we are concerned that guidance should be provided to cover How health and safety and legislative work will be covered; where the liability for this work lies and what processes will be developed to ensure funding is only used for repairs etc..

We are concerned that this may not work for individual tenants, particularly as the annual cost of repairs per property is low once all statutory, emergency and servicing works are taken out. We anticipate this would be more beneficial for tenants this working on a block or estate basis where there is joint buy in by a customer group who are prepared to manage the process on behalf of a number of residents.

We believe tenants should be involved in how repair and maintenance services are procured.

We are following the existing pilot areas and will pick up any learning from them. This will allow us to realise our desire to deliver DIY training for tenants which is designed to help them carry out low level repairs for which they are responsible. We are looking into the possibility of tying this into a pilot for carrying out landlord repairs so we will have to determine the appetite amongst those interested tenants in taking this forward.

The outcome of the trials will inform the development of our plans particularly from a financial point of view which we feel needs more detailed proposals and financial modelling undertaken before we can quantify the cost and benefits of this standard.

Direction on rents

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

We believe that the guarantee of a home for life should not guarantee rent protection and any tenants affected should be subject to the new 'affordable' rent.

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?

Welcome the Quality of Accommodation standard. however we recognise it does not cover work to create decent neighbourhoods as it is expected that this will be the landlords choice through their own Asset Management Strategy. This implies that spend on environmental improvements, for example, will need to be determined locally by the landlords' Boards.

The standard also fails to offer guidance around levels of investment in adaptations to housing stock, which we feel will be a key consideration..

We feel there should be some recognition within the standard as to whether social landlords have the right mix of homes in their communities as well as the quality of the accommodation itself.

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

We feel that energy efficiency could be made more explicit within the standard as the requirements are broad and not very stretching. There should also be a recognition that energy efficiency is beneficial to both tenant and landlord.

We are mindful that If we are to meet the government's overall targets for carbon reduction by 2020 and 2050 then there needs to be a clear direction centrally and a commitment to address this within the landlords' stock portfolios. This in turn would encourage greater collaboration and more innovative approaches being developed within the sector and may attract much needed additional funding or creative financing solutions.

SOCIETY OF ST JAMES

Supported Housing and Intensive Housing Management

Please will you factor into your plans the fact that these directions will cover providers like the Society of St James - a small housing association specialising in supported housing for homeless people and others with support needs. Most of our stock includes Supporting People funding and those that don't provide "intensive housing management" because our residents need a bit of extra help to successfully maintain their housing.

This makes it difficult for us to meet some of your requirements, particularly those relating to tenure and mutual exchange. Concerning tenure, our hostels and shared house use license agreements rather than tenancy agreements, and our flats are let on assured shorthold tenancy agreements (AST's). License agreements are a very insecure form of tenure, evictions can be rapid and do not go through the courts. The reason that we use licenses (and to some extent AST's) is to enable us to take risks to be as inclusive as possible - for example, one of my hostels has 26 beds, 25 of which are currently occupied by injecting drug users, some of whom have a string of violent offences and behavioural problems. It is important that we are able to remove a resident rapidly if they are e.g. bullying and extorting money from other residents. License agreements enable us to do this: if we had to have tenancies then we wouldn't be able to accommodate most of our current residents because the risks would be too high.

In your revised draft direction on tenure 1. (3) (a) you say that we would need a policy setting out "the kinds of tenancies" we will grant. Please would you change this to "the kinds of tenancies/license agreements" or "the tenure arrangements in operation". Alternatively, could you make it clear under (3) that this section only applies to general needs housing. My concern is that the current wording would allow a challenge if we said that we weren't using tenancies but licenses instead. This also refers to para 47 of your consultation document (the current reference to "form of tenure" rather than "tenancy" works better for us).

Concerning mutual exchange, para 58 requires us to "proactively promote the option of mutual exchange to tenants" but, again, I would suggest that you add "of general needs housing" to the end of this phrase. This is because our accommodation is designed to meet the needs of specific groups, so if a resident could engineer a swap with someone who didn't have these needs then the support/intensive housing management that we put into the accommodation would be wasted.

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Soha's Response to DCLG's consultation on directions to the Social Housing Regulator

Introduction

Soha's response to the consultation has been discussed with tenants, staff and Board. It reflects our earlier response to the Local Decisions consultation, along with the changing environment in which we operate.

Our response is supplemented by a response from Soha's Tenants' Forum.

Overview of Soha's position

In general, we appreciate that the revised directions are necessary to implement the Government's Affordable Rents model and the changes to social housing regulation.

We feel the direction on tenure sets out a clear approach for the regulator to set standards to support Government policy changes. We remain concerned about:

- the potential for confusion over fixed term tenancies and differential rents;
- instability for individuals and communities with fixed term tenancies (although we welcome the change to a standard minimum of five years as opposed to two); and
- an increase in costs for landlords in implementing the proposed flexibilities, both short term set up costs and longer term costs (e.g. higher cost voids kept in worse condition by short term tenants, the costs of support and advice).

Overall, we welcome the introduction of a stronger direction on tenant involvement and empowerment and particularly in outlining the role tenants should play in scrutinising services. We suggest that the role could be strengthened further to clarify that co-regulation (with tenants) should be part of governance arrangements and to give scope for scrutiny at a strategic as well as an operational level.

On the other hand, we feel parts of the direction are over-prescriptive (specifically being fairly pointed about the introduction of tenant cashback or similar) and question the fit of this approach with the stated aim of devolving power.

We regret the withdrawal of the TSA from promoting best practice and suggest this would be a more helpful method of disseminating schemes as specific as tenant cashback and tenant panels.

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 feel the direction covers the factors that need to be considered. In particular, we feel the requirement to have regard to the needs of vulnerable tenants and their children is necessary.

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

Yes, overall the right minimum requirements are set out. We continue to have some concerns over the impact of fixed term tenancies on local communities, but welcome the government's changes to the draft direction to make five years the minimum tenancy term and two years possible in exceptional circumstances.

We also welcome the flexibility allowed over probationary tenancies for all registered providers. We see these as a useful tool in helping start sustainable tenancies in a positive way.

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

As outlined above, we continue to have some concerns over the potential impact of fixed term tenancies.

We are pleased at the direction to maintain security of tenure for current tenants in most situations.

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

Yes, Soha subscribes to an internet based mutual exchange service (HomeSwapper) and we support the Government's drive to make mobility easier for social housing tenants.

We have a number of good practice initiatives to support tenants to access the internet (although an increasing number of our tenants do have access at home). These include computers in sheltered scheme communal areas and in our reception area and employing a tenant computer support worker to train and mentor tenants and prospective tenants in using the internet. We have made good partnership links with community internet points, e.g. libraries to support this.

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

Tenant Involvement

Soha is committed to the principle of tenant involvement and empowerment that makes a difference.

We welcome the requirement for the Tenant Involvement standard to include tenant scrutiny in addition to the opportunities in the existing direction.

Soha is one of ten co-regulation champions that is leading the way in empowering tenants to take on this role and are proud of what our tenants have achieved and the difference they are making. We strongly endorse the need for providers to be required to support tenants to develop and implement opportunities for involvement and empowerment. In our experience, training, practical support and mentoring for tenants are all essential for successful co-regulation.

We feel there is the potential for missed opportunities to spell out the level at which co-regulation should operate. We would like to see a requirement for tenant scrutiny at strategic as well as operational level, for example scrutiny of how decisions are made, as well as of performance. However, we feel this must be set out in terms of outcomes. We are pleased that 'tenant panels' are not seen as the only model, but think that the mechanisms through which outcomes are achieved need to be agreed between a landlord and its tenants. Similarly, we agree that tenant groups (panels or otherwise) should not be tied into the role of democratic filter in the complaints process. Again, we feel the implementation of this part of the Localism Bill is best done at local level between tenants and their landlord.

We regret the withdrawal of the TSA from promoting best practice, as this would be the ideal place to showcase initiatives such as tenant panels or other models of co-regulation.

Finally, we feel there could usefully be a requirement for providers and tenants to agree and measure the impact that tenant involvement and empowerment should have.

Involvement in Repairs and Maintenance

With regard to sub-paragraph 4 (2)(a) (v), we have some specific comments.

We welcome tenant involvement across all our services and know that repairs is of utmost importance to most tenants. We already have an excellent track record of involving tenants in the repairs and maintenance services, including involvement in selecting and monitoring contractors.

In terms of the specific direction, we await with interest the results of the tenant cashback pilots. We feel that opportunities for tenants to become involved in repairs are of value, do not agree with extending that in a prescriptive way. We can see the benefits of increasing the skills of tenants to undertake some basic repairs themselves or to access apprenticeships for low cost repairs for instance, but that the Tenant Cashback is too closely tied to savings made when Registered Providers have already made huge inroads through effective and efficient tendering to keep contract performance tight and good value for money.

Further, we have serious concerns about the VfM implications of tenant cashback, including the impact on procuring repairs contractors, the quality of work undertaken independently, the potential for 'job creation' (doing more repairs than necessary) and health and safety issues.

Finally, with reference to sub-paragraph 4(2)(b)(iii), we are proud to have an excellent Annual Report, praised by the NTOs as one of the best 4 in the country and we strongly feel that this is an important tool for accountability to tenants. We would question whether requiring the publication of repairs and maintenance budgets over and above other expenditure will always reflect tenants' priorities. Again, this seems very prescriptive and counter to the overall direction of the government outlined in the consultation introduction which stresses the desire to devolve power. Further, we wonder what value this adds to the existing standard on VfM which already requires priorities and VfM for each service to be communicated clearly.

6 What type of models for involving social tenants in repairs 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 will continue to involve tenants in all areas of the business. Soha was the first housing provider to receive the top rating for resident involvement in a short notice inspection and we are proud of the difference that tenants make.

Tenants are involved in setting standards for all services and in monitoring performance. Specifically for responsive repairs, tenants are heavily involved in procurement of repairs contractors (as they are in other service areas)

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

Yes, we feel this is adequately reflected.

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 agree with the revisions.

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

We feel that the direction is clear enough thanks to the detailed nature of the Decent Homes Standard around energy efficiency.

SOUTH KESTEVAN DISTRICT COUNCIL

IMPLEMENTING SOCIAL HOUSING REFORM: DIRECTIONS TO THE SOCIAL HOUSING REGULATORCONSULTATION

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 includes the relevant factors that we would expect to see in providers' tenancy policies. We have some concerns that a fixed term tenancy does not provide secure accommodation in the medium term and may lead to those tenants "adjusting" their circumstances in order to extend or gain a secure tenancy. Surely the only criteria that will be taken into account is the households ability to pay market rent in the private sector. Effective stock management must surely deal with the historic problem of existing secure tenants under-occupying large properties. The obligation for homelessness advice for tenants coming to the end of a fixed term tenancy will create additional workload and may generate an endless loop of fixed term tenancies. There will need to be greater links between registered providers and statutory homeless functions. The lack of general criteria for when to grant fixed term tenancies will mean that there will be a postcode lottery and no consistency across the country.
Question 2: Does the draft direction on tenure set out the right minimum requirements for a registered provider's tenancy policy?	Yes, it includes the minimum requirements that we would expect to see in providers' tenancy policies. But again, the lack of general criteria for when to grant fixed term tenancies will mean that there will be a postcode lottery and no consistency across the country.
Question 3: Does the draft direction set out the right minimum protections for tenants	Yes, but the confirmation of minimum 2 year fixed + Probationary tenancy may mean that there is not consistency of actual durations of tenancy.

of registered providers?	
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Direction on mutual exchange	
Question 4: Do you agree with the principle and detail of our proposed direction on mutual exchange?	Yes, we agree with the principles outlined which will deliver a standardised approach, countrywide which will benefit the customer.
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, we wholeheartedly support the proposed revisions.
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 are able to attend working groups with the focus on offering a representative and objective assessment of the policies, procedures and service standards used to deliver the service. To review how well the service meets users' expectations and to recommend how the service can be improved. Tenants are also able to monitor the implementation and impact of these changes from the users viewpoint. Tenants are also invited to inspect void properties to ensure they are fit to let.

Direction on rents	
Question 7: Do the proposed revisions to the rent direction adequately reflect the introduction of Affordable Rent?	Whilst the desire to increase the affordable rent up to 80% of market rent will go some way to maximising public subsidy for new housing. There remains some concerns about the customers ability to pay having regard to the squeeze (reduction) on local housing allowances. We also have concerns that by making traditional council housing less secure (fixed term tenancies) and raising rent (Affordable rent), this will have a detrimental effect on the ability to let some older properties.
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 agree with the very basic minimum standards, but “reasonable” will lead to a gulf between what the tenant expects and what registered providers are able to deliver and differing standards across providers.
Question 9: Energy efficiency is implicit in the revisions to the Quality of Accommodation Direction; should we make it more explicit?	The confirmation of no CAT1 hazards in the accommodation standard will have the desired effect as it covers issues around thermal comfort. Increasingly fuel poverty is becoming an issue for many households and this will only get worse as fuel prices increase. Therefore the need for energy efficient homes will be paramount and solar panels should be promoted.

Dear Sir/Madam

Below is the response of South Norfolk Council to the consultation document issued by CLG.

General

South Norfolk Council agrees with most of the content, and supports its introduction in this form. We are responding to 2 specific questions only.

Direction on Tenure

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

No. This section should require the Regulator to ensure that registered providers' tenancy policies have regard to local authorities' Tenancy Strategies. The CLG/HCA publication '2011-15 Affordable Homes Programme' uses this terminology on paragraph 3.19, and we believe it is appropriate to use the Direction on Tenure to ensure that this intention is implemented.

Direction on Quality of Accommodation

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

No. The draft wording refers to state of repair, thermal comfort and the Decent Homes standard. We believe this is sufficient.

Keith Mitchell
Housing Strategy Manager

SOUTH SOMERSET DISTRICT COUNCIL

Implementing social housing reform: directions to the Social Housing Regulator

I am formally responding to the above named consultation on behalf of South Somerset District Council, in my capacity as the Executive Member with the portfolio for Housing. My comments have been informed in part by discussions with the other Somerset district Councils at officer level and I am aware that they are in broad agreement with the thrust of my comments.

The Council understands the general direction that the Housing Minister is currently taking with respect to future provision of affordable housing. The consultation paper sets out this wider context very well and clearly demonstrates why the directions set out in the annex are proposed. This degree of clarity is most welcome and I hope that the Department will be able to issue future consultations with the same thorough approach.

The Council very much welcomes the opportunity to comment at this stage and looks forward to a further opportunity to comment when the regulator consults on its detailed proposals in the light of the formal directions proposed here.

I agree that it is better to rescind all previous directions and issue new directions, albeit with much of the text of the originals remaining. Attempting to amend existing directions piecemeal or issuing new directions which redefine or clarify one or two aspects only is less satisfactory.

I also recognise that, to some extent we should all await the passage of the Localism Bill through Parliament as one should not presume that there will be no further material amendments before enactment. On that point I very much welcome the Housing Minister's letter which announced the subtle, but important, shift from a defined two year minimum tenancy period to an expectation of a five year minimum tenancy period in the majority of cases. That was a very sensible and helpful clarification in the light of the debate occurring during the passage through Parliament.

Throughout the remainder of this response I shall answer the specific consultation questions in order, whilst also commenting on some related points.

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?

It appears to. However I remain troubled by the expectation that tenancies will be for a fixed term at the end of which a new tenancy may, under certain circumstances, be issued. If the intention is to allow the existing tenant and their household to remain under those circumstances then why not issue a

tenancy which can be extended at the behest of the landlord if these circumstances apply? Creating an entirely new tenancy appears to me to be entirely unnecessary and could lead to a number of complications – for example a relatively small amount of rent arrears (which is quite likely if the Government move to monthly benefit payments whilst most social landlords operate weekly tenancies) would technically not be recoverable under a new tenancy.

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

Not entirely. It fails to explicitly state that providers should have regard to the tenancy strategy which is drawn up by the Local Housing Authority or jointly by several neighbouring Authorities acting in concert. Developing such a strategy is an anticipated requirement of the Localism Bill and we have previously been told that providers must have regard to it. It would be logical, therefore, to explicitly state this in the direction. It would also be helpful to explicitly state that providers should review and update their policies from time to time and in doing so should take into account changes in local circumstances.

As previously mentioned, I welcome the clarification from the Minister's letter and accept that the regulation should allow for two year minimum with an expectation of at least five years. This is entirely the correct signal in that flexibility is there for a shorter period, but to be exercised in extremis. There is a danger that same signal could result in the five year period becoming the norm rather than housing providers discussing with their local housing authority what might best work in their local circumstances. We would request, therefore, emphasis on 'five years or more' and the explicit statement of having due regard to relevant local housing authority's tenancy strategy/ies.

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

It is absolutely right that the direction should ensure that existing tenants rights (and reasonable expectations) are not eroded. Whilst this is clearly the intention from the current draft wording I do have a concern that it does not sufficiently allow for all situations. Further it would greatly assist Local Housing Authorities and their social landlord partners if existing tenants could be provided with the same level of security when transferring between social landlords in order, for example, to assist with making best use of the overall available social housing stock. This would require providers to exempt not just their own but also other social tenants from the new provisions when agreeing to a transfer. I see this as a key provision if we are to match stock to need when the personal circumstances of individuals or families change, in particular where this leads to under occupation or over crowding.

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

Yes the principle is one shared by this Council.

It is a matter of some regret that successive Governments have failed to implement a replacement for the previous national mobility scheme of which mutual exchange element is one important part. I would strongly urge the Minister to rethink and consider the case for some pump priming of a new single mobility scheme covering all of England and, preferably, the rest of the UK as well. I see this as an important element of enabling accommodation mobility to match job opportunities for tenants and, perhaps equally importantly, to enable employer's skill requirements to be met through workforce migration.

We should all recognise that IT solutions are never as straightforward as they ought to be and so I agree with the principle of setting out what is required by an IT system. This is akin to agreeing the standard gauge for railways so that any number of independent new railways can link up. Under this analogy I would prefer that the Government pump prime the one new rail network, but agreeing the standard gauge is the best way to ensure that a myriad of emerging systems can interchange information.

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

This Council supports the intention that tenants and other residents (e.g. leaseholders) should have the opportunity to become directly involved in the management and maintenance of their homes. However the phrase "Tenant Panel or equivalent" is open to a lot of interpretation and does not necessarily reflect the plethora of systems of tenant involvement and engagement that already successfully exist. We should recognise that many Housing Associations have tenant board members who can be held to account by the wider tenant membership and build upon that. Other models, such as fully mutual co-operatives, will operate differently and may not have the need to create a new panel in parallel.

I appreciate that the intention is to keep the direction short, succinct and high level. It is not the place to start a commentary on the merits of various forms of tenant participation. I would suggest, therefore, that the direction sets out an expectation that the regulator shall ensure the social landlords operate systems of tenant participation which truly engage with their residents and give opportunities for a greater degree of involvement where individuals or groups wish. Further that the mechanism chosen by each provider should be appropriate for the nature of that landlord and its local circumstances, such as the overall size of the organisation, the geographic spread and the demography of its resident population.

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 recognise the previous attempt to introduce a 'Right to Repair' which was well intentioned but had significant drawbacks including the need for several additional layers of administration. It is very hard to develop a 'one size fits all' system which enables individual residents to bring forward repairs in a timely and cost effective manner without compromising quality and safety issues. I also don't believe that the effect of a potentially piecemeal approach on planned maintenance cycles has been fully taken into account. I am further concerned that an ill thought through scheme will lead to a rise in vulnerable tenants being pressurised into inappropriate works by the less professional end of the trade and an increase in repeat repairs where the work has not been undertaken adequately.

Overall I think it is better to involve tenants in the round – helping to develop programmes of cyclical maintenance and commenting on the approach to procurement and standards of day to day repairs. Innovative solutions should be encouraged and rewarded with good practice widely disseminated. In Oxfordshire the authorities have jointly introduced a Gypsy apprenticeship scheme to enable some of their site residents to receive skills training in a range of disciplines with the aim of using them to provide maintenance on their sites. In some instances it may be that a neighbourhood scheme could be created whereby volunteers would receive appropriate skills training and be accredited to undertake a range of basic repairs and cyclical maintenance tasks receiving a rent reduction in return for undertaking such tasks. This could save on expensive out of hours call outs and incentivise tenants to receive skills training that could also be a springboard to introducing them to future employment opportunities.

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

Yes.

However there is here a missed opportunity to explicitly state what is implicitly obvious – that the social rent (target rent) regime should have a natural limit of 80% prevailing market as does affordable rent.

Currently target rents could continue to rise slightly ahead of inflation and unless the prevailing market does likewise it is possible that social rents could exceed 80%. In South Somerset we already estimate the average social rent on a one bedroom flat to be equivalent to the proposed affordable rent. Whilst affordable rents can technically exceed 80% through formulaic annual uplifts whatever direction the market is taking, this is intended to be rebased between lets. No such adjustment currently exists within the target rent setting regime for social rents.

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 concur that it makes more sense for the expectation to be 'current' but recognise the difficulties experienced by those landlords who are not yet fully compliant. The thrust here should be to ensure that existing properties do not fall below decent homes standard having reached it – that maintenance regimes ensure sufficient renewals over the longer term. This council, and many others, took the difficult decision to transfer all of its stock some time ago (incidentally before the Decent Homes standard was coined but very much to address the same issues) and it would not be fair on authorities such as South Somerset to simply 'bail out' those who have failed to face up to these difficult issues. However the Government could assist those landlords whose stock is not yet fully compliant in other ways, including encouraging partial stock transfers and allowing greater flexibility within the current council housing financial regime. A bland statement that 10% can be met through other efficiencies is not sufficient and is unlikely to elicit a constructive response.

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

Yes. Explicit references to energy efficiency would be welcomed – in that this both tackles climate change and fuel poverty issues

In addition we would question whether minimum acceptable space standards should be explicit. For example there is rumour that standards being developed on behalf of the Mayor of London might be rolled out across the rest of the Country. We would welcome separate consultation on this and the opportunity to comment on which set of space standards work in urban, suburban, rural and very rural environments.

Once again, many thanks for the opportunity to comment at this stage and I hope that you will find the above comments helpful. They are intended to be constructive and my officers and I will be available to discuss any of the above in greater detail if required.

Implementing social housing reform: directions to the Social Housing Regulator.

South Tyneside Council Consultation response

Background:

The Housing and Regeneration Act 2008 gives the Secretary of State for Communities and Local Government certain powers to direct the Social Housing Regulator (currently the Tenant Service Authority but from April 2012, will be the Homes and Communities Agency) to set standards.

The proposed directions are needed to implement planned reforms to social housing and progress towards local challenge and scrutiny. The Secretary of State proposes to direct the Social Housing Regulator to set standards in the following areas:

- Tenure Reform
- Mutual Exchange
- Tenant Involvement
- Rent
- Quality of Accommodation

The consultation paper on the proposed directions was released on 7th July 2011 and closes on 29th September 2011.

This is South Tyneside Council's response to the consultation, which has been informed by the views from South Tyneside Homes who manage the council's housing stock on our behalf.

The consultation requests respondents to answer a number of specific questions; we have addressed these questions in turn.

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 existing tenancy standard which applies to all registered providers requires them to 'offer and issue the most secure form of tenancy compatible with the purpose of the housing and the sustainability of the community'. The new directions state that Registered Providers (RPs) will be asked to consider the needs of individual households, best use of housing stock and the sustainability of the community in deciding which type of tenancy should be offered.

We welcome that the directions specifically identify that the Tenure Standard should aim to ensure RPs consider the needs of individual households and the sustainability of communities. These issues are particularly important considerations when deciding when/how flexible tenancies should be used, as

RPs need to ensure that the use of flexible tenancies does not create concentrated areas of disadvantage.

However, the directions must state that registered providers need to have regard to the Local Housing Authorities Tenancy Strategy which Local Authorities will have a statutory duty to produce as set out in the localism bill. This strategy will set out high level objectives that registered providers should have regard to when formulating their own tenancy management policies, it should help inform RPs decisions on:

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

It is important that the need for RPs to have regard to this strategy is set out in the directions to the social housing regulator.

The directions could be more prescriptive in ensuring that flexible tenancies do not have a negative impact on tenants with certain vulnerabilities, where the lack of security and anxiety of assessment at the end of the term, would impact upon their wellbeing. We welcome the move to 5 years being the minimum length of tenancy following any probationary period except in exceptional circumstances and that RPs need to publish as part of their tenancy policies what they consider constitutes an exceptional circumstance.

The direction could be clearer in explaining flexible tenancies for current tenants who move in to new homes. The localism bill does suggest that a tenant transferring would retain their secure tenancy, but more clarity in the directions would be beneficial, particularly when tenants are transferring between Local Authority Landlords and for mutual exchanges.

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

The direction could also ask housing providers to specify in their policies at what point they will give notice that a fixed term tenancy will not be renewed (6 months is the required period) and similarly, at what stage near the end of the tenancy will an assessment of circumstances take place.

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

The directions are not clear on what the process should be if an RP is not going to renew a tenancy or the process if someone refuses to move out, more clarity on the process in the directions would be beneficial.

The Government proposals state that the rights of existing tenants will not be affected by tenure reform, however this will require a change in practice where a secure tenant wants to exchange with a flexible or assured tenant. Normally, each tenant would take on the other's tenancy by way of assignment but in this situation, new tenancies will be granted and the rights of the secure tenant will not be affected. The directions need to be clearer on protections for tenants who exchange homes.

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

We agree with the directions to promote mutual exchange, particularly through the provision of an internet based service. South Tyneside already uses a computerised system for mutual exchange, in conjunction with five other local authority boroughs in the North East.

However, there could be significant cost implications for RPs if they have to sign up to a number of schemes. Moreover, lots of different schemes could reduce effectiveness as people will only be able to see matched swaps on the site for which they are registered for, where potential swaps may exist, but have registered with different site. One national scheme for mutual exchanges would be the most effective and allow national moves, which could help people move to work.

In addition, it is important that the mutual exchange option is promoted to tenants and they understand the process.

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 directions to give tenants a wide range of opportunities to influence and be involved in the development, management and scrutiny of housing services. We already offer a range of involvement opportunities and we are currently supporting tenants to develop effective tenant scrutiny.

There is a need for clarity over whether it is expected that the proposed Tenants Panels are the same as Tenant Scrutiny Panels, or are seen as a separate group, or if there is to be landlord discretion over whether there are one or two groups.

Tenants panels could play a useful role in providing involvement in housing management and leading to tenants led improvements and could offer a tenants view on other tenants complaints. However, we do not agree that tenants should be prevented by the "Democratic Filter" mechanism from going directly to the ombudsman.

We support the proposed requirement for the Annual Report to be provided to tenants. Tenants of South Tyneside Council will this year receive an Annual Report developed by tenants for 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?

The impact assessment for tenants cash back identifies that schemes where tenants are encouraged to carry out their own repairs or source their own contractors could cost more due to less standardisation and loss of economies for scale and could also lead to poor quality building work that could necessitate extra investment.

Interestingly, the impact assessment states that any scheme should seek to be cost neutral and that some landlords may only be able to offer limited tenant involvement because savings are insufficient to offset the cost of setting up and running the scheme.

There are significant health & safety risks and practicalities associated with managing any scheme that encourage tenants becoming involved in organising repairs to their homes (tenant cashback). For example, who pays when repairs have not been carried out to a safe or satisfactory standard? How can the tenant claim compensation for repairs they have arranged where they do not have receipts or where the work has not been inspected (or where the need for work has not been agreed? What are the safety risks to the tenant if a repair is not completed within a reasonable time and who is responsible? And general concerns over a repair including:

- Quality of repair
- Whether it was carried out by a qualified tradesman
- Whether Health and Safety regulations were adhered to
- Whether contractors were approved and CRB checked.
- Resources required to monitor/post inspect repairs carried out under the scheme
- Costs of repairs, value for money and impact on the HRA (current schedule of rates keeps costs down)
- Resources required by landlords to deal with cash payments to tenants.

As a housing provider, we already actively involve tenants in Service Development Groups for repairs and maintenance so that they have the opportunity to influence policies and procedures and have a say in how that service is run. We would encourage this over the tenant cashback scheme.

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

These directions apply 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?

STH have £72m HCA funding up to 2014/15. At this time we will still have a funding gap of approximately £50m to make all homes decent. An exemption would be required if the proposed revisions are accepted.

Response to the CLG “Implementing social housing reform – Directions to the Social Housing Regulator.

South Yorkshire Network of Tenants and Residents are an informal alliance of Barnsley Federation, RotherFed, Doncaster Federation of Tenants and Residents and tenants and residents from Sheffield.

We firmly believe that by South Yorkshire tenants working together it provides a good opportunity to get our opinions across and to influence what happens in the future. We understand that this is the biggest shake up in social housing in 50 years and it aims to create a fairer system that devolves power from the state to the tenants and residents. As a network, we are in favour of the devolution of power as long as it is managed correctly in line with strict guidelines. A fairer system is always welcomed but we have concerns around the implementation of it and the effect it may have on certain sectors of our communities.

In particular, South Yorkshire Tenants and Residents Network support the continuation of lifetime tenancies. Security of tenure ensures a council house is not just a house but a home. We believe that allowing tenants to have a secure ‘lifetime’ tenancy without stipulations on tenancy period will ensure that communities will be sustainable and will work towards the ‘Big Society’ ethos and the principles of the localism bill.

The following are comments made at a consultation session held on Tuesday 30th August 2011 and at meetings in the four network areas following this workshop.

TENURE

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?

Tenancy needs have to be considered, but any policy also needs to be linked to waiting lists. Some people currently on waiting lists will never get a property.

There is a deepening crisis in housing. Some people, especially the elderly are frightened of losing their home.

There is a lack of social housing – a need to build more. Is land and money available?

People should not be uprooted from their community at the end of a fixed term tenancy.

There should be a national strategy.

Landlords must have a strategy. It needs to be within government guidelines.

It needs to be published. It should accommodate local needs.

Landlords need to have the ability to make the best use of their stock.

What’s right for London is not necessarily right for South Yorkshire. What’s right for a village might not be right for a city.

There is a greater need for social housing in the current economic climate.

Many young people cannot afford to buy as they have done in the past. They should not be denied a home.

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

Security of tenure ensures a council house is not just a house but a home. We believe that allowing tenants to have a secure 'lifetime' tenancy without stipulations on tenancy period will ensure that communities will be sustainable and will work towards the 'Big Society' ethos and the principles of the localism bill.

There should be an automatic extension to a fixed term tenancy, when there have been no problems, and tenants have proved that they are good tenants during the tenancy.

At what point in the fixed term tenancy will tenants be informed that their tenancy is coming to an end? When tenants know that they will have to move within the near future, they are unlikely to care for the property or invest in it. There must be sufficient notice of the end of a tenancy to allow people to find alternative accommodation.

The document does not make clear what is meant by 'a reasonable degree of stability'. Stability for a family with young children would mean that they remained in the same environment throughout the children's education. To move children from school to school would result in fragmented education and insecurity for the children. The result would be increased costs to the educational system.

Proposed changes to benefits are taking away people's right to a home of their choice. Many elderly tenants have paid rent for many years and do not own any part of their home. The amount of rent they have paid could have bought their current home. They should be able to stay in the family home, and have facilities to accommodate family members if they wish to stay with them.

There should be provision of quality housing for people who wish to downsize. There should be a clear definition of what is a priority on housing waiting lists, e.g. is someone suffering from domestic abuse a priority case.

A one bedroom bungalow is not sufficient accommodation for many elderly people. Not enough two bedroom bungalows are available. Any person currently living in a one bedroom bungalow will never be able to move to a larger bungalow.

Tenants' organisations need to campaign about empty properties. This could be something the South Yorkshire Network could consider.

Unemployment increased the need for social housing.

The private rented sector is a business, and tenant rights are often not considered. The current government policy is about supporting businesses.

There is little thought about the quality of life of the majority of tenants.

Social Housing is the number one choice in many European countries. It works well. Why should it not work in the UK?

We should keep probationary tenancies.

There should be clear reasons given about why a tenancy is not renewed at the end of a fixed term.

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

The document does not give enough protection to tenants.

When parents downsize, their children should be given higher priority on housing waiting lists.

When a husband or wife dies, the same tenancy should continue. The surviving partner should not be forced into a new tenancy.

The right of succession should apply to children who give up their home to live with elderly parents in order to care for them.

Priority as to which tenants/applicants can apply for any house should be consistent and how waiting list priorities are set should be clearly explained.

Owner occupiers having their houses repossessed will put them on the homeless register and we need more Social Housing to combat this situation. Landlords should be able to ensure that specially converted houses for disabled people are suitably used. When a disabled relative moves into care, or dies the remaining family members must be offered suitable accommodation.

Scrutiny and Tenant Involvement

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

We are in agreement that tenants should have a strengthened ability to hold landlords to account and that a clear expectation is available for tenants to take the lead in this. A distinction should be drawn between tenant panels and the role of scrutiny.

It is unclear how councillors and MPs fit in with tenant panels and more direction is needed on the process.

Each area seems to be organising their scrutiny in different ways. Is this what is meant to happen? -There should be good, robust national guidelines with landlord's full co operation.

Scrutiny Panels are a good thing and keeps landlords on their toes. How much power has they to enforce their recommendations – this remains to be seen

Tenants should lead and direct the scrutiny process.

Scrutiny is a step beyond the consultation that already exists. It is about influencing and bringing about change for the better.

Scrutiny is not a tick box exercise

Tenant should scrutinise what tenants want, not what landlords dictate.

We want good quality scrutiny with tenants at the heart of it.

The scrutiny process needs to be carefully managed. Poor quality scrutiny could give the process a bad name. Tenants must have the opportunity to develop the appropriate skills.

Being part of a scrutiny panel is a big responsibility, both to other tenants and to the housing provider.

There could be many existing initiatives that could be classed as tenant panels e.g. complaints panels, group involved with ALMOs futures.

The Cash Back Model

What type of models for involving social tenants in repairs and maintenance service are registered providers likely to offer?

The cashback model could be very negative, time consuming and could lead to job losses for workforces. The cashback model is relevant to housing revenue account spend but should not affect owner occupiers.

Due to the limited amount of information on the proposed scheme, the tenants felt it was unclear as to what the scheme actually alludes to. Is it the individual's repairs or a more collective approach that sees whole communities coming together to procure and or sort out their own repairs service? Will individual tenants be permitted to go to a DIY store to fit a new tap and send the bill to the housing provider? How will it affect voids – are they covered in the scheme?

It was therefore difficult to answer this question. There a feeling that any scheme must be well managed and any tenants participating in the scheme fully trained. Is money available to landlords to skill up their tenants and how will liability be determined?

How many tenants might participate?

It is not anticipated that the take up will be vast and on the flip side there is an argument to say that it may destroy communities and cause friction especially when thinking about tenants that have purchased their own properties. You may encounter a scenario where one side of a community has taken up the scheme and the other has not – how comparable will the level of service be?

This all depends on factors such as:

- Age of the tenants
- State of the properties
- Skills of the community
- Level of training
- Area demographics
- Time expected from volunteers
- Retirement age is going up – where will the volunteers come from?
- New flexible tenancies – will people want to get involved if they only have a set amount of time in the property?

What cost or benefits might they result in?

Tenants will have the opportunity to gain new transferable skills and access training which may be used to help seek employment – this is another concern as tenants may take up the scheme just for that purpose. It may save money, as we are all aware that sometimes value for money is not evident in the current system.

It may put people out of work and divide communities. People are stretched enough without the worry of running what is a “tenant management organisation”.

A concern was also raised around who gets any potential profits/savings?

In summary members thought that the scheme was not viable and had concerns about where the money would come from to train tenants up to take an active role in the scheme.

Affordable Rents

Do the proposed revisions to the rent direction adequately reflect the introduction of affordable rent?

Affordable rents are out of reach for some sectors of the community, with the bar of 80% deemed too high. As a result of the new model some communities may suffer, as tenants seek cheaper alternative accommodation pushing up already stretched waiting lists and leaving the “80%” communities for the more affluent.

Social housing is going backwards and the introduction of the so called affordable rents only stigmatises the social housing sector even more.

More houses need to be built that are affordable to all – this only enhances the class divide.

The sense of community will be lost and the chance of actually gaining a social rented property decreased – the rents are unaffordable and unworkable. It is just another tier of bureaucracy that is to be implemented that will push the problem out of London and into areas such as South Yorkshire. Big cities will become unaffordable to those members of society that have a genuine need for housing – hence increasing the demand on social providers.

Members thought the concept unaffordable and unworkable.

In summary, the 36 tenants and residents from South Yorkshire that took part in the consultation session had quite a few concerns over certain aspects around affordable rents and tenure and felt that the information provided could have been more comprehensive.

Andy Kerr (Chair, Doncaster Federation of Tenants and Residents)

Joan Whittaker ((Chair, Barnsley Federation of Tenants and Residents)

Peter Collins (Chair, Rotherham Federation of Tenants and Residents)

SOVEREIGN GROUP

CLG - Implementing social housing reform: Directions to the Social Housing Regulator

1. *Introduction*

Sovereign is a significant and major provider of social housing in the south, owning and managing over 30,000 homes in more than 50 local authorities, with the majority of homes being in the south east.

Sovereign is based on the consolidation of four partners that were originally established as LSVT associations. We retain significant concentrations of stock in our sponsoring authority areas and have strong relationships with our local government colleagues. Sovereign members plan to come together as a single legal entity in October 2011. This will free up resource to focus more on resident scrutiny through seven Regional Panels and an overarching Resident's Council, working alongside a single Management Board.

Sovereign is very supportive of the role of the regulator, and recognises the benefits of regulation to the sector as a whole: in supporting service standards for residents; and in ensuring housing associations are well run and financially viable organisations. Effective regulation benefits the shared reputation of the sector and is instrumental in enabling us to secure the cost-effective funding that delivers more homes for people in need.

2. *General points*

Our overall response to this set of draft directions is that they represent an unexpectedly prescriptive approach from a government that we had understood to be broadly in favour of reducing bureaucracy and state intervention. We note that in a number of areas the directions go beyond the powers granted by the 2008 Act, and that the proposed measures in the Localism Bill may not be sufficient to resolve those areas where the Minister appears to be going beyond his powers.

We believe that, in proposing this degree of prescription, the Minister has fundamentally misunderstood the independent nature of housing associations. We are concerned that the degree of influence and control that is proposed in these directions will exacerbate the risk of challenge to housing associations' independent status. This in turn risks the redefinition of housing association debt and its inclusion in the PSBR.

3. *Response to the Discussion Paper*

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?

Starting from the principle that the Minister should only direct the regulator where it is actually necessary, we would suggest that this direction is inappropriate.

It is unhelpful in that it directs the regulator to establish a standard which is, for practical purposes, already in existence without the need for direction from the Minister. This undermines the principle of regulatory independence

established in the 2008 Act. It is unnecessary in that the regulator, whilst remaining independent, is required to promote the development of new homes, and to cooperate with the HCA in doing so. The recent revision of the tenure standard was a direct and welcome response to the introduction of the Affordable Rent regime, and clearly demonstrates the regulator's willingness and ability to be flexible and responsive in support of the delivery of new homes.

Finally, we would also suggest that the proposed direction is inappropriate in that it does not give sufficient emphasis to community sustainability, choosing instead to prioritise 'the purpose of the housing (and) the needs of individual households'. We believe that the promotion of sustainable communities is actually, in large degree, the purpose of the homes we provide. Although we do not accept that direction on tenure is necessary, we suggest that the Minister's failure to emphasise sustainability is an unfortunate omission.

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

In addition to our view that direction in this area is inappropriate, we believe that the minimum requirements are likely to give rise to difficulties and distractions, without adding any particular value.

Registered Providers are already required to have complaints and appeals procedures, well advertised and open to all tenants. Paragraph 2(3)(e) requires a specific addition to the tenure policy, potentially requiring the RP to explicitly justify each individual letting decision more than once. We question the value of this as a separate exercise. Similarly, 2(3)(f) requires RPs to include specific details of policy on taking account of vulnerable households. The paragraph then goes on to list a series of potential grounds for vulnerability which, so long as social housing continues to be a scarce and 'rationed' resource, captures the overwhelming majority of people we house. Finally, in relation to this area, 2(3)(g), (which requires us to describe the 'advice and assistance' we will give to support tenants to find alternative accommodation) causes us considerable disquiet. The provision of advice and assistance to people either in, or potentially in, housing need is a statutory responsibility of Housing Authorities. Registered Providers are neither qualified nor funded to provide such support. We are deeply concerned that the use of language echoing the provisions relating to Housing Authorities may signal an intention to transfer this responsibility to housing associations. This would be a wholly inappropriate use of the powers to direct the regulation of independent organisations, and suggests a fundamental misunderstanding of the relationship between Registered Providers and the State.

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

Part 4 of the proposed direction sets out the protections for tenants that the Minister intends to impose via the Social Housing Regulator. We preface our remarks on this area by noting that these paragraphs purport to deal with 'fairness' or equity in relation to the exercise of tenure policies. This has been an area traditionally dealt with by the courts, and it is not clear that the

Minister's intervention is required. Nevertheless, we have commented on some of the technical pitfalls created by this proposed intervention in a complex area.

2(4)(c) has the (presumably unintentional) result of potentially disadvantaging transferring tenants, since it effectively robs them of protection, should they choose to transfer to a home let on affordable rent. This would undermine RPs' attempts to attract underoccupiers of large homes into smaller modern homes (which would, of course have been built under the affordable rent regime). It also conflicts with the planned housing benefit policy, as it will make it more difficult for underoccupiers to resolve the punitive sanction of restricting housing benefit payments to underoccupiers. 2(4)(d) also has unintended consequences. It is clearly intended to ensure that tenants who are required to move to facilitate redevelopment of their home should have their security of tenure protected. However, by including the word 'return', it creates a situation where someone being compelled to leave their home due to redevelopment would lose their security of tenure if it was impossible for them to 'return' to the original dwelling. Thus landlords attempting to redevelop, for example, obsolete sheltered schemes or uneconomic flatted estates, would be severely hampered in their negotiations with residents.

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

We believe that the direction on Mutual Exchange is unjustified. The consultation paper offers no evidence of landlords' failure to support their tenants in achieving mutual exchanges, nor of any pent-up demand for 'long distance' mutual exchanges. Indeed, no particular justification is offered for this surprisingly explicit direction on an area of landlord activity that surely falls outside of the intended regulatory focus on financial and governance matters. Indeed, it is difficult to see how this micro management approach could possibly be reconciled with the regulator's Fundamental Objectives (set out in clause 86 of the 2008 Act) 'to regulate in a manner which:

- (a) Minimises interference, and
- (b) Is proportionate, consistent, transparent and accountable.'

Our experience, working across over 50 local authorities in the south and south west of England, is that mutual exchanges are overwhelmingly undertaken over a relatively short distance, enabling tenants to maintain or reinforce the social support networks that are such an important part of our communities. Within Sovereign, 556 mutual exchanges were facilitated in 20010/11 within a population of around 27,000 eligible tenancies, indicating a system that is flourishing and effective without the need for centralised state prescription.

Furthermore, we believe that the detail of the proposed direction indicates a lack of insight into both legal and operational matters that renders the direction potentially damaging to the interests of both landlords and tenants. Firstly, the drafting takes no account of the fact that the legal process of Mutual Exchange is undertaken by the assignment of each existing tenancy, rather than by the creation of a new tenancy; this is also not covered by the

provisions for tenancy policies, leaving an area of uncertainty that could actually undermine landlords' promotion of mutual exchanges. Secondly, 3(2)(b)(i) requires landlords to subscribe to a form of service provider that does not currently exist and may never exist. The subsequent paragraph allows for the alternative of subscribing to a potentially unlimited number of service providers, with no qualification as to the quality of those service providers. Experience of Right to Buy 'agents' suggests that this poor drafting is an invitation to 'bucket shop' mutual exchange agencies, setting up low quality, over-priced internet-based services and then encouraging tenants to appeal against their landlord's failure to subscribe to them. We strongly urge the minister to abandon this direction, which would impose additional costs on housing providers, diverting resources to the detriment of both existing and future tenants.

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

In view of the shift in regulatory focus away from safeguarding tenants' interests, we understand the rationale for strengthening the requirement for tenant involvement and scrutiny, although we note that the 2008 Act does not refer to empowerment. Accordingly, we have no concerns in relation to the majority of this draft direction.

It should also be noted that we have no concerns about the requirement to involve tenants in the commissioning of repairs and, in fact, we have involved residents in developing specifications and appointing contractors for many years, without the need for either regulation or ministerial direction. Additionally, groups of residents have been involved in 'taking over' the types of services to shared areas (such as gardening and cleaning) that normally attract localised service charges. Clearly, in such cases, service charges are reduced to reflect their commitment.

However, we do have real concerns about the implications of 4(2)(a)(v), which appears to be aimed at requiring housing providers to pay tenants for procuring or delivering repairs to their own homes. We believe that the introduction of a ministerial direction in relation to the detail of service delivery, based on no evidence of demand and apparently poor understanding of the practicalities is wholly inappropriate.

This direction appears to be based on an incomplete understanding of the relationship between landlord and tenant. It is fundamental to that relationship that the landlord remains responsible for maintaining the fabric of the dwelling, as well as certain other elements, such as the systems for heating, drainage and supplying potable water. Since it is not legally possible for the landlord to contract out of this responsibility (or the associated responsibilities in relation to the health and safety of contractors and sub contractors) we cannot envisage any scheme to comply with this draft direction that would not require a degree of duplication and bureaucracy, which would potentially eclipse any benefits to either landlord or tenant. Furthermore, this proposal risks additional bureaucracy and confusion for those longstanding tenants who already undertake minor repairs. If these arrangements were to be expanded or formalised, the landlord would be required to intrude into homes where tenants have demonstrated just the kind of self reliance that we understand to be a policy objective of this

government.

Secondly, the direction directly undermines the principle of pooling the costs of services in social housing. It is easy to envisage a situation where the tenants of an estate with low maintenance costs decided to 'opt out' of the maintenance service. Assuming that the costs savings were not wiped out by additional management costs, this group of tenants would benefit as individuals and as a group. However, removing this low maintenance estate from the 'pool' of the landlord's maintenance costs would tend to increase the average unit costs for the remaining stock. This would be damaging to the landlord's ability to invest in long term maintenance projects, services or new homes; all important factors in the continued viability of the construction industry.

Finally, we would again suggest that this proposal appears to have no evidence of demand from residents to support it. In fact, the extremely low take up of the Right to Repair for council tenants (and for Protected Assured tenants of LSVT landlords), suggests that there is no demand from tenants to engage with bureaucratic schemes for controlling their own maintenance services.

Q. 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 outlined above some of the ways that we currently involve our residents in repair and maintenance services.

In the absence of any evidence of demand, we believe that 'cashback' schemes could simply be a distraction. However, we understand that pilot schemes are in the process of being delivered, and we look forward to seeing the results of these trials. Should they prove positive and practical, we will be happy to discuss with our residents whether they might be appropriate for Sovereign.

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

We are broadly satisfied with this proposed approach and welcome the open ended nature of this draft direction.

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?

We have no difficulties with this draft direction. The continuation of the regulator's ability to take a 'reasonable' approach is a practical and pragmatic inclusion.

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

We believe that the very specific SAP targets embodied within the Decent Homes Standard are sufficiently explicit in promoting energy efficiency. We understand the desire to use this direction to 'send a message' about energy efficiency. However, we do not believe that this is an appropriate medium for

that message. We would emphasise our view that Ministerial Directions should be made only where necessary and should avoid excessive prescription.

STOCKPORT COUNCIL

Re: Response to 'implementing social housing reform: directions to the Social Housing Regulator' – Consultation.

This is a joint response between Stockport Council and Stockport Homes Ltd (ALMO) to the consultation paper on implementing social Housing Reform. Responses to the specific questions are detailed below:

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?

Answer 1: Yes. The relevant factors for consideration are clearly set out. The Council welcomes the principle of flexibility but considers that it is being given insufficient control over how its tenancy strategy is enforced. Registered providers must 'have regard to' the Council's tenancy strategy but are not required to adhere to it. This would better reflect the localism agenda by giving local people and their representatives more control over the sustainability of neighbourhoods.

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

Answer 2: Yes. The minimum requirements are clearly set out, but as per question 1, we recommend that registered providers are required to adhere to the Council's tenancy strategy.

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

Answer 3: No. The minimum protections for tenants are clearly outlined and we welcome the Government's decision to provide five years' protection in most cases, rather than two. We also support the emphasis on making best use of the stock and providing opportunities for those in housing need to be rehoused more quickly. However, we want to build sustainable, mixed communities and there is a risk that the widespread use of fixed term tenancies, alongside current welfare benefit reforms, could significantly reduce the number of economically active people living in these neighbourhoods and reverse the positive work we have done to make them viable communities where people choose to live.

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

Answer 4: Yes. We would ask, however, for the practical implementation of this not to be expensive or difficult to deliver.

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

Answer 5: No. Stockport Homes is a leader in the field of customer involvement and empowerment and has already either introduced or explored the viability of introducing the initiatives which the Government envisaged in setting this standard. We also accept that the direction needs to be in place in order for these initiatives to be regulated. Both the Council and ALMO have concerns, however, about how the Tenant Cashback scheme will work – particularly in relation to the quality of work carried out and future liabilities.

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?

Answer 6: We think it is too early for providers to be able to answer this question reliably.

Question 7: Do the proposed revisions to the rent direction adequately reflect the introduction of 'affordable rent'?

Answer 7: No. The Council has concerns about the potential variance (both as a result of market flux and differing assessments) in the calculation of market rents. It is unclear whether or how it could be linked to full market value based on the LHA market valuation. It is also unclear how, if the standard is only to apply to private registered providers, developing Councils under the new affordable rents programme will have their rents controlled.

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?

Answer 8: Yes.

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

Answer 9: Yes. We suggest you refer to codes of practise in appendices so they can be updated as standards rise. There is also the potential to refer to the EU 2020 and 2050 target, unless this is considered to be burdensome in terms of reporting.

If you require any further information, please contact Andy Kippax on 0161 474 4319 or andy.kippax@stockport.gov.uk

Yours Faithfully,

Andy Kippax, Senior Manager – Strategic Housing

STONEWALL

0. Introduction

0.1 Stonewall Housing exists to provide advocacy, advice and housing support, and to influence housing policy and practice, in order to improve the lives of lesbians, gay men, bisexual and transgender (LGBT) people.

0.2 Stonewall Housing recommends that the priority of landlords should be to offer tenants as much security of tenure as possible at a rent that is truly 'affordable' and not affordable in name only. Stonewall Housing is also concerned about the move towards proactive economic regulation and only introducing enforcement powers for consumer regulation when there is 'serious detriment'. More clarity is needed about the definition of this clause and trusts that detriment will not be measured by scale of numbers alone.

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?

1.1 Stonewall Housing is concerned that the directions aim to improve flexibility and freedom for registered providers at the expense of security and affordability for tenants during a time when many are facing high unemployment and reduced housing options due to other proposals to cap benefits and change Housing Benefit and Local Housing Allowance.

1.2 Stonewall Housing believes that the key principle of the direction should be to encourage maximum security of tenure which will promote sustainable communities. Shorter tenancies may lead to people investing less within a community where they do not expect to live for a significant period of time. This seems to contradict the Coalition Government's efforts to build a Big Society and may lead to more antisocial behaviour, costing local authorities more to manage.

1.3 Stonewall Housing believes there is also a danger that communities will be created along income lines if rents are set at affordable rent levels which may exclude a number of residents who cannot afford 80% of market rents in some areas, further dividing society on socio-economic grounds.

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

2.1 Stonewall Housing believes that tenancy policies should recognise the needs of those who belong to groups with protected characteristics. Stonewall Housing receives nearly 1,500 calls a year to their housing advice services and 2/3 state that their housing problem is directly related to their sexual orientation or gender identity. Some LGBT people may not complain directly to their housing provider if they have to disclose personal information or fear homophobic or transphobic reactions or they feel the provider fails to understand their situation. Rather LGBT people often approach LGBT

voluntary and community groups such as Stonewall Housing for support in making a complaint to a registered provider.

2.2 Stonewall Housing is concerned that the drive to enhance the role of elected councillors, MPs and tenant panels will not simplify the complaints process for LGBT people, who may be fearful about divulging personal information about themselves to other tenants or politicians who are not LGBT-friendly.

2.3 Stonewall Housing questions the restriction within the direction to expect providers to pay regard to 'vulnerable tenants'. Rather the direction should expect registered providers to pay regard to all residents, particularly those from protected characteristic groups. Alternatively, a definition of vulnerability may be required which should recognise that people can be in situations that make them more vulnerable, for example, if they are experiencing harassment or domestic abuse. Any definition should prevent stigmatising of those classed as vulnerable.

2.4 Stonewall Housing recommends that all providers engage with all groups when drafting their tenancy policies. Voluntary and community agencies could be involved in the development and review of such policies. However, such groups may need further investment if they are to be tasked with engaging with communities which providers find difficult to communicate with.

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

3.1 As mentioned in 2.2 Stonewall Housing suggests that the direction should include a definition of vulnerability and that tenancy policies offer the longest terms of tenancy to all tenants. 40% of callers to Stonewall Housing's advice services call about experiencing homophobic or transphobic harassment or violence and a further third call about domestic abuse. The minimum guarantee of a 2-year tenancy would mean that LGBT people who are fortunate to find safe accommodation may only expect to reside there for about one year before they begin searching for another safe alternative, which will impact negatively on their mental health.

3.2 Stonewall Housing believes that registered providers should have robust policies against homophobic and transphobic harassment. Probationary tenancies should include clauses about the consequences of homophobic or transphobic harassment. However, providers should be made aware that this is not the only approach to reduce harassment. Providers also need to include LGBT staff and tenants in management of services and celebrate diversity. For this to happen, providers need to monitor the sexual orientation and gender identity of tenants and staff, which should only be introduced following the introduction of robust confidentiality policies and a concerted campaign to explain the purpose of such monitoring.

3.3 Stonewall Housing believes that advice and assistance should be offered to all tenants throughout the life of their tenancies not just prior to the expiry

date of the tenancy since many may experience issues that require support and advocacy. For LGBT people this advice and assistance may best be provided by voluntary agencies who have experience in advocating for their communities since many LGBT people may fear a negative reaction from mainstream services.

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

4.1 Stonewall Housing is concerned that the mutual exchange scheme is internet based. A significant minority of people cannot use, or have poor access to, the internet; therefore there should be an alternative to the internet based scheme rather than simply assistance to access it, since such an approach may not foster independence.

4.2 Stonewall Housing recommends that tenants should be involved in the selection of mutual exchange services from the outset and such services should give information relevant to applicants (for example, how they engage with all residents, what support groups operate in the area and records of hate crime incidents and how these are managed) and allow for urgent moves for those that need to move for safety reasons following incidents of homophobia, transphobia or domestic abuse.

4.3 Stonewall Housing believes that the direction should encourage providers to seek the support of voluntary and community groups who are often best placed to support people who may not approach other organisations.

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

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?

5.1 Stonewall Housing believes that all tenants should be supported to scrutinise registered providers' performance. People with protected characteristics, such as LGBT people, may need specific engagement opportunities to enable them to scrutinise effectively since many may not feel comfortable discussing issues specific to sexual orientation or gender identity for fear of homophobia or transphobia from staff or other tenants.

5.2 Stonewall Housing recommends that tenant panels receive the training needed to make them aware of issues faced by people with protected characteristics so they can represent all tenants. Alternatively, specific groups could be set up for LGBT tenants to gather to share experiences and challenge the performances of a number of registered providers, or panels should be required to have mixed representation.

5.3 Stonewall Housing recommends that for providers' performance information to be useful to tenants, such information should include equality

considerations. This also applies to information about repairs and maintenance, since the success of local repair schemes should be measured on the satisfaction ratings of all tenants and not simply on monetary value.

5.4 Stonewall Housing requires more information about the Tenant Cashback model before giving agreement. Stonewall Housing would need assurances that standards would be maintained and that all those involved in maintenance work received training in awareness of issues faced by people with protected characteristics. This also opens up management issues which would need to be incorporated before the model would work. For example, it would be unsafe for tenants to carry out repairs for LGBT neighbours who were nervous about disclosing their sexual orientation or gender identity to others. How would the safety of LGBT people be assured if they needed to make a complaint about homophobic or transphobic comments or abuse from a contractor and how would such dissatisfaction be measured and dealt with?

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

7.1 Stonewall Housing is concerned about the definition of affordable rent. Many LGBT people, especially in high rent areas, may have limited options of safe accommodation because affordable rents will be based on 80% of the market value. Stonewall Housing is concerned that these proposals may see LGBT people, who are fleeing harassment or abuse, more at risk of homelessness and unable to afford safer accommodation. Many will be forced to move away from the community networks which they rely on in the absence of 'traditional' financial and emotional support.

7.2 Stonewall Housing is concerned that such 'affordable' rents may apply to those in temporary accommodation or in receipt of support. It is already difficult to find resettlement accommodation for our supported housing clients and tenants may have to supplement their housing benefit payments, leaving LGBT people open to exploitation especially if they engage in sex work.

7.3 Stonewall Housing believes that Affordable Rent Standards need to recognise the hardship that may be experienced because of other government proposals, such as the proposed total cap to benefits, caps to Local Housing Allowance and restricting eligibility for under 35s to the Shared Room Rate meaning many will be asked to pay much higher rents with far less income.

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?

8.1 Stonewall Housing would hope that providers would aim to meet decent home standards in all properties and suggests that local authorities who have a backlog of work should be given the investment needed to improve standards rather than expect tenants in those areas to reside in substandard accommodation. More detail is required about when temporary exemptions will be granted for specific properties.

8.2 Stonewall Housing suggests that the Quality of Accommodation direction should also include reference to shared spaces and communal areas to ensure they are safe for all tenants to use.

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

9.1 Stonewall Housing believes that overarching principles such as environmental and equality issues should be much more explicit in the direction so providers are clear about their responsibilities.

STRATFORD-ON-AVON DISTRICT COUNCIL

Response to Government consultation paper 'Implementing social housing reform: directions to the regulator'.

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?

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

Response to question 1 and 2:

We are in support of many of the requirements of the draft direction on tenure. It is agreed that the regulator should direct RPs to publish clear policies outlining their approach to tenancy management and in particular welcome confirmation that RPs should publish clear policies outlining the interventions they will make to sustain tenancies and prevent unnecessary evictions, therefore reducing the necessity for local authorities to intervene to assist households.

It is also agreed that RPs should set out how tenants can appeal or complain against tenancy decisions.

We would suggest that because of the significance of the relationship between local authorities and RPs, this section should include reference to the Local Authority tenancy strategies, this should be amended to ensure that RPs consider the Tenancy Strategy when deciding what tenancies they should offer and issue. We accept that this will be challenging for larger RPs operating over wider geographical areas.

Given the creation of additional and welcome flexibility through the move from tenancies for life it is important to consider balancing this through the requirement for RPs to have regard to housing options, which is noted. However it seems appropriate given the wealth of expertise in local authorities that working with the local authority to do this be explicit, when a tenancy ends.

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

Response:

Whilst in some respects Affordable Rent offers opportunities, we have concerns about the impact of the implementation locally and understand that this is outside the scope of this consultation.

In respect of flexible tenancies. There is a significant risk that after a period of five years expires a household could present in a manner almost identical to an earlier homelessness presentation, be accepted as homeless (again) and offered a further flexible tenancy. Work needs to be done to craft a regulatory system through which we discourage wasteful activity of this nature.

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

Response:

Tenants achieving higher levels of geographic mobility through greater access to mutual exchange is welcome. Support other than for those who do not have access to the internet is not mentioned specifically and should be emphasised as in some cases achieving relocation will be an effective housing option that opens wider opportunities.

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?

Response to question 5 and 6:

Greater tenant involvement in the management of their homes is welcome and will no doubt continue to improve RP's performance and tenant satisfaction.

In respect of the Tenancy Cash back scheme, this scheme may realise savings for the landlord, for the individual household or community groups. There are however concerns regarding the implementation of such a scheme in terms of health and safety issues, wasteful activity and duplication of work, quality and consistency may be difficult to monitor and remedial work may be necessitated. The pilots will no doubt highlight areas of this initiative that need further development.

It is our understanding that RPs tender very effectively for maintenance contracts and it is hard to see how it will be possible to achieve higher standards where unit costs are lower, however it is conceivable that this is possible.

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

Response:

This appears to be in line with previous guidance on the Affordable Rent tenure. Whilst we imagine a number of local challenges will be encountered with Affordable Rent properties they are unlikely to be insurmountable. Adjustments to the formula for increases in Affordable Rent level may need to be considered to ensure that Affordable Rent remains fixed below market rents in housing markets where other reforms including the introduction of Local Housing Allowance changes and general market conditions may result in falling market rents.

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:

Reinforcing the importance of the HHSRS is welcome and whilst the mechanism is complex, the removal of category 1 hazards has clearly demonstrable impacts on the health and wellbeing of the residents and their visitors, potential benefits to health and adult social care authorities.

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

Response:

It is unlikely that energy costs will fall and therefore it is also unlikely that levels of fuel poverty, excess winter deaths, SAP ratings and carbon emissions will reduce without clear expectations in respect of energy efficiency. Whilst the HHSRS deals with thermal comfort, it does not specifically dictate high standards of energy efficiency. RPs are well placed to exploit solar and both ground and air source technology and coupled to a minimum SAP rating this could significantly reduce carbon emissions and fuel poverty.

Responses from Stroud District Council to Consultation Document – “Implementing social housing reform: directions to the Social Housing Regulator”

Question	Response
Q1. 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 Council supports the principles contained in the draft direction but there should be clarification that a lifetime tenancy can be provided.
Q2 Does the draft direction on tenure set out the right minimum requirements for a registered provider’s tenancy policy?	The Council supports transparency of information for existing and prospective tenants and already publishes its policies. The Government needs to establish the statutory provisions for appeals as soon as possible to facilitate a review of existing policies.
Q3. Does the draft direction set out the right minimum protections for tenants of registered providers?	The Council welcomes the Government’s reappraisal of the minimum term which will now be for 5 years (effectively 6 including the one year introductory tenancy). The Council would not support any proposals to make such tenancies mandatory rather than discretionary as proposed.
Q4. Do you agree with the principle and detail of our proposed direction on mutual exchange?	Agree with both principle and detail.
Q5. Do you agree with the principle and details of our proposed revisions to the direction on tenant involvement and empowerment?	The Council agrees with the greater recognition of tenants as scrutinisers of performance and service delivery and the recognition that tenant panels will not necessarily fulfil the function of designated person for the referral of complaints to the Ombudsman. Given the general apathy of tenants to an annual report, it would be preferable for there to be a requirement to make performance information available throughout the year using a range of media (internet, newsletters etc) rather than having to produce an annual report.
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?	There are currently too many unknown factors for Stroud to give an opinion or assessment on this issue. We await the outcome of the current pilot schemes and will review the options at that time.
Q7. Do the proposed revisions to the rent direction adequately reflect the introduction of affordable rent?	The provisions do adequately reflect the introduction of affordable rent.

Sutton Housing Society

Response to Government directions to the Regulator over housing standards

This submission in response to the consultation paper dated July 2011 is from Sutton Housing Society. We are a small RSL based in Sutton, South London.

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 requirement for 'the most secure' form is 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?

Most RSLs 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. Encouraging and facilitating tenants to exchange homes where they choose and want to do so is clearly 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.

If introduced, the regulatory requirements should have no impact on this RSL since we already subscribe to the national Homeswapper system and already help tenants with their applications and enquiries. We believe that this is best left to RSLs 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. The level of tenant involvement already achieved by many RSLs which have tenants on Boards or Management Committees means there are already opportunities for tenants who wish to become involved in this level of detail to do so.

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, the scheme may provide rogue tradesmen an opportunity to make money from and exploit vulnerable people.

The standard of contractors, skills and insurance requirements is unlikely to be achieved by tenants. Most tenants will have little or no technical or regulatory expertise or knowledge of their buildings.

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. 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?

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. In addition some reinvestment programmes may be deferred for sound business reasons. The effect on tenants of a delay to a programme is likely to be minimal or, if the repair is significant tenants will still have recourse to the fitness standards from the 2004 Housing Act.

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.

**Chris Turton
Chief Executive
Sutton Housing Society Ltd
27.9.2011**

SWAN HOUSING
Communities and Local Government Consultation Paper

Implementing Social Housing Reform: Directions to the Social Housing
Regulator – September 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?

Answer: We feel the proposals give sufficient guidance on what should be included in landlords' tenancy policies including setting out the requirement that they should be easily accessible which we welcome. If anything our view is that the guidance is perhaps too prescriptive in line with the move towards co-regulation and greater scrutiny of landlords' performance and policies by residents.

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

Answer: We are pleased to note that the new general minimum tenancy term has been increased to 5 years. We have a clear commitment as a development partner of the Homes and Communities Agency to strive to regenerate mixed sustainable communities. Local residents becoming involved in community activities and the work of housing providers is key to achieving this. Having a stable home and being able to settle in a particular area is important to achieving this.

The allowance to extend probationary tenancies to 18 months is welcome as is the clear commitment that current social housing tenants should retain their current security.

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

Answer: We would like to see maximum protection for existing tenants of social rented housing. In the areas that we work there is high demand for new housing and in some boroughs exceptionally large numbers of local residents including existing tenants waiting to be re-housed. The current proposals do not transfer security of tenure rights if a tenant moves to accommodation let on affordable rent terms. We feel this is a potential problem in order to achieve the sustainable communities on large new build developments that we would like to see. In some areas this approach may well exclude long term existing social housing residents to the new build housing that Registered Providers produce. With the requirement under the National Affordable Housing Programme for Registered Providers to release some empty homes to the new 'affordable rent' terms this potentially will make the situation even more difficult if some Registered Providers choose to work to the proposals as they currently stand.

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

Answer: As current members of Homeswapper with a clear commitment to promoting and assisting residents to achieve mutual exchanges we support the proposal set out in the draft directions.

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

Answer: As we have already launched our revised Resident Scrutiny Framework we support continued tenant involvement and empowerment including scrutiny of Registered Providers' performance. We support the provision of useful performance information to residents through a variety of means in order to support effective scrutiny and demonstrate how landlords compare with each other.

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?

Answer: We currently have clear resident involvement in our repairs service with a Resident Quality Panel scrutinising the work that we do. We support any opportunities that assist residents in commissioning and carrying out repairs. However we feel that the key point in regard to this section is value for money. Any schemes that are developed by Registered Providers must result in improved services, improved choice for residents but at the same time ensuring value for money. We would not wish to see a direction to adjust the Regulatory Standard that could increase Registered Providers' costs by having to develop a scheme that may only be accessed by a small number of residents depending on the area in which residents live and their particular circumstances. We think at this stage it is difficult to say how many residents may participate in such a scheme. We will seek to work in partnership with either other Registered Providers and the National Housing Federation to develop schemes that are cost effective and fully reflect what residents would like to see.

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

Answer: As an HCA development partner we feel the proposed guidance is sufficient to enable us to set rents under the new 'affordable rent' terms for both new build housing and empty homes as set out in the development delivery agreement.

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?

Answer: We would support the proposals as set out in the draft directions.

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

Answer: I think at this stage our view would be that further detailed directions are not required. Registered Providers have an obligation to meet current good practice and to work with their Boards and residents to achieve this. This should include ensuring that both new and existing homes are as energy efficient as possible in line with both new initiatives and obtaining best value for money for capital investments.

Implementing social housing reform: directions to the **Social Housing Regulator consultation**

RESPONSE FROM SYMPHONY HOUSING GROUP

Introduction

This response to *Implementing social housing reform: directions to the Social Housing Regulator* is made on behalf of Symphony Housing Group.

Symphony Housing Group

Contour Housing Group and Vicinity Housing Group came together via an amalgamation of two parent bodies into the formation of one new parent entity in April 2011; Symphony Housing Group. The new Group is firmly committed to the provision of strong accessible neighbourhood services to customers and local accountability through local governance arrangements which are enshrined in the federated structure within which we operate.

Symphony Housing Group is pleased that this consultation is being carried out, and pleased to be able to take part.

Before answering the specific questions posed in the consultation document, we would like to point out the need to use consistent terminology when referring to housing associations. Terms such as social landlords, landlords, providers, private registered providers, registered providers and housing associations are used throughout the consultation document, leading to a lack of clarity as to which Direction covers which type of organisation. The document talks about the continuation of “proactive economic regulation of housing associations” (see page 12, para 13) which implies that Standard 6 will not in future cover profit organisations.

This also links to a more general point that the National Housing Federation has made about the risk that exists of compromising the non-public status of housing associations. We support their concerns and ask for clarity in this area.

Question1

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 on Tenure is reasonably clear. What we feel is unclear still is how this will fit into the Local Council's Tenancy Strategy and how RP's are to be included/consulted in drawing up this strategy.

We have some concerns about how appeals against tenancy decisions would work in practice, e.g. should the tenant be able to remain in their home until an appeal was heard about ending their tenancy.

We welcome the recent clarity regarding the minimum tenancy term of five years, and feel that this is much fairer and more workable.

Question 2

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

Yes the direction appears to offer and accommodate the flexibility required by individual RP's in formulating a tenancy policy, and provides adequate guidance about the content of that policy.

Question 3

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

Although largely there appears to be sufficient protection for existing and new tenants in the draft direction, we would welcome more clarity for our tenants on serious detriment and what that might entail.

Question 4

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

We agree that tenants should be given access to a mutual exchange scheme that enhances their opportunities to move between different providers and different areas of the country. However, we are in agreement with the National Housing Federation on this point, that we do not see the need for Government to be so prescriptive in this area, by directing them to subscribe to an internet-based mutual exchange service. Associations have developed a range of methods to assist tenants wishing to exchange that suit their tenants' preferences, an internet-based scheme being just one of them.

Question 5

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

Yes, Tenants should be given the fullest opportunity to monitor, develop and shape the services that they require. The introduction of Scrutiny Panels will assist in ensuring that our Governance arrangements are robust and can only lead to service improvements.

We have reservations about the Tenants' Cashback Scheme, particularly around administration and associated costs, achieving value for money, the potential for tenants being exploited by non-qualified builders and poorly carried out repairs causing greater problems. We also have concerns about the way in which savings might be shared equitably with tenants. In addition, we are, as are many RP's, tied into repair contracts, which would make enabling tenants to carry out their own repairs very problematic contractually. We will await more information from the 3 pilots.

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 above we would like to see more information from the pilot schemes. In certain parts of our Group, one third of our tenant base is older people who

enjoy the security and comfort of not having to worry about having their homes maintained and repaired.

Any scheme would have to ensure that it took account of current Health and safety legislation and would exclude work such as Gas safety and Electrical work. Financial reimbursement would have to be only when work is completed to an agreed satisfactory standard, with proof of costs (many of our tenants would probably not be able to pay for this work up front).

Question 7

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

Yes, the direction reflects the introduction of affordable Rent for those organisations introducing them.

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, the definition of DHS should not be greatly altered if RP's are expected to maintain the quality of Accommodation at this level. Most RP's have a business plan based on the existing standard.

In terms of granting exemptions, we would want exemptions for properties ear-marked for demolition to still be granted. It is not clear from the document if they would be regarded as the "exceptional circumstances" referred to.

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

Yes, we think greater clarity would be beneficial to ensure a consistent approach across the sector.

TAROE

Implementing social housing reform: directions to the Social Housing Regulator

TAROE's response to the above consultation issued July 2011

TAROE thanks the Minister for being able to comment upon the draft Directions to the TSA.

TAROE is a recognised national tenant's organisation and works with the other three NTOs (CCH, Nat FedTMOs and TPAS). TAROE is a tenant owned and tenant led national organisation and represents over 800 tenants federations and associations across England. TAROE has existed since 1998 and was created by a merger of the National Tenants Organisation and the National Tenants and Residents Organisation. It is governed by a Board of Tenants elected at the Annual General Meeting and has consulted its members at national and regional meetings on the matters of security, tenant panels and the scrutiny of landlord services.

The comments on the draft directions are set out below and follow the text and questions of the DCLG Consultation document.

Direction and Tenure

TAROE has not changed its position on the Governments proposals to introduce short term tenancies and we reiterate our view that the use of term "life time tenancies" is a derogatory statement that undermines ordinary decent tenants. Nevertheless, we are pleased to note a shift in Government thinking to recognise that two year tenancies are far too short.

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?

TAROE welcomes and supports the Government direction in requiring the Regulator to set a standard that ensures Landlords publish clear and accessible policies which set out their approach to tenancy management including interventions to sustain tenancies and prevent unnecessary evictions, tackling tenancy fraud and the granting of discretionary succession rights.

TAROE believes that the relevant factors that landlords should consider when deciding what type of tenancy they should offer and issue are well set out in the Direction. In particular TAROE supports the intention set out in paragraph 2(3) f to take account the needs and vulnerability of households. This was stressed by TAROE in its response to the first consultation round.

The Policy on Tenure, issued by a Landlord under this new standard will have to be consulted upon and scrutinised by the new 'Tenant Panels'. Moreover for Council Tenants Councils will also have to ensure they meet the requirements of section 105 of the 1985 Housing Act.

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

TAROE believes the direction does meet the minimum requirement. In terms of "affordable rent" tenancies it will be for the Landlord to consult and convince existing tenants that they are applying the right policy in particular the letting of new homes (under the HCA programme) to those tenants seeking to 'downsize' or overcome overcrowding for example.

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

The draft direction under paragraphs 2 (4) C and 2 (4) do meet our concerns and TAROE does believe the minimum protections are met.

Direction on Mutual Exchange

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

TAROE agrees with the principal and detail of the proposals set out in this direction and in particular the aims of publicity and support to tenants who do not have internet access as set out in paragraph 3 (2) c and 3 (2) d. However, TAROE would expect the direction to ensure the Regulator issues a standard that also supports those tenants who do not have common skills of reading and writing in English.

Direction on tenant involvement and empowerment

TAROE welcomes and supports the new Direction on tenant involvement and empowerment and warmly congratulates the Government on this major step change in the empowerment of tenants in the pursuit of localism.

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

TAROE agrees with the principal and detail of the proposed revisions to the direction on tenant involvement and empowerment and fully supports them.

TEIGN HOUSING

Consultation on Social Housing Reform

The Consultation took place on Tuesday 6th September 2011 and reflects the views of the Tenants Forum at Teign Housing.

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?

It was agreed that there would have to be some sort of support or policy in place for more vulnerable residents, particularly in regard to length of tenancy, and their needs would have to be recognised at an early stage.

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

Residents could see the benefits in having a two year fixed tenancy in that the landlord would be able to check that a tenant was looking after their property.

It was discussed that some groups should be able to receive secure tenancy as standard, such as someone who had had an accident or an elderly resident to help them to feel more at ease.

Residents felt that if you have a secure tenancy, you should be able to keep it wherever you move provided you have been a good tenant. This would be particularly useful for families who needed to upsize or downsize. As existing tenants are not subject to the changes, they did not feel that it would be fair that they would lose a secure tenancy if they moved house.

Mutual Exchange:

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

Tenants think that proposed changes are reasonable.

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?

Residents within Teign Housing are already achieving many of the Tenant Involvement Standards set out by the regulator. These include groups such as:

- Tenants Forum - Help to form housing related policies.
- Scrutiny Panel & Senior Forum - Set standards for the delivery of housing services, assess performance and recommend improvements.

Residents believe that there is great potential for Teign Housing to look at more resident-managed services, and the Tenant Cashback scheme was interesting. Residents would like to learn more about this from the current pilot projects.

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?

A Handyperson service within Teign Housing was seen as a good idea and residents felt that it would be used. They recognised a number of benefits in that:

- It would be great to have a handyperson that could be trusted
- It would be low cost
- Could be used by a number of groups within the housing, including young families who may not have time to maintain properties.
- An opportunity to employ tenants

Residents did not like the idea of the Tenant Cashback scheme and finding their own ways to get maintenance work done for a number of reasons:

- Work done may be of a poor standard
- Would be difficult to maintain communal areas as some tenants would not contribute but still use the facilities

- A minor repair would have to be very clearly defined
- Did not like the idea of tenants being able to keep the excess as savings as it would not be fair

The conclusion was that an overall maintenance body would be needed within the housing association.

Rent:

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

Although tenants will be keeping existing rents, concern was expressed as there was no indication of how long this would be for. There was also concern that rent going up would be a disincentive for people to work.

Tenants were worried that the different rents could make estates difficult to manage as people may not like the fact that their neighbours may pay a different amount to them. Ultimately this could affect communities and cause stigmas.

COMMUNITIES AND LOCAL GOVERNMENT: IMPLEMENTING SOCIAL HOUSING REFORM

RESPONSE OF TENDRING DISTRICT COUNCIL'S TENANTS PANEL: AUGUST 2011

This response has been prepared following a meeting of the Council's Tenants Performance and Scrutiny Panel on 9 August 2011 and is provided in response to the consultation document 'Implementing social housing reform: directions to the Social Housing Regulator'.

Members of the Tenants Performance and Scrutiny Panel are in broad agreement with the proposals for the Secretary of State to direct the social housing regulator to set standards in connection with tenure reform, mutual exchange and quality of accommodation. They are also in agreement with the proposal to amend the existing tenant involvement and empowerment direction to implement recommendations to strengthen the ability of tenants to hold registered providers to account, as we are working to achieve locally.

However, they are strongly opposed to the Tenant Cashback Scheme on the following grounds:

- ◆ Scheme introduction is premature

The requirement for social landlords to offer opportunities for tenants to be involved in maintenance services in the form of a cashback scheme from April 2012 is considered to be premature.

It is considered that there should be a full opportunity to evaluate the evidence from the pilot schemes being carried out in relation to costs, benefits and problems arising and that this should be carried out before the regulatory requirement is introduced

Throughout the impact assessment there are various sentences used such as 'there may be circumstances where tenants are able to get repairs done more cheaply' and 'proposals could increase competition' etc but there is currently no evidence for this. A thorough evaluation of the pilots would enable the benefits and pitfalls to be substantiated

- ◆ Cost of implementing and running a scheme

On page 2 of the Impact Assessment the Ministerial Sign Off states that 'given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options'

However, in relation to options 2 and 3, it states that it has not been possible to quantify costs at this stage as there is insufficient evidence. The costs involved could be substantiated by a thorough evaluation of the pilot schemes in operation.

In a number of places in the impact assessment, it states that social landlords will be expected to operate cost neutral schemes but there is currently no evidence available that supports this or suggests it is feasible.

An attempt has been made to obtain further information regarding the pilot schemes in operation from the housing provider's website but it has not been possible to find this information.

It is thought that costs will increase as a result of the following:

Lack of standardisation of parts, fittings etc – as well as increasing costs, this could result in social landlords taking longer to respond to repair requests that are reported to them and reduce their ability to complete these right first time.

Loss of economies of scale – if future contractors are uncertain or unclear about the extent of the contracts they are tendering for or feel that this could reduce as tenants carry out certain repairs themselves, the savings of having a large scale, long term contract could diminish.

Tenants may claim for minor works that they currently carry out as part of the landlord / tenant relationship

Practicalities of managing a cyclical maintenance scheme for, say external decoration where some tenants wish to carry out the works themselves and others have the work carried out

♦ Capacity of tenants to carry out works

The impact assessment states that many householders possess the experience to carry out basic repairs themselves or to commission and oversee their own maintenance work.

However, it is our Panel's view that the majority of tenants consider it easier and faster to contact their landlord to arrange any necessary repairs and that this forms part of the tenancy agreement.

If tenants carry out their own repairs, without a rigorous inspection regime, there is no guarantee as to the quality of the repair work that will be undertaken. This could result in damage being caused to the property or adjoining ones and increase maintenance spend.

At the current time, a tenant wishing to carry out an alteration to their property is required to obtain the landlord's written consent and this has certain conditions attached to it to ensure that the work is carried out to a reasonable standard. In many cases the works will be subject to a pre and post inspection to ensure the standard of the work and appropriate certification will be required for certain types of works.

However, to operate such a regime in relation to repairs carried out under the Tenant Cashback scheme would significantly increase provider's costs and administration.

The impact assessment states that schemes requiring tenants to demonstrate their capacities before carrying out works could be expected to deter tenants but without some form of control there is a greatly increased risk of damage to property and safety of tenants.

Even with the requirements in place for tenant's alterations, there are regular examples found locally where tenants have undertaken works, without permission and particularly in relation to electrics, where these have been carried out to a poor standard and could be dangerous. But it is noted that electrical works, short of

complete rewiring is included on the list of those activities that tenants could be involved in.

There is also concern about works being carried out without other necessary permissions, for example building control approval.

There is also concern as to how does the delegation of some of the responsibilities for repair and maintenance balance with the landlord's legal duty to keep the property in good condition

◆ Health and safety

This is a significant concern.

The impact assessment states that landlords can mitigate against risk through careful scheme design. However, information from Anthony Collins Solicitors included in Inside Housing states that the statutory liability placed on landlords through their tenancy agreements would still apply to repairs carried out by tenants.

Similarly a further article in Inside Housing states that a social landlord would be legally responsible for injury sustained by tenant's poor standard repairs and that the only way to avoid this would be to redraft existing tenancy agreements and check every repair job.

Any exposure to legal action and resultant costs would be unacceptable and additional to costs incurred for putting right poor standard repairs and is likely to negate the target of making schemes cost neutral.

Who meets the cost of rectifying poor quality works carried out by tenants if they have already benefitted financially from taking responsibility for the work in question?

◆ Potential for fraud and misuse

Tenant representatives consider that there is a significant and very real potential for tenant to go without or delay some repairs in favour of keeping the cashback allowance and this may cause bigger problems in the longer term. This was supported by a poll on The Guardian's website, although it does not state the number of respondents, and this showed that 81.3% thought that tenants would hold off repairs to benefit from cashback, causing housing repair problems in the long term.

There is also the issue of the cost to the landlord of rectifying poor quality works carried out by tenants if they have already benefitted financially from taking responsibility for the work in question – how would any money be recovered?

Without a robust system in place for the notification of repairs required and inspections, the Panel consider there to be considerable opportunities for fraud and the preventative measures are likely to be ineffective and are likely to result in increased costs.

Concern was also expressed about those who are in receipt of housing benefit being able to benefit financially from a scheme when they have not contributed anything directly via rental income.

◆ Concluding comments

There are already opportunities for tenants to have an involvement in repairs and maintenance – locally this has involved tenant representatives being involved in all stages of the tendering of the responsive repairs contract – including specification and response times, evaluation of tenders, monitoring of performance etc

The impact assessment states that *'the problem under consideration is that too much of the power to hold social landlords to account for delivering services rests with the social housing regulator and not the local community and neighbourhood tenant groups'*. This seems to be at odds with the change in the regulators role where a more consumer backstop role is being taken. All housing providers should be moving towards greater tenant scrutiny and we feel that if, and only if, this route doesn't lead to improvements in performance then options for delivering repair and maintenance services in a different way could be considered but this approach is currently considered to be premature.

We also feel that the introduction of this scheme could have a negative impact upon those landlords, such as ours, that achieve a high satisfaction rating for their repairs and maintenance service.

We are also uncertain about how such a scheme would be implemented. In the impact assessment it states that *'all households who live in social rented housing will have opportunities to be involved in maintenance and repair services and share in any savings made.'* However, if a consultation with tenants shows that the majority wish the current arrangements to continue, will the landlord be obliged to implement a scheme for those that do wish to participate?

If the operation of the scheme does come down to an individual level, how often will the landlord need to consult to ensure that individual tenants have not decided to join the scheme and will the views of new tenants need to be obtained at the time they sign their tenancy agreement – as previously stated, this will have an impact on any maintenance contract.

The Business Services Association

The BSA – The Business Services Association – represents leading UK organisations providing outsourced services across the private and public sector. A list of our members is provided as an annexe. Outsourced services account for 8% of UK economic output and for 12% of all direct tax contributions to the Exchequer. The industry directly supports 3.1 million jobs, equivalent to 10% of the entire UK workforce.

In the housing sector, BSA members deliver both repairs and maintenance, and housing management services such as rent-collection, refurbishment and re-let of void properties between tenancies, ensuring resident satisfaction, and providing wider customer services, to around two million homes on behalf of local authorities.

We welcome the opportunity to respond to the Department for Communities and Local Government consultation 'Implementing social housing reform: directions to the Social Housing Regulator.' This BSA supports high quality regulation for social housing. The standards of property and service enjoyed by tenants has significantly increased under the remit of the Audit Commission and the TSA. It is important that the government establishes a clear framework for the future to prevent these hard won standards from being lost.

This submission makes the following key points:

- The BSA welcomes the proposed creation of Tenant Cashback and Tenant Panels as mechanisms to give tenants greater choice. However we seek clarification on a number of points regarding how those panels will operate
- Tenant Panels require the necessary assistance to allow them to function effectively.
- The Department for Communities and Local Government, Homes and Communities Agency and Tenant Standards Agency must now provide clarity on existing regulatory arrangements.

The BSA welcomes the proposed creation of Tenant Cashback and Tenant Panels as mechanisms to give tenants greater choice. However, we seek clarification on a number of points regarding how those panels will operate.

The BSA supports giving service users increased choice. Choice facilitates competition between providers, leading in turn to better service outcomes, as providers must be both more efficient and more responsive in order to increase the chance that tenants will renew their contract. Studies show that increasing competition can lead to savings of between 10 and 30%, with no adverse affect, and often an improvement, in service quality – even if an in-house team wins the competition in question.⁵³

The consultation proposes to increase user choice by empowering tenants to take control of the management, repair and maintenance of their homes through a Tenant Cashback model which would allow Tenant Panels to directly commission certain repair, maintenance and management tasks themselves. Tenants will then be allowed to share in resulting efficiencies.

The BSA welcomes this particular method of extending choice to tenants who, given the difficulty of moving between properties, cannot exercise choice through the

⁵³ Dr. De Anne Julius – Public Services Industry Review – 2008.

traditional method of 'voting with their feet.' A model such as Tenant Cashback administered through Tenant Panels can (at least partially) separate landlords from property management, and has the inherent advantage of enabling residents to choose between management providers, as it is easier to change your management provider than change your landlord.

We particularly welcome a drive to increase tenant choice in social housing management because the sector has lacked choice and competition previously. Only 1.5% of homes are managed by private providers.⁵⁴ Furthermore, social housing management and maintenance is an area which has significant scope for an increased tenant voice. For example, in a recent survey, only 62% of tenants were satisfied with the level of participation they had in the management of their social housing.⁵⁵ Choice and competition go hand-in-hand and we welcome the government's attempts to shake-up what has previously been a stagnant market.

Providers of outsourced housing management services already have a strong track record of working with residents to improve local services. For example, one BSA member, on taking over a new contract, enhanced participation by increasing the number of formal Tenant and Resident Associations from one to five, encouraging representatives to be block representatives (currently fifteen) and setting up a Residents Panel that has a membership of eighty. As a result of this participation, residents have been involved in alterations to cleaning schedules, undertaking gardening projects, consultation on building works, and carrying out estate inspections.

The success of both Tenant Panels and Tenant Cashback will depend on the extent to which residents are incentivised to proactively participate in decision making regarding the management of their estate. The consultation proposes to encourage participation by allowing Tenant Panels to take a share of efficiencies found in services commissioned. Providers of outsourced housing services have experience of delivering significant efficiency savings. For example, one BSA member company achieved an 18% increase in productivity for responsive repairs through more efficient remote management of tasks.⁵⁶ An increased involvement of private providers is therefore likely to encourage continued tenant participation along the lines envisaged by the government.

The BSA members recognise that this will initially be implemented through a number of trials but the full implementation of a Tenant Cashback Scheme needs to take into consideration the views of the industry and clarification on the following key points

- How does the policy sit with delivering a 30 Year Business Plan within the concept of self-financing HRA?
- How would standards and the scope of work undertaken be controlled?
- How would health and safety, asset management, control quality and product specifications be addressed when tenants and communities commission repairs and maintenance activities?
- How would money be saved when materials are often brought by landlords and contractors at bulk prices which tenants, as individuals, would be unable to benefit from?
- What mechanisms would be in place to prevent fraudulent activity?

⁵⁴ Pinnacle PSG – Housing management challenge and competition: Choice and transparency – 2010.

⁵⁵ Housing Corporation – Headlines from the 2008 performance indicators – 2008.

⁵⁶ Northern Housing – MITIE: Benefiting the housing sector – 2010.

This was also echoed by The Chartered Institute of Housing which has given a cautious welcome to the scheme as “interesting idea that could increase tenants’ collective ability to influence the performance and cost of their landlord’s repairs services.” However, the CIH’s former ChiefExecutive, Sarah Webb continued by warning:

“However, many tenants will prefer their landlord to arrange repairs because it will be easier and faster, and some will feel strongly that a repairs service is a core part of their tenancy agreement. The scheme poses challenges for landlords too. For example, it must not encourage tenants to forgo repairs - who will pick up the cost of a major repair which arises because minor repairs were not done in time or to a high enough standard? Lenders will expect property to be well maintained, and landlords will have to find ways to provide assurances that the value and quality of property is safe if repairs are beyond their control.”⁵⁷

Likewise the Local Government Association has welcomed the scheme, with Cllr Clyde Loakes, Vice Chair of the Housing and Environment Board explaining that landlords will be pleased that tenants are able to take greater responsibility for the up keep of their properties. He continued however:

“Like any other landlord, local authorities need to be able to ensure that maintenance work on their properties continues to be done safely and to a high standard. So landlords need to be able to ensure work affecting gas, electric and fire safety is done properly.

“This is vital to making sure this scheme achieves its aim of rewarding tenants and driving down costs without inadvertently exposing councils to a tidal wave of law suits and hefty repair bills for rectifying DIY disasters.”⁵⁸

One Member has outlined some of the potential opportunities of the Government’s proposed new scheme. They outlined how the company could support community groups, individuals and social enterprises to engage in repairs and maintenance by building into they existing supply chains, Community Social Enterprise Suppliers, allocating specific areas of work that could be done through this route such as ground maintenance on housing land, the development of a handy person service and neighbourhood enhancement projects of communal areas. One suggestion is to build on the City Stewardship programme the Member delivers aimed at engaging young people not in education, training or employment, delivering work that would not otherwise be funded as directed by Tenants and the communities themselves¹. Another BSA members has noted the possibility of creating a social enterprise, acting as an umbrella company for panels looking to undertake any services relating to housing management. That umbrella company could provide training, set strategy and ensure health and safety obligations were appropriately fulfilled whilst allowing residents to deliver their own services.

It is also important to note that a relatively similar model to Tenant Panels already exists through Tennant Management Organisations (TMOs). Policy makers should

⁵⁷ CIH – CIH responds to Tenant Cashback scheme – 2011 - <http://www.cih.org/news/view.php?id=1413>

⁵⁸ DCLG – Tenant Cashback to reward proud council house tenants – April, 2011. - <http://www.communities.gov.uk/news/corporate/1882256>

draw lessons from the experience of TMOs when assessing the potential for partnerships between experienced external providers and new Tenant Panels.

Tenant Panels require the necessary assistance to allow them to function effectively. In order to secure the benefits of increased choice, Tenant Panels – which will administer the Tenant Cashback scheme – must work effectively.

Members of Tenant Panels will have numerous other demands on their time such as full-time work or childcare, may lack certain skills, and will require adequate funding in order to function effectively. Research has revealed that tenants themselves are aware of this resource deficit and are keen to rectify it.⁵⁹

We welcome steps which the government has already taken to ensure that Tenant Panels have sufficient resources to be robust advocates, self-regulators and commissioners. Actions taken to date include:

- Launching a £535,000 residential training programme for social housing tenants to equip them with the necessary skills.
- Providing £8 million to tenants through the Tenant Empowerment Scheme (TES) to set up Tenant Panels.⁶⁰
- Working with National Tenant Organisations (NTOs) to pilot different approaches to self-regulation and produce user-friendly guidance for tenants.⁶¹

We would welcome more clarity from government on how competencies of Tenant Panels will be monitored in order to ensure panels are offered additional support and training where required. One potential option would be to make greater use of the 50 Tenant Inspection Advisers which currently work for the Audit Commission, which is due to be abolished as part of the government's review of public bodies, who could perform this role.

The presence of an effective and experienced regulatory 'backstop' to support Tenant Panels would also help ensure that tenants have their homes managed and maintained to a continually high standard. For example, the impact assessment published by the Department for Communities and Local Government has already acknowledged potential health and safety implications of the Tenant Cashback scheme whereby tenants opt to perform complex repairs and maintenance themselves in order to increase the budgetary surplus to be distributed amongst tenants. We would welcome more clarity from government regarding how valuable increased tenant autonomy can be balanced with maintained service standards.

The Department for Communities and Local Government, Homes and Communities Agency and Tenant Standards Agency must now provide clarity on existing regulatory arrangements.

Steps taken to date by the government to reform social housing regulation have left significant gaps in the regulatory architecture.

Over the next three years, the TSA, HCA and Tenant Panels will all play a role at various points in regulating social housing, at different points in time and with different capacities. BSA members are keen to work constructively with each of these regulators, but urge the need for clarity for landlords, residents and tenants with regard to how those regulatory arrangements apply. The standards of property and

⁵⁹ DCLG – Regional and national tenants organisations – 2010.

⁶⁰ DCLG – Grant Shapps to unlock tenants' right to manage their homes – February, 2011.

⁶¹ CCH/TPAS/NFTMO – Local Tenant Panels Programme: Briefing – 2011.

service enjoyed by tenants has significantly increased under the remit of the Audit Commission and the TSA. It is important that the government establishes a clear framework for the future to prevent these hard won standards from being lost.

The BSA would welcome more clarity from both government and the Homes and Communities Agency regarding regulatory structures for the immediate future.

ANNEXE A:

BSA Members & Associates – September 2011

Full Members

Amey
ARAMARK
Babcock Infrastructure Services
Balfour Beatty
Berendsen
Capita
Carillion plc
ClearSprings
Compass Group
Ecovert FM
Enterprise
G4S
Interserve
ISS UK
John Laing
Kier
Maximus
MITIE Group
Morrison Facilities Services Ltd
OCS Group
Pinnacle
Rentokil Initial
Serco Group
Sodexo
Associates
3i
Arbuthnot Securities
Barclays Commercial
Bevan Brittan LLP
Deloitte
ECI Partners LLP
Grant Thornton
Harvey Nash
KPMG
Lyceum Capital
Metzger
Navigant Consulting
Nicholas Moore specialist employment lawyers
Pinsent Masons
PricewaterhouseCoopers UK
Reynolds Porter Chamberlain LLP
Serco Institute
Trowers & Hamlins

The Law Society

Introduction

The Law Society is the representative body for more than 145,000 solicitors in England and Wales ('the Society'). The Society negotiates on behalf of the profession, and lobbies regulators, government and others.

This response has been drafted with the assistance of members of the Law Society's Housing Law Committee, which is made up of specialist legal practitioners who advise a wide range of clients including local authorities and housing associations.

Context

We welcome the drivers behind the consultation. We support the view that affordable, quality housing should be available to those who genuinely need it. We particularly welcome the mutual exchange programme as an innovative way of helping those who reside in social housing to achieve their aspirations.

We welcome the suggestion that local authorities, landlords and tenants should work together and that land lords and tenants should have more control.

Responses to Questions

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?

Yes, the draft direction on tenure achieves this.

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

Yes, it sets out the minimum requirements for a registered provider's tenancy policy.

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

We believe that the minimum tenancy term of two years is too short, particularly for vulnerable households and those with children. We therefore welcome the new requirement that the Regulator set out the exceptions in which a term of less than five years, would be available for social housing providers to offer.

A two year fixed term is likely to create a transient group of persons unable to find affordable housing, even where they improve their economic circumstances over the course of the tenancy. Tenants would have a disincentive to find work as they would be aware they could lose their home as a result. It would be particularly unsustainable in London and the South East, where affordable housing is in high demand and property prices are beyond the reach of any low income family.

The assessment procedure would also create additional bureaucracy for already overstretched local authorities and housing officers, which would be ameliorated by increasing the minimum term, thus reducing the frequency with which assessments would have to be made.

We look forward to the Regulator consulting on these exceptions with a view to ensuring they remain as narrow as possible.

The proposed probationary tenancies and the extension of the ability of Registered Providers to extend these probationary tenancies to a period of 18 months is a positive development. This is an important tool for a landlord in dealing with any problems at the commencement of the tenancy. Extending the probationary period to 18 months is also in line with the ability of local authority landlords to extend probationary tenancies to 18 months.

We support the statement in the draft direction 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. There should not be exceptions to this for those that move to an Affordable Rent home. Tenants should receive the same level of security of tenure when they move within the sector, irrespective of the type of accommodation they move to.

Where an existing tenant seeks a mutual exchange with a tenant on a fixed term tenancy, the position post exchange is unclear, this is a concern. The current situation is that following a mutual exchange, each tenant takes on the other's tenancy; this does not sit well with the draft direction's guarantee that a tenant choosing to move will not lose their existing security of tenure. Clarification is required on this point.

We supported the amendments proposed at the Report Stage of the Localism Bill that would have required the Social Housing Regulator to set standards on when social housing providers should include express terms in secure and assured tenancies on succession rights, specifically where such clauses enable succession by persons other than spouses and civil partners. Having such standards will go some way to alleviating the damaging effects of removing the statutory right of succession of close family members, who can often be vulnerable. Following Baroness Hanham's confirmation during the Report Stage that the Government agrees such a requirement would be best enacted through this direction, we would now welcome its inclusion. We are particularly keen to ensure that such requirements make a presumption in favour of succession clauses where the potential successors are vulnerable people or carers.

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

We welcome the aims of the mutual exchange scheme, as it is important to support people in achieving their aspirations. A mutual exchange programme exists currently and has existed for the past 50 years, mutual exchange can cause problems, for example where people switch properties because of existing problems such as noisy neighbours. These cases cause increased litigation and an effort should be made to avoid relocating problems when implementing the new scheme.

An internet based system will increase the speed of the mutual exchange programme, however we are aware that there will be costs involved in delivering the systems required, although these may be small.

If the scheme works then the cost will be justifiable, pilot programmes may be valuable in establishing this.

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

We welcome tenant empowerment and improving the way landlords and tenants work together. We particularly support enabling tenants to give feedback on the performance of their landlord.

We support the publication of information about repair and maintenance budgets. This will provide tenants with important performance information. The information should be focused on obtaining feedback to improve services.

We are concerned about the practicality of the proposed 'tenant cashback' model. It is the experience of the Committee that providing cash to tenants will not ensure that the problem gets fixed, it will be difficult to enforce this scheme and may increase litigation.

Provision of information will have inevitable resource implications. Consideration should be given as to whether the resources allocated to source and publish the material are justified by the material published.

Q.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 no opinion on this. Landlords and local authorities are better placed to answer this question.

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

We have no opinion on this. Landlords and local authorities are better placed to answer this question.

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?

The revisions to the Quality of Accommodation direction need further clarification. It is unclear whether the exemption includes registered providers as well as local authority landlords. The budgetary constraints on landlords should also be taken into account when considering whether the Quality of Accommodation direction is achievable within the time frame. There will also be exceptions where it is not possible for work to be carried out due to the tenant's circumstances, for example if a tenant is seriously ill or in the late term of a pregnancy.

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

We have no opinion on this.

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

The Riverside Group response

I. Introduction

The Riverside Group is one of the country's largest and longest established housing association groups, owning and managing over 50,000 homes, a mixture of social and non-social rental homes, low cost home ownership, and from 2011, Affordable Rent housing. The Group welcomes the opportunity to provide feedback on implementing social housing reform and the CLG directions to the Social Housing Regulator.

II. Response to the general principles of the consultation

Whilst we support the principle that good affordable housing should be available to those who need it, the tone of the foreword does not reflect the many achievements of the sector over a number of decades. Terms such as, 'lazy consensus' and, 'blocking aspirations' misrepresent the achievements of social housing providers. Their use suggests a failure to acknowledge the significant work that Riverside and the wider housing sector does towards improving tenants' lives and underpinning the sustainability of the places they live, which extend way beyond the traditional duties of a landlord. This includes, our programmes tackling worklessness and promoting financial inclusion.

Whilst there is much in the proposed directions we can support, Riverside is concerned over the level of detail contained within elements of the proposals, some of which seems very inappropriate for high-level directions to the regulator. At several points, the directions set out very specific requirements on social housing providers, relating to untested initiatives. This amounts to 'policy passporting' (the use of regulation to impose specific policy initiatives favoured by the minister), and gravely risks undermining the Government's vaunted commitment to localism and light-touch regulation, as well as the independence of private registered providers.

III. Specific responses to the set questions

a. Direction on tenure

Riverside is not, in principle, against the tenure proposals. Rather, we are mindful of the need for clear criteria in determining the right form of tenancy to use in particular circumstances, bearing in mind the possibility of challenge

(especially in light of the Pinnock case⁶²). We are also conscious of additional costs, which are likely to result from the introduction of fixed-term tenancies, i.e. legalities, repairs, review visits, evidencing of decisions, and so on.

The government needs to confirm that the tenure proposals are optional and should be explicit about lifetime tenancies being just one of many options. It is essential that registered providers are free to offer appropriate tenancies to reflect the needs of particular groups and localities, and the government should confirm that there will be no pressure, either now or in the future, to push providers down a particular path.

However, we do agree that we should respect the rights of existing secure and assured tenants (as set out on page 6).

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 proposals will mean that a lifetime tenancy will have to be justified in terms of four factors. Two of the factors are present in the previous Tenancy Standard – purpose of housing and sustainability of the community. The two new factors – needs of individual households (i.e. those with caring responsibilities or those who have children living with them part-time) and efficient use of housing stock – are likely to be at odds with each other and providers will therefore have to carry out a difficult balancing exercise. The needs of individual households will nearly always point towards maximum security of tenure whereas the efficient use of housing stock may sometimes point in the opposite direction.

This balancing act is inevitably going to lead to an inconsistent approach between providers, and perhaps even within the stock of large-scale providers, such as Riverside, which have stock in different areas of the country. This will lead to concerns about consistency and fairness that could result in legal challenges. Providers should, therefore, be required to develop approaches that are both simple and transparent in balancing these four factors. A plethora of tenancy types and lengths will greatly increase the risk of challenge.

We believe that the draft direction does set out the relevant factors that providers should take into account when deciding on the appropriate form of tenancy to be used. We also feel that the direction should be amended to set out an expectation that “the most secure form of tenure” should be offered, which is compatible with the four factors. In doing this, it should also emphasise that of these four factors, the sustainability of communities and the needs of individual households are paramount to avoid inconsistent decisions

⁶² The Pinnock case reinforces the importance of the Article 8 of the Human Rights Act, the right to a home, but the current government plans propose a more flexible system with less security.

being made and to ensure that social providers focus on meeting their fundamental objectives.

In the revised standard, the regulator should be very careful and emphasise that legal advice should be sought upon with regard to the different forms of tenancies available.

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

Yes, on the whole we believe it does. However, whilst Riverside does not envisage imposing fixed term tenancies on existing tenants who subsequently transfer into new properties, for those providers who do, there is a need to clarify the notion of "choice", especially with regard to tenants who are compelled to move through decanting processes associated with regeneration. We are of the view that a tenant's right to a particular form of tenancy should be portable as they move within a single landlord's stock. And so a tenant with a lifetime tenancy should retain the same rights if they transfer (irrespective of the type of property they move into), and a tenant with a fixed-term tenancy should also remain on the same terms following a transfer. It is our view that whether the property is let at an 'affordable rent' or not is irrelevant, and that conflating the two (affordable rents and fixed term tenancies) is not appropriate.

We agree with the recent clarification that two year fixed term tenancies should be used only in exceptional cases, but we want to have the ability to continue to offer probationary tenancies. It may help if the regulator offers guidance on a suitable model, which would allow starter periods to be used in conjunction with fixed term tenancies.

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

The presumption of maximum security of tenure (subject to the four new criteria) should be preserved to protect tenants. For further detail, please refer to the answers to questions 1 and 2.

b. Direction on mutual exchange

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

No, this element is far too prescriptive. Although Riverside would not be against a broader direction for the regulator to set a standard requiring providers to promote exchanges and co-operate with any national internet

based initiatives, where they are viable and cost effective. We are already members of the internet-based mutual exchange service, House Exchange.

However, we are against the current wording of the direction which could result in providers having to join a specific, untested scheme and incur unspecified costs, without reference to value for money or effectiveness. We support the NHF's line, which states that elements of this direction are an example of policy passporting. The government has stated its commitment to relatively light-touch, outcome-focused regulation, and the proposed wording appears totally at odds with this approach.

c. 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, the proposed changes to the Tenant Involvement Standard seem to involve broad statements of principle that can be met by landlords setting up scrutiny panels. Most providers, including Riverside, already have such panels or something similar in place.

We assume that the reference to "right to manage" applies to what are effectively consultation requirements contained in section 27BA of the Housing Act 1985, rather than to the statutory right to manage created by the Commonhold and Leasehold Reform Act 2002, which only arises in leasehold schemes. If this assumption is correct, then we have no observations as section 27BA only applies to local authorities. It would be helpful if the direction would clarify this point.

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?

Riverside is already committed to involving our tenants in important decisions about repairs and maintenance. Our Tenants' and Residents' Federation Issues group is an overarching group of tenants and residents with whom Riverside consults on topics such as green issues. We are also in the process of setting up a scrutiny group to look exclusively at repairs. In addition, tenants are involved in the processes involved in selecting contractors, and monitoring performance at a local level.

We are keen to see the outcome of the Tenant Cashback pilots and reserve the right to comment once the pilot results have been publicised more widely throughout the sector. However, notwithstanding the merits of the scheme (or

otherwise), we believe that it is completely inappropriate for the government to use its powers to direct the regulator to impose a specific proposal of this nature. We believe that this is entirely at odds with the basic principles of effective regulation, and represents another example of inappropriate policy passporting to independent organisations.

d. Direction on rents

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

Riverside is already committed to the introduction of Affordable Rent and is in the process of finalising a contract with the HCA. We have no further comments to make on the affordable rent regime.

e. 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?

Riverside agrees with the proposed revisions as we are already working above the TSA's Home standard.

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

No.

**Deborah Shackleton
Group Chief Executive
Riverside**

Thrive Homes

Social Housing Reform

Thrive Homes agrees with the point identified in the NHF response on this consultation regarding the error in the Minister's foreword, which refers to social housing as a 'publically-funded' asset. The description is not correct. Thrive Homes is a registered provider with the Tenant Services Authority, we are not a local authority and are formally known as a private registered provider. We are not part of the State, however, we do fund our development partly by state grant but most of our development finance is raised privately, while day-to-day running costs are met almost entirely from rents, paid under private contract by our tenants.

This point has been emphasised 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 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 commitment to localism.

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 – the flexibility will enable RP's to develop an approach to tenure according to their own circumstances. This flexibility should be available in new tenancies generally, regardless of the level of rent; ie de-couple 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 is that although a fixed-term regime may occasionally be used in this way, its principal applications 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 Thrive Homes is likelier to offer the tenant a smaller property rather than seek to remove them from the social housing sector.

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

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

Social Housing tenants, like all other sectors of the population wish to move, or need to move, for a range of reasons including family circumstances, employment, health etc. Thrive Homes' recognises the importance of this and the need to facilitate it and in conjunction with our tenants we have developed a range of ways of doing so. In general the great majority of mutual exchanges involve moves over very short distances, and are often arranged informally by the tenants themselves.

This is a long way from what is proposed by the wording of the direction. While there is nothing wrong with the proposed scheme, it is entirely inappropriate to use regulation as a vehicle for imposing it. Such a scheme will involve costs that will ultimately be borne by the tenants through their rent and a regulatory requirement for the scheme effectively forecloses discussion between the landlord and our tenants and whether this is the best use of resources.

Landlords are required to subscribe either to an exchange service that shares property data with other services or to 'as many (schemes) as necessary to access as many properties as possible'. There is no guarantee that any exchange service will exist that satisfies the data-sharing requirements and 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.

This proposal has the consequence of seeking to micro-manage housing management through legislation. Therefore, while agreeing that our customers should be able to access appropriate information, we disagree with the detail of this proposed direction.

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 of a clear expectation in regulation that tenants are able to scrutinise RP's performance and that RP's should welcome scrutiny via a tenant panel.

Thrive Homes does not feel that it is reasonable to have a barrier between the tenant, who is the main driver of complaints, and the currently independent Housing Ombudsman. The proposed tenant panel, if led by the Local Authority would compromise local councillor's involvement in a customer's complaint. Similarly Thrive Homes' involvement in the tenant panel would compromise our ability to support the tenant's complaint. Active involvement in any tenant panel will incur costs; how are these to be supported?

We agree that there should be a clear regulatory obligation on RP's to provide timely, useful performance information to tenants in order to support effective scrutiny.

Thrive Homes awaits the outcome of the pilot 'Tenant Cashback' schemes to determine whether or not this is a model that can work effectively. Thrive Homes' assets are of significant importance to the organisation's ability to deliver

improvements and services to its customers. We would not wish to devolve maintenance responsibility to our tenants beyond that which already exists within our tenancy agreements (minor repairs and those which do not impact on the condition of the fabric of the building such as decorating, are already the tenants' responsibility to do). We have significant concerns about value for money and quality of work being undertaken by tenants which will be essential to maintain our assets.

It is unclear what is covered by the scheme, what is already covered under tenancy agreements and what would continue to be the responsibility of landlords. We are concerned that the proposed scheme would:

- have an impact on the quality of our assets;
- impact on our ability to monitor and determine if Decent Homes has been achieved and maintained;
- increase complications at voids and mutual exchanges creating quality issues and additional costs;
- increase costs to 'put right' works undertaken by poorly qualified/untrained individuals/contractors;
- increase administration requirements;
- increase disputes between tenants and their landlord;
- increase dissatisfaction.

It is unclear what the directive envisages with regards to 'share in any financial savings made as a result'. Does this mean demonstration of VFM that is reinvested in services provided by the organisation – or is it the intention that this would result in 'money off' being visible to 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?

Thrive Homes has completely reviewed the way residents are involved in 2009, with a new Resident Involvement Strategy being developed in May 2010. Nine Resident Voice Groups (RVG), have been developed to involve residents in specific services, one of which is the Repairs RVG. As of January 2011, there had been 53 RVG's with a total of 89 residents attending groups since they started. The residents who regularly attend the groups were surveyed and 86.9% were very satisfied that their views were being taken into account at the groups.

In addition to the service specific groups tenants are involved in the development of service standards, contract terms, procurement and appointment of contractors, monitoring of performance, either by contract or as part of a wider scrutiny of performance, involvement in post inspection, mystery shopping and peer review.

Thrive Homes would use the involvement mechanisms it has developed for involving social tenants in repair and maintenance services. It is unclear how successful it will be for tenants to commission these activities individually or as a small group. Scrutiny, assurance and management of numerous small scale contracts may detract from efficiency within the service.

There are costs associated with supporting tenants to be actively involved in decisions around our repair and maintenance services. Time and effort is required to provide suitable information and guidance which is impacted by changes to tenant representation on our groups and levels of literacy and numeracy.

The proposed direction does not take account of impacts for leaseholders if the scope of the scheme extended beyond individual dwellings.

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

With regards accommodation let on affordable rent terms, the directive at (7)(c) talks about re-setting the rent based on a new valuation each time the accommodation is let to a new tenant or re-let to the same tenant – it is possible that some properties may become void and be re-let more than once in any 12 month period. There is a cost associated with revaluing a property – is it expected that this will happen at every re-let or after a reasonable period has elapsed since the date of the last letting? It may be more effective to set a maximum term between re-valuations as the rental market tends to move in steps rather than being subject to rapid continuous change.

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 seems sensible to require that accommodation meets a Quality Standard. There will be circumstances where the existing tenant refuses to have improvement works carried out to meet the Decent Homes Standard. We have assumed that the wording in the directive at (4) accommodates this situation or is reliant on wording included in the Decent Homes Guidance?

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

The current Decent Homes Standard is extremely limited with regards measures around energy efficiency – properties can achieve the Decent Homes Standard and potentially have a Category One hazard (damp/condensation) when the landlord has done all that is reasonable to minimise this (ie met the DHS – but the situation is exacerbated by the occupancy).

If the Government wants to improve the carbon reduction levels, it will need to be more explicit about what RP's must provide and be realistic about the cost of retrofitting to achieve these when the property's rent does not increase to reflect the improvement.

Changes to the direction should reflect a holistic asset management approach and not just focus on one element of the property.

Time and Place Community Interest Company

Consultation Response:

Implementing social housing reform: directions to the Social Housing Regulator

Reform of Social Housing - Scrutiny Panels

We are pleased to submit the following response on the above as a newly formed community interest company. The response specifically refers to Question 5 of the consultation.

We support the proposed changes on Tenant Empowerment however we suggest that there should be a strengthening of the requirement on landlords on tenant scrutiny that they work together as appropriate to develop local machinery that delivers value for money and community benefit.

Our position is contained within the attached draft report which has been produced for the Runcorn Residents Federation who commissioned Time&Place to look at how an area-based approach to resident scrutiny might be developed . Working with them and local registered providers over the last 6 months we have developed a framework for such an approach upon which we have also been in discussion with the National Tenant Organisations. They have confirmed their interest in supporting the idea.

Our belief is that we consider the role of scrutiny for tenants as a critical area of activity which if addressed in the appropriate way can result in significant positive impacts on communities across the country. There are value for money / business advantages in taking this partnership approach as well as providing opportunity to refresh tenant involvement across disadvantaged areas.

One of our concerns is that providers only developing 'internal' methodologies do not benefit from the views from outside their organisations as well as the chance to share resources and findings of scrutiny activities which are also happening locally. Additionally, the 'shared' approach provides a method of scrutiny which can ensure that a totally independent 'eye' is used (tenants of other providers). We believe internal structures, which our research shows are mainly being developed, ignore this vital dimension and result in wasted / duplicated effort and restricted circulation of skills and knowledge.

Further benefits are identified in the draft report the final copy of which will include the findings from our research with local providers who kindly lent their support and time to completing returns. The report will be published next month.

Our view is that the partnership approach being developed in Runcorn should be encouraged and the option of using such an approach be clearly indicated in the regulatory standards for the compelling reasons contained in this response.

If you have any queries regarding the above please get in touch.

Tonbridge and Malling Borough Council

Dear Sir/Madam

Implementing social housing reform: directions to the Social Housing Regulator

Thank you for providing us with the opportunity to respond to this consultation.

The borough of Tonbridge and Malling lies in the heart of Kent and is largely rural. Tonbridge is the largest settlement and is situated in the south of the borough with the remainder comprising smaller towns and villages. Although the borough is generally affluent, there are also pockets of significant deprivation that contrast starkly with the more affluent neighbourhoods.

The Council transferred its housing stock to Tonbridge and Malling Housing Association (now Russet Homes, part of the Circle Group) in 1991. Overall, there are currently in excess of 7,000 socially rented homes in the borough.

This Council is committed to working with local registered providers in implementing the Government's programme of social housing reform. However, it is important that the local policy framework (i.e. the strategic policy on tenancies) is recognised as providing the framework within which registered providers develop their own policies. We note that the draft direction makes no reference to the local authority's strategic policy on tenancies, and this is a cause for some concern.

Our response to the individual consultation questions is set out 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?

The subsequent amendment to the draft direction (28 July 2011), requiring that social landlords grant flexible tenancies for a period of less than five years in exceptional circumstances only is particularly welcome. Recognition of the need to take into account the needs of the most vulnerable households is also very welcome.

However, to reiterate a point we made in response to the Local Decisions consultation (January 2011), what will be just as critical as the term of the tenancy is the quality and timing of advice that is provided to tenants who are approaching the end of their tenancy. We would suggest that the draft direction is more prescriptive here, requiring that landlords identify clear time scales for reviewing flexible tenancies, whether they will provide any kind of financial assistance (in the form of rent deposits for example) and the need to develop this service in consultation with the local authority housing options service.

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

It would be more appropriate if the draft direction simply extended the guarantee for a social tenant moving to an Affordable Rent property (Para 53) where it reduces under occupation. We would expect that most landlords would use their discretion favourably in a scenario such as this, but if it were guaranteed it would make for a more consistent approach to tackling what is a very significant issue.

It may also be appropriate to widen the definition of vulnerable, recognising that a household/individual can become vulnerable for a variety of reasons over and above age, disability or illness, and that it can be both short and long-term.

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

In the main yes, but please see comments above.

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

Many registered providers will be participating in some kind of mutual exchange service already. However, the requirement that all providers subscribe to an internet-based service is welcome. The wide-spread anxieties around internet access that preceded the introduction of Choice-Based Lettings have proven unfounded, due principally to the on-going proactive approach taken by landlords and strategic housing authorities to ensuring that all households can exercise choice. This has resulted in a considerable amount of good practice, and it may be helpful if the draft direction were to provide examples of the more successful initiatives as a means of demonstrating how support may be provided to vulnerable households.

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

The principles are supported. However, the level of support and training that tenants will need in order to maximise their involvement should not be underestimated. To a large extent this will be on-going, but it will pay dividends in terms of tenant empowerment.

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?

Inevitably there will be many initial reservations about the Tenant Cashback Model, but it is difficult to argue against the overarching principle. We await

the outcome of the pilots with interest but would doubt the capacity of many landlords to resource such a scheme.

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

We accept that direction is needed, and the revisions to the draft direction appear to fulfil this purpose. However, our initial concerns about Affordable Rent tenancies remain, specifically in relation to affordability and the impact on the housing benefit system.

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 would suggest that in the interests of clarity, the draft direction be more specific about the exceptional circumstances that would permit the Regulator to grant temporary exemptions for specific properties.

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

Yes. Energy efficiency needs to be addressed by registered providers and there should be a consistent approach to reducing energy costs and tackling fuel poverty.

Yours faithfully

Janet Walton
Chief Housing Officer

TPAS

Summary

- TPAS welcomes the opportunity to respond to the Department of Communities and Local Government consultation on the four directions arising from the Government's plans to reform social housing.
- TPAS comments on all the directions and highlights our support for the National Tenant Organisation's proposals to improve the Tenant Involvement and Empowerment standard.
- TPAS is principally concerned that the Tenant Involvement and Empowerment direction achieves a comprehensive and effective national standard that will deliver effective and meaningful co-regulation.
- Our submission highlights our deep concerns about the changes to the Tenancy Standard and we remain unconvinced that the requirements in the direction will protect tenants or help create stable long term secure housing and sustainable communities.
- We contend that tenancy strategies and the implementation of the Tenancy Standard should reflect the views of the tenants of each Registered Provider (RP).
- We support the direction on Mutual Exchanges and in particular the importance of ensuring tenants have access to and support in using the internet.
- We highlight our concern that "backstop regulation" for the so-called consumer standards should be made as robust as the regulation of finance and governance.

About TPAS

- The Tenant Participation Advisory Service (TPAS) was established in 1988. We are the leading independent advocates of tenant empowerment in England.
- TPAS is unique in the world of social housing as a membership organisation for tenants and landlords, ensuring co-regulation in action. We currently represent over 240 registered providers and some 1650 tenant and resident groups throughout England.
- TPAS connects tenants, tenant led organisations, Registered Providers, contractors, and regulators to achieve great communities.

Direction on Tenure

Q1 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.

TPAS is deeply concerned at the erosion of long-term stable housing for tenants. We do not believe that replacing lifetime tenancies with fixed term agreements will create stable inclusive communities or help families to obtain work.

We welcome the concession from Government that tenancies should be for 5 years, with the use of two year tenancies limited to exceptional circumstances. We would want government to go further and publish guidance on what may constitute exceptional circumstances.

We would further suggest that government ensure that Registered Providers should consult their tenants in agreeing a tenancy policy, detailing the type of tenancy to be used in particular circumstances.

We further consider that time-limited tenancies should only be used where the local authority agreed Tenancy Strategy has considered the matter, and particular attention should be given to the equalities impact on different communities.

We consider that Local Authority Tenancy Strategies, which will be based upon liaison with Registered Providers should also reflect the tenant views on tenure within each registered provider.

We recommend that each Registered Provider in responding to the Tenancy Standard must reflect tenant views on the key features such as:

- Type of tenancy
- Length of Fixed term (if used)
- The grounds when a fixed term tenancy, if used, will not be re-issued.

Q2. Does the draft direction on tenure set out the right minimum requirements for a registered provider's tenancy policy?

The revised version issued by the Secretary of State on the 28 July is an improvement on the original direction. Our view, however, as set out above is that fixed term tenancies are not a good measure.

Q3 Does the draft direction set out the minimum protections for the tenants of registered providers?

We consider that the draft direction does not sufficiently set out the minimum protections for tenants in its current format. We recommend that Registered Providers will need to set out:

- The circumstances where they will grant tenancies of a particular type.
- The grounds when a fixed term tenancy, if used, will not be re-issued.

The fundamental point is that fixed term tenancies reduce security and reflect the desire to turn social housing tenancies into a transitional tenure.

We also suspect that different Registered Providers will establish different grounds for not renewing tenancies and that this will lead to costly court cases.

Direction on Mutual Exchange

Q4. Do you agree with the principle and detail of our proposed direction on exchange?

TPAS broadly agrees with making mutual exchange and greater mobility easier. We support the development of an internet-based service and support the commitment that registered providers will be required to provide support to tenants who may not have access to a computer.

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.

TPAS support the proposed amendments to this direction as set out by the National Tenant Organisations. We would suggest the following areas of commitment are included within the direction.

i) The identification of required outcomes

(replacing the outcomes in previous I&E standard with the elements of the direction – 2(a) replacing the previous first clause; the three sub-elements in 2(b) the subsequent three bullets – and 2(b)iii split into two parts. Have also added review of housing related policies and holding the Registered Provider to account in last bullet)

Registered Providers shall support co-regulation with their tenants by:

- offering all tenants a wide range of opportunities to influence and be involved in the formation and review of housing related policies and strategic priorities; decision-making about service delivery; scrutiny of performance; the management of their homes; and the management of repairs and maintenance
- supporting tenants to exercise housing management functions, including their Right to Manage where applicable
- supporting the formation and activities of tenant panels or equivalent groups and responding in a constructive and timely fashion to them

- providing timely and relevant performance information to support effective scrutiny by tenants of performance
- publishing an annual report to tenants, in a manner agreed with tenants, to enable tenants to hold the registered providers to account

ii) The setting out of some specific expectations.

(Proposed tenant panel expectation)

Registered Providers shall agree tenant panel arrangements with the tenants that will best enable tenants to hold the Registered Provider to account; to scrutinise their performance; and to enable all tenants to engage with the registered providers through the tenant panel.

Tenant panel arrangements shall include providing support to tenants to build their capacity to be effectively involved; arrangements to be involved in scrutinising performance, service review, and tenant complaints; provision of performance and comparator information; access to staff and governance structures; and review arrangements to assess the impact of tenant panel arrangements.

iii) That the local offers be replaced.

(Proposed local expectations – ie. replacing local offers – plus also incorporating “exercising housing management functions”)

Registered Providers shall agree with tenants appropriate arrangements to engage with tenants locally, both in local neighbourhoods and across demographic groups of tenants with particular needs and aspirations. These arrangements should include consideration of how to enable tenants to scrutinise service performance locally and how to encourage and support tenants to exercise housing management functions locally.

(Proposed scrutiny & service standards expectation – picking up elements of existing Involvement and Empowerment standard and direction)

Registered Providers shall provide tenants with a range of opportunities to influence setting service standards; how providers meet all the regulatory standards; and to scrutinise performance against all standards. Registered providers shall inform tenants about the results of their consultations on issues related to the standards.

vi) Registered providers should be required to:

- consult with their tenants, setting out clearly the costs and benefits of relevant options, if they are proposing to change their landlord or when proposing a significant change in their management arrangements.
- consult tenants at least once every three years on the best way of involving tenants in the governance and scrutiny of the organisation’s housing management service.

- set out in an annual report to tenants how they are meeting these obligations and how they intend to meet them in the future. Registered providers shall take the Involvement & Empowerment Standard into account in setting out how they are meeting and how they intend to meet all the other regulatory standards.

Q6. 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?

This multiple question raises a wide range of issues. It is an area into which the DCLG might consider commissioning research. The TPAS experience is that the best performing registered provider will use a variety of ways to involve tenants. Where involvement is the norm better decisions are made, Value for money is achieved and homes are better improved and maintained. We would highlight the TPAS evidence to the 2010 CLG select committee review of Decent Homes¹ showed that tenant involvement in the 15 case studies delivered a range of benefits.

We think that there is value in different types of involvement including handy-person schemes, an area the DCLG has commissioned research¹ on. We are less convinced about the tenant cashback scheme proposal and our early research reveals mixed views amongst tenants and providers. We believe there is merit in the collective community cashback idea, and there are some existing examples of benefits to communities who have adopted this approach.

¹ See Beyond Decent Homes: Decent Housing Standards post 2010. TPAS Submission 3 September 2009.

Q7 Do the proposed revisions to the rent direction adequately reflect the introduction of Affordable Rent.

TPAS are not convinced of the merit of the Affordable Rent model. We are concerned that it will create either benefit dependency through high rents or see a large number of properties going to people who do not have the greatest housing need. It is clear that regional differences will be a factor in the opportunity to use Affordable Rent. Our membership has mixed views on the benefits of the affordable rent model depending on local conditions and markets.

We do consider that Registered Providers using the Affordable Rent model have to make a judgement on the impact the rents will have in their area. It is clear to TPAS that most tenants have not been involved in the recent development applications for the new model. We would contend current and prospective tenants should be involved in agreeing a registered provider's approach to Affordable Rent.

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?

TPAS would suggest that Registered Providers need to consider the longer term improvement to homes in their ownership to a level higher than the current Decent Homes standard, as part of their Asset Management strategies.

The direction to the regulator on quality of accommodation should reflect longer term improvements. TPAS therefore do not support the proposed exemptions for Registered Providers to opt out of the requirements on quality of accommodation.

Q9. Energy Efficiency is implicit in the revisions to the Quality of Accommodation direction; should we make it more explicit?

TPAS consider that limiting the impact of high fuel prices and the addressing the problem of fuel poverty are major challenges for tenants and providers. **We believe there is merit in the Quality of Accommodation Standard being clear on the importance of energy efficiency. Therefore the direction should reflect that priority.**

Conclusion

- TPAS welcomes consultation on the proposed directions. We have deep concerns about the flexible tenure proposals and the potential impact of higher rents as a result of the Affordable Rent model.
- We support a strengthening of the Involvement and Empowerment Standard and support proposed improvements put forward by the four National Tenant Organisations.
- We remain deeply concerned about “backstop” regulation and urge government to consider strengthening so-called consumer protection.

Implementing social housing reform: Consultation on directions to the Social Housing Regulator

Consultation response: Trowers & Hamlins

1 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?

1.1 On probationary tenancies, having an 18 month absolute cut-off with no flexibility, could result in probationary tenants having their tenancies ended due to late-occurring relatively low rent arrears, simply because it is not clear to the landlord at that point that a full tenancy would be suitable.

1.2 Due to the availability of ground 9 and the non-applicability of SDLT thresholds, many registered providers are considering providing Affordable Rent tenants with a periodic tenancy. The periodic tenancy would contain a fetter on the use of Housing Act 1988 section 21 possession actions (for so long as the tenant is not in breach of the tenancy).

1.3 The advantage of a periodic tenancy is that a social landlord can achieve everything the HCA needs to achieve (rebasing of rent at suitable intervals and a period of security for (for example) five years when possession will not be sought unless the tenant is in breach of its obligations), without any of the additional burdens of new rounds of tenancy sign-ups for existing tenants in addition to the usual sign-ups of new tenants.

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

2.1 Charities need to be able to make proper decisions as to when they can offer short or long term tenancies respectively. The current draft direction states that the minimum tenancy should be two years in duration, but that two year terms should only be issued in exceptional circumstances, with five years being the norm. There needs to be clarity as to what constitute 'exceptional circumstances'. Charitable registered providers are required by law and regulation to ensure that their tenants are qualifying beneficiaries, and without a clear framework showing regulatory expectations, a five year 'norm' tenancy (when a two year tenancy is technically possible) could create difficulties with the Charity Commission in relation to charitable status.

2.2 Historically a check on a tenant's need for charitable social housing has been undertaken prior to the issue of a lifetime tenancy. The fact that full security of tenure was required to be granted and that rents were capped by Government policy meant that no further assessments were possible. The full security of tenure requirement (which effectively shielded charities from needing to undertake ongoing assessments of their tenants' circumstances), has been removed by the introduction of the Affordable Rents policy. Charitable landlords should therefore, as a matter of good governance, assess Affordable Rents tenants' need for the housing provided. These checks should be

undertaken prior to the grant of a tenancy and prior to any decision to renew or terminate the tenancy.

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

3.1 There will inevitably be considerations given to tenants with children in tenancy policies, and it is right that landlords take account of individual tenants' circumstances. Given the number of households with children however, including these tenants in the 'vulnerable' tenants clause may be counterproductive – the sheer weight of numbers effectively rendering the 'vulnerable' classification/consideration worthless as there are so many tenants qualifying for it.

3.2 Paragraph 50 of the consultation document indicates that those with children should be provided with long term tenancies. Again, given the number of households which comprise of families, providing all of these households with long term tenancies would have a significant impact on the implementation of flexible tenancies (and also on the rental streams of the landlords, who, as the direction is currently drafted, would never be able to adjust rents to market level as the tenants would be on long term periodic tenancies).

3.3 Paragraph 53 of the consultation document indicates that where an existing tenant chooses to move to an Affordable Rent property, they will not be guaranteed their existing security of tenure at their new home. There are likely to be considerable difficulties in assessing where a tenant has made a 'choice'. To demonstrate, if a tenant is very overcrowded at their original property, is it a choice to move to a larger home at a reduced security of tenure? Given that there is already a strict statutory process preventing tenants from losing security of tenure without ensuring that they understand that that is what they are doing, it may be better to allow that process to deal with this issue and not add further levels of qualification in guidance to the process of a tenant moving from a full assured tenancy to an assured shorthold tenancy.

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

4.1 It will be important to work through where the burden of operating and paying for the IT systems will fall. Data protection issues will also be vital – who will have access to tenants' data (especially any sensitive personal data such as medical information) and how tenants' consent to the processing of that data will be obtained.

4.2 Requiring landlords to register and search for properties for some tenants (paragraph 58 of the consultation document) will potentially be very resource intensive – especially given that landlords will have a duty proactively to promote the mutual exchange option.

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

5.1 Will there be guidance issued as to the level of consideration/influence/response to be given by landlords to tenants'/tenants' association's comments during consultation?

5.2 What conditions should be satisfied in the forming of tenants' panels which are set up to hold registered providers to account and scrutinise service delivery? Would it be up to the landlord to set out its chosen conditions in policy, or will there be some general guidelines, along the lines of those given to Rent Assessment Committees in relation to its ability to certify 'recognised tenant associations' under the Landlord and Tenant Act 1985?

5.3 There is a risk, if tenants' panels not managed/promoted flexibly enough, that they could become unbalanced – self-selecting and/or non-diverse.

6 **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?**

6.1 On this three element question, we have focussed on the third of the three elements, and more particularly on potential exposure and risk. Specifically there are a number of potential impacts on the landlord regarding its legal obligations to the tenant and to others if a tenant undertakes their own repairs, including:

6.1.1 interaction between the tenant's repairs and the implied landlord repair covenants (under which the risk will remain on the landlord as its liability under statute will continue).

6.1.2 landlord obligations to other occupiers of the block/estate where the repairs are not carried out properly as well as possible liability to other occupiers (or indeed the tenant) where the repair causes an accident or health and safety issue.

6.1.3 landlord obligations to lenders to keep property in good repair.

6.1.4 insurer concerns – if the works cause an accident, will the terms of the landlord's insurance cover this? Additional insurance may be needed to cover tenants' works.

6.2 Practical concerns will also need to be addressed, including:

6.2.1 Where tenants undertake works under a Tenant Cashback model, especially in blocks of flats, what provision should be made for quality control? How will tenants who wish to do a repair be assessed for competency? And how will repairs be monitored and/or inspected throughout the works and at completion?

6.2.2 Are the costs of subsequent inspections of the works to come from the Tenant Cashback model or is the landlord required to fund and resource these? Where are the funds for any rectification works to come from? The possible increase in costs where the landlord has to remedy a poor repair job may not be recoverable where there is a mixed tenure block including long leaseholders paying a service charge.

6.2.3 What will the level of cash incentive be? What implications are there for compliance with section 20 of the Landlord and Tenant Act 1985 in relation to service charges.

6.2.4 Will the Tenant Cashback model operate through the covering of actual costs incurred or by a set allowance? Where an allowance model is used, there is a concern that it is in the tenant's interest to spend less and cut corners on the works, thereby retaining the unspent allowance. When is the payment made? If materials are paid for in advance how does the landlord ensure that materials are indeed purchased?

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

7.1 Where a periodic tenancy is issued under the Affordable Rent regime, especially a long term or lifetime tenancy, should there be an ability to rebase to 80% of market rents during the currency of that tenancy, or are long term/lifetime tenants intended to have their rents capped off at inflation plus 0.5% annually (which would seem contrary to the policy's aim of linking rents to market levels)? The current draft direction only allows rebasing of rents on the grant of a new tenancy. The ability to include a contractual term in a long term/lifetime periodic tenancy allowing for a regular (for example every five year) rebasing of rents would avoid this issue.

7.2 In order to enable administrative efficiency, both in terms of cost and process, many registered providers synchronise rent increases across their stock on (for example) the first Monday in April. Presumably it will therefore be acceptable to have an Affordable Rent rent increase within the first year of issue of a tenancy when there has been a recent rent rebasing upon the grant of a new tenancy (even though in practical terms this will look to the tenant like two rent increases in a year)?

8 Additional comments

8.1 Allowing tenants to stay in their family homes even when their economic situation alters could be useful (for example at the end of a fixed term tenancy or at the point of a contractual review for a periodic tenancy). One interpretation of the current Affordable Rent policy is that such a decision is not possible however, and that the tenant should leave their home once they no longer need low cost rented housing. An explicit acknowledgement that a landlord can adjust the terms of a tenant's occupancy to market rent levels when they no longer need low cost rented housing would clarify the issue, thereby assisting landlords who are seeking to preserve the stability of local communities and of their tenants' home life while still protecting limited social

housing funding/resources. Landlords would of course still need to deal with potential grant repayment issues in these circumstances.

- 8.2 An ability to adjust terms would also give comfort to those charitable social landlords concerned about the charitable status issues raised at paragraph 2.2 above. If a charity is able to raise rents to market level on a property (this is possible under charity law already as the property would be classified as an investment property), then this would help allay concerns that charitable status could be lost.
- 8.3 Service charges being included in the 80% rent figure could potentially result in any properties with significant service elements being excluded from the Affordable Rent programme.
- 8.4 We have no comments on questions 8 and 9 of the consultation paper.

Trowers & Hamlins
28 September 2011

Response from the Vale of White Horse District Council regarding the above consultation document:

1. Tenure Reform

Theoretically it would potentially make better use of valuable social housing. In practice it remains to be seen to what extent Housing Associations would be prepared to issue flexible tenancies unless they are incentivised by the CLG.

2. Mutual Exchange

This is a good idea - a national scheme to assist mobility is long overdue.

3. Tenant Involvement / Quality of Accommodation / Affordable Rent

These are issues that mainly concern the Registered Providers. There is a consideration for the Council to ensure Temporary Accommodation continues to meet basic quality standards. The impact of affordable rents should be offset by housing benefit if tenancies are well managed by the RP's, although there will be a clear financial impact for tenants that do not qualify for housing benefit.

Implementing social housing reform: directions to the Social Housing Regulator

Feedback from the Vela 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?

The proposed requirement on registered providers to “*publish clear and accessible policies which outline their approach to tenancy management*” is of a similar form to the requirement in the existing Tenancy Standard. It also incorporates tackling tenancy fraud and preventing unnecessary evictions, issues covered in the ‘specific expectations’ section of the existing Standard. We propose that tenancy policies should set out how tenants or prospective tenants can appeal or complain against tenancy decisions – we envisage that registered providers will normally wish to refer to their existing complaints procedures, taking account, in respect of local authority landlords, of the statutory provisions for appeals which we are planning to introduce.

We expect that in developing, communicating and implementing their tenancy policies, registered providers will pay particular regard to the needs of more vulnerable tenants and their 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.

Consultation response Question 1

The guidance provides clear direction on the circumstance to be considered which allows RP’s to reflect on the tenancy they should offer relating to property type, including adapted stock, individuals circumstances and also the impact on the sustainability of neighbourhoods.

The requirement to have a clear transparent policy that’s published is agreed but perhaps does not go far enough in linking to a requirement to have consulted with customers and have a process of review involving them to ensure that the policies are up to date and relevant.

We endorse the direction given in relation to appeals against the tenancy offered and not extended as going through the RP’s complaints processes.

It is also relevant to make reference to the tailored support and individual intervention approach to be taken in the context of tenancy management dependant on the circumstances and needs of the household. The aim for all RP’s should be to ensure that the right interventions and support are in place to sustain the tenancy. It must be of concern though that with the less resources available through the impact of CSR on local authority services that supporting tenancies may become more challenging for some providers and agencies in the future.

We also note that as part of our group has a LSVT within the 5 year period following transfer and we would also need in our policy to have regard for the commitments to existing and new tenants as per that document.

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

The Government believes that the minimum guarantee should be a two-year tenancy. However we would expect, and responses to the *Local Decisions* consultation suggest, that 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. We are proposing that registered providers' tenancy policies should explain how they will take account of the needs of vulnerable households, including through the provision of tenancies which provide a reasonable degree of stability for those households.

The draft direction makes clear that for new tenants, a flexible tenancy may be preceded by a probationary tenancy. Probationary tenancies are used by the majority of registered providers, prior to the grant of secure or assured tenancies, as an important tool to identify and deal with anti-social behaviour at an early stage. For the same reason, the Government wants to ensure that landlords are able to grant probationary tenancies prior to the fixed term of a flexible tenancy for new tenants.

The Government also wants to ensure that all registered providers have the same level of flexibility on the use of probationary tenancies, as part of encouraging their use for new tenants as standard practice. The draft direction therefore clarifies that private registered providers can extend probationary tenancies to up to 18 months (as local authority landlords can already).

The draft direction incorporates a requirement 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. This 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. This approach matches the Government's proposals in paragraph 2.51 of the *Local Decisions* consultation. The guarantee will apply where tenants are decanted to another property (regardless of whether it is a social rent or Affordable Rent property).

Consultation response Question 2

The move to minimum of 5 years is welcomed and when preceded by an Intro tenancy will allow that household to establish in the neighbourhood and give opportunity if at all possible for the household income to change and offer up

the potential of other tenure choices. It would certainly be our view to use probationary tenancies as a pre cursor to a flexible tenancy.

The guarantee of no less security to social tenants moving to another social rented home is not problematic for us but organisations who are LSVT will need to have regard to the transfer agreements that were scoped out locally. We welcome the flexibility offered for social tenants moving to an affordable rent to retain the same rights.

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

As noted above, the Regulator published a revised Tenancy Standard on 13 April 2011 in order to enable registered providers to participate in Affordable Rent. The revised Standard provides greater flexibility for registered providers on the types of tenancy they can grant on Affordable Rent properties. The proposed direction will extend these flexibilities to traditional social rented housing as well. In doing so, the direction seeks to build on the requirements in the existing Standard. The key differences between the proposed direction and the current Standard are as follows:

- the draft direction provides more detail about the matters that tenancy policies should set out
- the draft direction makes clear that, in relation to general needs housing, the alternative to Assured or Secure periodic tenancies is to offer fixed term tenancies. The draft direction also clarifies the maximum length of probationary tenancies
- the draft direction sets out the circumstances in which existing social tenants are guaranteed the same level of security where they move home

Consultation response Question 3

The proposals align the standard to the use of affordable rents to existing stock.

Direction on mutual exchange

In formulating the draft direction on mutual exchange we have sought to build on the existing regulatory requirement to participate in mobility and mutual exchange schemes where available, and make clearer our expectation that registered providers should offer a better mutual exchange service to tenants.

The purpose of sub-paragraph 3(2)(a) of the draft direction is to require registered providers to subscribe to an internet based mutual exchange service which enables tenants to register their details for a mutual exchange and search for reciprocal matches.

Paragraphs 8.25-8.29 of the *Local Decisions* consultation document described work by Government and existing providers of internet-based mutual exchange services to develop a new national scheme which would enable tenants wishing to identify a mutual exchange to see all available matches. It is our intention that registered providers should subscribe to a provider who is part of this scheme (as provided by sub-paragraph 3(2)(b)(i)), but the draft direction retains the choice for landlords to subscribe to a number of individual providers if they prefer (see sub-paragraph 3(2)(b)(ii)). The intended outcome is that tenants should be able to access easily the details of as many available reciprocal matches as possible.

We want also to ensure that registered providers proactively promote the option of mutual exchange to tenants, including access to a service which the registered provider has subscribed to on their behalf. This is provided for in sub-paragraph 3(2)(c) of the draft direction. Registered providers will need to provide support for tenants who may not have access to a computer, or may not be able to use a computer without assistance (see subparagraph 3(2)(d)). This point was made particularly in relation to older or more vulnerable tenants in response to our earlier consultation on *Local Decisions*. We are not seeking to prescribe how support might be offered but suggest this could include access to computers in public buildings, or housing officer support to register and search for matches on behalf of a tenant.

It is our intention that all registered providers should subscribe to a service on behalf of their tenants, and in the majority of cases this is likely to prove the most cost effective option. However it may be the case for smaller registered providers, where they perceive a full subscription to not offer value for money, that they would consider paying the subscription fee for individual tenants on request. Individual registered providers will have the flexibility to make this choice.

This new direction is intended to replace the required outcome on mobility in the Regulator's existing Tenancy Standard.

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

Consultation response Question 4

We agree with the principles followed here and the intended outcomes. We would have no problem in signing up to a national approach and with others following that same route then yes tenants will have access to a greater number of matches. The challenge for some RP's will be to review current local arrangements and take a view to continue with these alongside the national framework. A lot of Choice Based Lettings schemes and especially the bigger ones have already systems in place and committed operational costs. There will be a need to communicate effectively to tenants about the options open to them both nationally and in our case sub regionally.

We think that it is right to insist that providers provide support for those that don't have internet access to services or need help in doing so. The mention in the notes of Housing Offer assistance to register and search for matches is useful as an example but implies a proactive service from RP's that will need thinking about. Many like ourselves already offer this but other smaller RP's may struggle and will incur some additional financial costs

An outcome of more exchanges is welcomed and particularly useful as the impact of welfare reform may see tenants having to consider moving home for financial reasons. There is an issue in the future that tenants may be exchanging different types of tenancy. So for example a tenancy decision on a vulnerable customers circumstances (lifetime tenancy) may transfer through exchange to a household holding a fixed term tenancy. What we will need to do is be very clear about the implications for tenants looking to exchange and the tenancy type needs to be expressly clear and understood by the applicants to the new national scheme.

The new national scheme will help but subscribing in itself will not increase the numbers of people coming onto the scheme. The requirement will need to be for reasonable steps to publicise the availability of the scheme in order that the intended outcome can be realised.

Direction on tenant involvement and empowerment

We are proposing to amend the existing tenant involvement and empowerment direction in order to:

- implement several recommendations set out in the Review of Social Housing Regulation on strengthening the ability of tenants to hold registered providers to account¹⁵; and
- reflect the Government's Tenant Cash back scheme

The draft direction reflects three key recommendations set out in the Review. Firstly, that there should be a clear expectation in regulation that tenants are able to scrutinise registered providers' performance. The text in sub-paragraph 4(2)(a) of the proposed direction is designed to deliver this outcome. In particular we are proposing that tenants should have a wide range of opportunities to influence and be involved in *"the scrutiny of their landlord's performance and the making of recommendations to their landlord about how performance might be improved."* Alongside effective scrutiny, the Government wishes to ensure that registered providers provide further opportunities for tenants to take responsibility for managing their homes, and support tenants in exercising this choice, including through the Right to Manage where this is appropriate. Sub-paragraph 4(2)(b)(i) reflects this policy.

Secondly, that registered providers should welcome scrutiny via a tenant panel (or equivalent group). The text in sub-paragraph 4(2)(b)(ii) of the draft direction reflects this recommendation. The proposed text is designed to sit

alongside the provisions in the Localism Bill for tenant panels that have been recognised as a designated person for the purpose of referring complaints to the Housing Ombudsman. It is recognised that tenant panels will not necessarily choose to fulfil the function of a designated person for the purpose of referring complaints.

Thirdly, that there should be a clear regulatory obligation on registered providers to provide timely, useful performance information to tenants in order to support effective scrutiny. The Review also proposed that the Regulator's statutory power to require registered providers to submit an annual report of their performance should be replaced with a regulatory obligation to provide an annual report of performance to tenants. The text in sub-paragraph 4(2)(b)(iii) of the draft direction reflects these commitments.

Sub-paragraph 4(2)(a)(v) of the draft direction reflects the Tenant Cashback model. The intention is to give tenants opportunities to be involved in the commissioning or carrying out of routine repairs, as agreed with their landlord, and to share in any financial savings made as a result. We believe that the publication of information about repair and maintenance budgets will help tenants to judge whether local schemes are sufficiently ambitious. Sub-paragraph 4(2)(b)(iii) is designed to achieve this outcome via registered providers' annual reports.

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

Consultation response Question 5

Yes we agree with the principle and detail of the proposed revisions to the tenant involvement and empowerment standard. However concerning the Tenant cash back scheme we think that this should be discussed by RP's through the relevant involvement structures and whether the opportunity is given should be an issue resulting from that discussion and not any imposed 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?

Consultation response Question 6

Reviews of the Repairs and maintenance service should be subject to the provider's co-regulatory arrangements and be open to scrutiny and involve tenants in service design setting the service offer around the relationship between cost and quality. This is a key service for all Landlords and therefore you would expect to see some focus on this area through the scrutiny arrangements in the short term. For new models to be developed organisations are going to have to have that broader debate with tenants

when service reviews are on-going about not only improving key services but a reference to wider models and options. It should be up to the RP's through that debate to decide whether tenants cash back schemes reflects the right outcomes for tenants.

As a key service and one that for many landlords produces good levels of satisfaction and added value it is difficult to see that lot of tenants will want to participate in and generate new models. However, where we have TMO arrangements then they have already looked at the repairs and maintenance service and considered a range of options and the choice of service they make is based on cost and quality. Where a Landlord is not delivering good levels of service then there will be much more of a driver there for individual tenants to "opt out" or seek a new supplier of service.

There are options however to develop more thinking around new models and this could fit nicely into and align to employability initiatives developed in house and through other partnership models.

The requirement to produce statistical information in the annual report is welcomed and is what is expected at this time but for tenants to look at performance more clearly this would have to be in much more detail and with some comparison of costs against others and other options i.e. the private sector. It is likely that the production of this report and information alone will not achieve the intended outcomes and so good scrutiny and co regulatory arrangements will be more effective.

Direction on rents

The Government is proposing to update the existing direction on rents to reflect the introduction of the new Affordable Rent model. The formula for traditional social rents will remain unchanged. The Government intends that the resulting standard will continue to apply to private registered providers only.

Our proposed amendments to the direction are consistent with the 2011-15 Affordable Homes Programme Framework. The wording is very similar to that already used by the Regulator in its recent amendments to the rent element of its Tenancy Standard. The revised direction is therefore unlikely to result in material changes to the existing regulatory framework.

In particular, the draft direction provides that:

- 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

- in line with the Housing Minister's statement to Parliament on 9 December 2010¹⁶, Affordable Rent properties are outside the Government's rent restructuring policy and the social rent formula
- Affordable Rent properties are subject to separate requirements relating to initial rent setting, annual increases and periodic rebasing as set out in the direction

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

Consultation response Question 7

Yes the proposals do adequately reflect the introduction of affordable rents.

Direction on quality of accommodation

We are proposing some minor revisions to the existing quality of accommodation direction. These changes are needed to reflect the fact that the original date for compliance with the Decent Homes Standard (31 December 2010) has now expired.

We are proposing to remove the fixed date for compliance from the direction. The resulting Quality of Accommodation Standard would instead work in much the same way as other standards, where compliance is required with immediate effect rather than within a certain period.

The existing direction gives the Regulator's scope to provide 'extensions' to the date by which registered providers must comply with the Quality of Accommodation Standard. The draft direction attached at Annex A retains this flexibility in a slightly modified form. As registered providers are expected to maintain their stock at a decent level on an on-going basis, the direction would give the Regulator scope to grant a temporary exemption for specific properties where the requirements of the standard should be met by an agreed date. Our expectation is that such an exemption would only be granted to local authorities with a backlog of work now and then only in exceptional circumstances in the future.

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?

Consultation response Question 8

The revisions to the standard and the removal of the target date is welcomed. What organisations should be doing now is working with customers on the investment needs and where they are falling short of the standard then this is to be reported in the annual report and through the regulatory returns.

However where a local agreement exists to address investment needs and priorities that mean some properties don't meet the standard then this needs to be taken into account. In this sense whilst there may be a list of exceptions it may also be by local agreement and the regulator needs only to reflect whether this is an acceptable approach based on a robust business case and local agreement. Exceptions for category 1 hazards would be excluded from these exception criteria.

The previous standard fell short in relation to thermal efficiencies and this would have been an opportunity to address that. Reasonable levels of thermal comfort don't reflect the major issues of fuel poverty facing us and in order to keep tenants warm and make their homes sustainable Landlords should be looking at more investment in this area. This may well challenge some of the investment to be used to achieve the basic component replacement required by the decent standard.

We would assume that circumstances for not achieving the standard on homes would continue to apply in areas where regeneration is taking place or is planned?

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

Consultation response Question 9

As noted in the answer above, we believe that an energy efficiency focus should be made more explicit. Tenants should through dialogue with the Landlord be influencing decisions about the investment programme and making some hard choices between new kitchens/bathrooms etc. or double glazed windows and PV panels. Perhaps as one of the temporary exemption reasons landlords could demonstrate that have used the funding for energy efficiency measures.

WAKEFIELD AND DISTRICT HOUSING

Response to Consultation Paper

Implementing social housing reform: directions to the Social Housing Regulator

We are pleased to provide our observations on the consultation document and have detailed these in the following responses, dealing with each specific question in turn.

Whilst we realise that the consultation is aimed at helping the regulator implement the reforms to housing provision, we would question a number of the fundamental concepts and the planned changes which, in our opinion, will not be in the best interests of tenants; particularly those in the north of England.

In addition to this individual response, we have also recorded our concerns which have been included in the drafting of the National Housing Federation's response and generally concur with their 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?

Of the five directions, tenure, tenant involvement and empowerment, rents (affordability) and quality of accommodation are important to our tenants. Of less importance is the mutual exchange programme as the vast majority of our tenants remain within the Wakefield district and we have existing systems in place to deal with the small number of out-of-district requests we receive. In addition to the five directions quoted in the consultation document we would argue that 'place' is equally important and issues around antisocial behaviour, litter, dog fouling and grounds maintenance (fly-tipping, abandoned cars and public space) are consistently high on our tenants priority lists. The consultation does not pick-up on the work done by social landlords, with great effect, on value added activities to support their communities in areas such as health and well being, education, worklessness and community cohesion; all of the things the government would seem to want to achieve through the Big Society. In fact it could be argued that social landlords were at the vanguard of the Big Society.

Whilst a different issue, which we have commented on under a separate response, but which covers issues intrinsically linked to this consultation we have on-going concerns over the proposed Welfare Reforms. The linking of tenancies to income would appear to be fundamentally flawed and this is particularly so within our operating district (and arguably others across the country). Many of our tenants are in low paid employment and employed on either short-term or fixed contract basis with household income levels fluctuating regularly, making monitoring and decision-making on continued tenure (under the current proposals) virtually impossible. There would also be little incentive for people to 'better themselves' by accepting work, which given the type of work available to them, would just put them just above the threshold, and which in turn,

would then put them at risk of losing their home. This may act as a further disincentive to gaining employment and only serve to drive people into the grey economy rather than declaring their actual income level.

We would agree that clear and accessible policies and procedures, along with the agreed Tenancy Standards, should remain and that the most vulnerable should attract more tailored support aimed to meet their specific level of need.

2

8 September 2011

Department for Communities and Local Government

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

We remain unconvinced that fixed term tenancies are the right approach to offering people a home. The existing choice based allocations policy and offering tenancies on a year long 'starter' tenancy basis currently works well and we can see no reason to change this. Good landlords constantly monitor their tenancies and work with tenants on providing solutions to their housing need on a pragmatic and bespoke basis, using tenancy termination powers only when needed. We anticipate that the majority of our tenancies will continue to be offered on a 'lifelong' basis to provide our tenants with the security they need. In many cases, the home has been recognised as the one stable factor for many families and the increased anxiety and uncertainty of tenure does nothing to reduce their daily stress. The aim of social landlords is to create sustainable communities and it is debatable whether fixed term tenancies would work against this aim. Currently, tenants invest time and money into making their properties a home - on the basis that they will have longer-term tenure. If shorter, less secure tenancies were to be enforced then we would anticipate a significant reduction in this level of personal investment and care in the home and expect landlords to have to find additional funds to bring the properties up to re-lettable standards when the tenant moves out. We feel that there are sufficient powers already available to landlords to deal with problem tenants and the majority of landlords are already skilled in dealing with problem tenants beyond the starter tenancy timescales. The issue of flexibility of tenure is already available to tenants through shared ownership and staircasing up/down

We note the Ministers change to offer the majority of tenancies at a five-year minimum term (with two-years now becoming the exception). However we remain unclear as to whether this refers to tenancies offered as affordable rents or to general needs housing, clarification of this point would be welcomed.

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

May need amending in light of the response to Question 2.

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

Whilst we would have no objection to the concept of a mutual exchange process offered through the internet, at the current time we would appear to have little demand for it outside of the Wakefield district and therefore would potentially see this as an unnecessary expense. We are currently members of the 'Home Swapper' scheme and feel that further support and connectivity of this scheme would meet most landlords' needs.

Currently, WDH tenants have relatively low levels of access to the internet and take-up rate, whilst growing, remains low. Therefore, we feel that the provision of this type of service would not, at the present time, meet the needs of the majority of our current tenants.

If an effective service is to be offered, in the short-term, it may take more traditional means to deliver the services whilst simultaneously building awareness/use of web-based services, which would have to be made clear within the tenancy standards. We are already working with current and future tenants to increase web usage and would welcome the regulators help in accelerating this process as stated in paragraph 25.

The vast majority of exchange requests are local and people rarely move from/to outside the district, with most moves being triggered through personal circumstances; family, friends and local conditions. These requests are currently well catered for through our mutual exchange scheme but we would welcome the opportunity to develop the standard as stated in paragraph 26 to further develop 'methods of assisting tenants to exchange tenancies'; should the proposal be approved by Parliament..

At the present time, we would prefer to monitor demand for this type of service and defer making a decision until there is a healthy demand for such a service and it becomes more cost effective to maintain this.

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 principle but feel that the concept of the tenant cash-back needs further development and consideration, that is the findings of the two pilot schemes (Hastoe Housing Association Ltd and Home Group) needs to be fully evaluated. There is also considerable work to do to help tenants develop the skills set required to make such fundamental decisions on what maintenance work they would be able to complete; a gifted handyperson is no replacement for a skilled tradesperson. We are also concerned that some areas, with more active and skilled tenants, may fair better than others less well placed; creating an inequitable service with associated costs to match. Tenants already hold responsibility for the general, low level, maintenance of their homes but we are concerned that by offering a cash payment to them to take on more will result in them compromising quality and/or safety which may result in corrective work having to be completed by the landlord when things go wrong – resulting in double the cost of the original repair. We are extremely concerned that health and safety may be compromised and tenants will undertake work which compromises theirs and others safety.

We are also concerned that by offering tenants the opportunity to complete repairs may open the door to a level of fraud similar to that experienced by insurance

company's, that is bogus claims. Landlords are not currently skilled in identifying, managing and litigating for this and we anticipate having to find funds to meet the additional costs associated with this type of work.

We already work with our tenants at a number of levels and encourage them to challenge and hold us to account for our actions and we would be happy to work with the regulator to develop this accountability further.

3

8 September 2011

Department for Communities and Local Government

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 tenants are already involved in the provision of the repairs service through existing Local Management Committees, Scrutiny Committee, Tenant Inspectors and Service Reviews. The numbers involved vary depending on the scope and scale of the service to be tested; as do the costs.

It is worth emphasising that the benefits are not always financial savings (there may be additional costs) but benefits may be reflected in increased tenant satisfaction and improved community cohesion/

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

The introduction of affordable rents has provided us with a challenging dynamic as social rents in the North of England are often set above some of those in the private rented sector. However, the standard of property offered in these cases is (usually) significantly inferior to that of social housing. For landlords to make the affordable rents model work we will have convert the properties in our most desirable estates or offer new build properties to Affordable Rent; meaning that we move them out of reach of the majority of our tenants. We are concerned that this restricts our 'offer' and potentially segregates social housing tenants into less attractive estates - sink estates? We are also concerned that the number of new builds will be out of synchronisation with demand and an imbalance may occur, whereby more and more of our existing stock is given over to Affordable Rent placing even greater strain on social rent. We are also concerned that when the economy does pick up, the people who exercise their right to Affordable Rent properties now will go back into home ownership leaving landlords with a potential empty homes problem (unless Affordable Rent homes can revert back to social rent) and no means to fund new build.

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 generally agree that the proposed amendments are adequate to reflect the required standards

However, we are proposing some minor revisions to the existing quality of accommodation direction. These changes are needed to reflect the fact that the original date for compliance with the Decent Homes Standard (31 December 2010) has now expired.

We are proposing to remove the fixed date for compliance from the direction. The resulting Quality of Accommodation Standard would instead work in much the same way as other standards, where compliance is required with immediate effect rather than within a certain period.

The existing direction gives the Regulator's scope to provide 'extensions' to the date by which registered providers must comply with the Quality of Accommodation Standard. The draft direction attached at Annex A retains this flexibility in a slightly modified form. As registered providers are expected to maintain their stock at a decent level on an ongoing basis, the direction would give the Regulator scope to grant a temporary exemption for specific properties where the requirements of the standard should be met by an agreed date. Our expectation is that such an exemption would only be granted to local authorities with a backlog of work now and then only in exceptional circumstances in the future.

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

No, this should be agreed at a local level with the provider and the tenants. The level of thermal efficiency should remain implicit. Guidance should be provided to determine the acceptable levels of thermal comfort and in addition should include the provision of thermostatic control, energy efficiency to reduce carbon and heat recovery and how this should be balanced with heat loss.

WATERLOO HOUSING GROUP

Implementing Social Housing Reform: Directions to the Social Housing Regulator

Introduction

Waterloo Housing Group is a group of associations which owns and manages almost 18,000 homes across the Midlands from the Welsh Borders to the Wash.

We work across a range of local authority areas, including both large urban conurbations such as Birmingham and Leicester, as well as more remote rural areas.

We welcome the opportunity to respond to and influence this important consultation and look forward to the outcome of it.

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?

Overall the draft direction on tenure does reflect the line of travel in relation to offering greater flexibility in relation to use of a provider's housing stock, and builds on work already started in relation to development of Affordable Rents.

The only issue that may need clarification is in relation to 2 (4) (c) in respect of security of existing tenants who choose to move to another home. I read this to mean that where an existing lifetime tenant chooses to move to a property let at an Affordable Rent, such security would be lost but this should be clarified to remove any doubt that there may be amongst providers.

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

On the whole it does, as it reflects the key considerations such as the needs of vulnerable tenants and households with children. It also makes clear the expectation that providers should be clear about the circumstances in which different forms of tenancy may be used, as well as key considerations such as the ending of a fixed term tenancy and related advice and assistance to be given.

All of these are important issues for current and future customers so should be transparent.

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

For the most part we would agree that it does, as it reflects the need to balance the key considerations of protecting the security of existing lifetime

social tenants (unless they choose to move to an affordable rent property) with the desire to enable more efficient use of a provider's housing stock.

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

We agree with the desire to ensure that customers are able to move more readily than has been the case, as this is a key consideration in an era where people may have a need to move e.g. to secure employment. Providers should facilitate this as much as possible.

We therefore agree that providers should participate in one or more such mobility schemes as appropriate, and should assist customers through means such as provision of computers in office buildings to enable those people with no access to a computer to make use of such schemes. The proposals do also seem to be proportionate in respect of the requirements for smaller providers too.

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

In relation to tenant scrutiny, and provision of appropriate performance information to customers, we are happy to support the proposed revisions. Indeed we think we have gone a long way to achieve these, and are currently in the process of building on our existing tenant scrutiny arrangements by developing Local Boards with a majority tenant membership who will hold us to account in respect of services to customers.

We have also had in place across the Group arrangements such as Neighbourhood Improvement Panels that enable customers collectively to input into repairs and maintenance services.

We do think that the proposals in respect of Tenant Cashback need careful thought however, to ensure that customers do receive true value for money and an appropriate quality of repair work. There are also concerns of liability and costs for correcting poor workmanship.

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 would need to plan these with our customers, to see how they may wish to take the proposals forward. As outlined in our response to question 5 however, we have a long history of involving residents in reviewing maintenance contracts, and also recommending neighbourhood improvements.

The development of our Local Boards will also of course give customers a very real means to monitor our services and hold our operating associations to account, in respect of repairs and maintenance as well as other services.

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

We believe that the proposed revisions are sufficiently clear, and reflect the previous amendments to the rent element of the Tenancy Standard, and the Housing Minister's statement to Parliament in December 2010. They also look consistent with the wording in the HCA 2011-15 Affordable Housing Programme.

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 that the proposed revisions in respect of Quality of Accommodation are minor in nature and reflect primarily the fact that the original date for compliance has now expired.

It is undoubtedly beneficial too to maintain the ability to grant a temporary exemption for some properties where needed primarily by local authorities.

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

Although implied in the proposed Quality of Accommodation direction in relation to requiring "facilities or services for the provision of a reasonable level of thermal comfort", there may be some benefit in making the standard more explicit about the direction of travel, as this would potentially benefit both the environment as well as improve financial inclusion by enabling lower bills for customers.

Clearly any move to develop more specific expectations would need to be implemented in a practical manner that would be achievable for providers.

We hope that our response is of use in taking forward this consultation but please feel free to contact us if you have any further queries.

Implementing social housing reform: directions to the Social Housing Regulator:
Response from Wealden 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?

No, more detail is needed for example who are vulnerable groups? The definition used in Homelessness legislation could be used for consistency.

Flexibility is needed to enable local need to be met however, having different providers in one area with different policies will be confusing for tenants and is open to legal challenge. Ideally there would be a common period of tenancy and criteria for those wishing to become tenants amongst providers operating in a particular District/Borough/City.

We are pleased to see that since the consultation document was released that Government now expect tenancies to be at least 5 years rather than 2 years, although provided it is set out within their tenancy policy registered providers may grant shorter tenancies. Prior to this announcement concern was held over having tenancies as short as 2 years in terms of creating sustainable communities: communities where people want to engage with providers and work to improve the area. Additional concern was held in terms of the staff implications in administering such tenancies for both management and allocations staff.

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

See response to Question 1. Additionally, concern is expressed around the discretion of providers to provide the same level of security where a tenant chooses to move to an Affordable Rent home. The grounds where this will and will not happen needs to be clearly set out in the Tenancy Policy and clearly explained to tenants to avoid confusion.

The two key issues for tackling housing demand in Wealden remain the lack of affordable housing at 7.4% of all housing stock in the District compared to a national average of 19%, together with the lack of movement in the stock.

More needs to be done nationally to address under occupation of existing tenants particularly those post retirement age in order to assist local authorities and other providers to gain movement in the stock of social/affordable housing. The proposed changes do not help as they may restrict the ability to free up family homes, as often the best way of enticing under occupiers out is a brand new home which are now likely to be at the Affordable Rent. Should enticement be needed? For example changes have

already been made to housing benefit payments of under occupiers of working age, should the changes go further?

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

The framework is there although in line with our response in question 1 and 2 we feel that slightly more detail is required to ensure clarity/uniformity to be able to withstand legal challenge. This could include a definition of vulnerable groups consistent with the Homelessness legislation.

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

Yes, we support the need for registered providers to subscribe to an internet based mutual exchange service. We currently subscribe to an internet based mutual exchange register which covers East and West Sussex and provide a variety of levels of support for those unable to access it.

However, we feel that the consultation does not go far enough and feel that there needs to be a national scheme which should be free for the landlords or which should charge a small administrative fee as previously indicated in Local Decisions consultation. This would ensure a consistent approach, prevent profit making through the development of such systems and provide real flexibility and choice for those wishing to move.

Although we support a national scheme in reality local evidence suggests that people do not want to move far away but want to remain close to family and friends and so our current arrangements meet local need.

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

Yes, we are supportive of the proposal that tenants should be able to scrutinise providers performance however we feel that it will be harder to get tenants involved with the introduction of fixed term tenancies. We welcome such an approach and have arrangements in place to deliver this.

It unclear what the key drivers are of the Tenant Cashback scheme and what it would achieve. We have three key reservations over the scheme;

Firstly those based on health and safety grounds of tenants and contractors undertaking work within our properties, as well as concerns over the competency levels of those undertaking the work. Where is the quality control?

Secondly, reservations based on resources. The scheme will require providers to closely monitor the work undertaken hence have staffing implications. Additionally the quality of the repair work will impact on the

lifecycle of the component, which may ultimately increase long term costs. If the format/focus of a repairs service is changed, there will be a risk to the more significant planned maintenance strategy and costs associated to these.

The third issue is about capturing data for our Asset Management Plan.

We currently work to ensure that our services are cost effective and involve tenants in the procurement of contractors to ensure that we get value for money.

We are very supportive and have embraced the involvement and empowerment of tenants in service delivery and improvements for communities inline with the localism agenda. One way in which we have done this is through a Community and Environmental Budget allowing tenants/groups to bid for money to deliver local projects identified by the local community and supporting them to raise external funding.

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 could depend on the tenant profile of the provider. For Wealden we involve tenants in procurement and monitoring of contracts but have low take up primarily due to having "older tenants" and very satisfied tenants, therefore the cost is substantial with minimum benefit.

We have used existing structures to involve social tenants in service delivery and improvement, including in procurement and monitoring of services such as well repairs and maintenance as well as in many other ways such as in setting/review policies. This includes working with our umbrella resident's body or members from it.

As well as formal mechanisms we utilise informal ones including feedback from tenants to officers to improve and monitor service delivery.

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

The terminology is confusing - who are private registered providers compared to registered providers? And what about local authorities? Otherwise the direction clearly lays out how the rent will be valued and how annual increases will be calculated.

We also seek clarification on rent convergence. It is clear that it is happening but when will it be complete, is it still 2015? And are we on target to achieve this?

There also needs to be more clarity on whether we are all converging to the target rents or beyond to affordable rents as there is confusion due to the recent ministerial speeches.

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 agree that all providers should now meet and maintain the decent homes standard post the deadline for compliance. With an allowance for the Regulator to give temporary exemption to the provider on the Quality of Accommodation Standard.

We would welcome better regulation of private rented accommodation in line with that required for social landlords in terms of decent homes. The law should embody an expectation that standards will apply to all landlords including private rented which would make it easier to use existing legislation to ensure that substandard privately rented properties are put right.

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

Yes, currently the measures defined within the Housing Quality Standard for energy efficiency i.e. Thermal Comfort are low and there is a curious gap between those standards for Gas and Electric heated properties. They also do not necessarily reflect the future of efficient heating systems i.e. gas prices and that gas central heating may not be the most efficient form of heating now or in the future, therefore why have a lower insulation standard?

The current standard focuses on only three elements; form of construction, heating system/controls and insulation. Standard Assessment Procedure (SAP) incorporates a much wider scope of assessment and therefore is a better measure of energy efficiency. The standard should probably try to incorporate this by setting a minimum rating to be achieved and therefore make the standard more explicit.

We would therefore like to see a standardisation of the assessment criteria for energy efficiency for all dwellings, regardless of their tenure and whether they are new build or existing homes.

Welwyn Hatfield Borough Council response to consultation document
Implementing social housing reform: directions to the Social Housing
Regulator

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?

Government comments:

The proposed requirement on registered providers to “*publish clear and accessible policies which outline their approach to tenancy management*” is of a similar form to the requirement in the existing Tenancy Standard. It also incorporates tackling tenancy fraud and preventing unnecessary evictions, issues covered in the ‘specific expectations’ section of the existing Standard. We propose that tenancy policies should set out how tenants or prospective tenants can appeal or complain against tenancy decisions – we envisage that registered providers will normally wish to refer to their existing complaints procedures, taking account, in respect of local authority landlords, of the statutory provisions for appeals which we are planning to introduce.

We expect that in developing, communicating and implementing their tenancy policies, registered providers will pay particular regard to the needs of more vulnerable tenants and their 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.

Council response:

We agree with the content of the direction in terms of the tenancy standard. However we would like to see a specific requirement for Registered Providers to have regard to the Local Housing Authority’s Tenancy Strategy when developing their Tenancy Policy.

It would also be helpful if the Direction can clarify that providers can contain their policy approach to tenancy management (including preventing evictions, tackling tenancy fraud and granting discretionary succession rights) within published service standards – avoiding any unnecessary duplication.

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

Government Comments:

The Government believes that the minimum guarantee should be a two-year tenancy. However we would expect, and responses to the *Local Decisions* consultation suggest, that 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. We are proposing that registered providers' tenancy policies should explain how they will take account of the needs of vulnerable households, including through the provision of tenancies which provide a reasonable degree of stability for those households.

The draft direction makes clear that for new tenants, a flexible tenancy may be preceded by a probationary tenancy. Probationary tenancies are used by the majority of registered providers, prior to the grant of secure or assured tenancies, as an important tool to identify and deal with anti-social behaviour at an early stage. For the same reason, the Government wants to ensure that landlords are able to grant probationary tenancies prior to the fixed term of a flexible tenancy for new tenants.

The Government also wants to ensure that all registered providers have the same level of flexibility on the use of probationary tenancies, as part of encouraging their use for new tenants as standard practice. The draft direction therefore clarifies that private registered providers can extend probationary tenancies to up to 18 months (as local authority landlords can already).

The draft direction incorporates a requirement 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. This 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. This approach matches the Government's proposals in paragraph 2.51 of the *Local Decisions* consultation. The guarantee will apply where tenants are decanted to another property (regardless of whether it is a social rent or Affordable Rent property).

Council response:

Please see comment above regarding the requirement for the Registered Provider to have regard to the Local Housing Authority's Tenancy Strategy. The revised standard, which sets out that the expectation is that a minimum fixed term of five years should be offered where a flexible tenancy is used, is welcomed.

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

Government comments:

As noted above, the Regulator published a revised Tenancy Standard on 13 April 2011 in order to enable registered providers to participate in Affordable Rent. The revised Standard provides greater flexibility for registered providers on the types of tenancy they can grant on Affordable Rent properties. The proposed direction will extend these flexibilities to traditional social rented housing as well. In doing so, the direction seeks to build on the requirements in the existing Standard. The key differences between the proposed direction and the current Standard are as follows:

- the draft direction provides more detail about the matters that tenancy policies should set out
- the draft direction makes clear that, in relation to general needs housing, the alternative to Assured or Secure periodic tenancies is to offer fixed term tenancies. The draft direction also clarifies the maximum length of probationary tenancies
- the draft direction sets out the circumstances in which existing social tenants are guaranteed the same level of security where they move home

Council response:

We agree that the right minimum standards are set out, particularly in light of the revision to state that a minimum fixed term of five years should be used, other than in exceptional circumstances.

We do not see the advantage of extending the probationary tenancy from twelve to eighteen months. Twelve months is a sufficient length of time to test how a tenant will behave.

We would like to see the protection of existing secure tenants extended to include those who move to an Affordable Rent Tenancy – so that they are able to maintain their security of tenure. This would help aid mobility, particularly from under occupied homes. There is also a risk that families and households will remain in unsuitable housing because they do not want to accept a property with a reduced security of tenure, thereby leading to increased overcrowding and households living in accommodation which may be detrimental to their health.

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

Government Comments:

In formulating the draft direction on mutual exchange we have sought to build on the existing regulatory requirement to participate in mobility and mutual exchange schemes where available, and make clearer our expectation that registered providers should offer a better mutual exchange service to tenants.

The purpose of sub-paragraph 3(2)(a) of the draft direction is to require registered providers to subscribe to an internet based mutual exchange service which enables tenants to register their details for a mutual exchange and search for reciprocal matches.

Paragraphs 8.25-8.29 of the *Local Decisions* consultation document described work by Government and existing providers of internet-based mutual exchange services to develop a new national scheme which would enable tenants wishing to identify a mutual exchange to see all available matches. It is our intention that registered providers should subscribe to a provider who is part of this scheme (as provided by sub-paragraph 3(2) (b) (i)), but the draft direction retains the choice for landlords to subscribe to a number of individual providers if they prefer (see sub-paragraph 3(2) (b) (ii)). The intended outcome is that tenants should be able to access easily the details of as many available reciprocal matches as possible.

We want also to ensure that registered providers proactively promote the option of mutual exchange to tenants, including access to a service which the registered provider has subscribed to on their behalf. This is provided for in sub-paragraph 3(2) (c) of the draft direction. Registered providers will need to provide support for tenants who may not have access to a computer, or may not be able to use a computer without assistance (see sub-paragraph 3(2) (d)). This point was made particularly in relation to older or more vulnerable tenants in response to our earlier consultation on *Local Decisions*. We are not seeking to prescribe how support might be offered but suggest this could include access to computers in public buildings, or housing officer support to register and search for matches on behalf of a tenant.

It is our intention that all registered providers should subscribe to a service on behalf of their tenants, and in the majority of cases this is likely to prove the most cost effective option. However it may be the case for smaller registered providers, where they perceive a full subscription to not offer value for money, that they would consider paying the subscription fee for individual tenants on request. Individual registered providers will have the flexibility to make this

Council response:

Whilst we are in favour of increasing the opportunity to enable suitable mutual exchange for tenants, the Direction is extremely prescriptive and may be difficult to achieve for small providers who have a very limited number of properties or who are a provider of specialist/supported housing.

We would welcome an amendment to ensure that providers with a very low number of properties can be exempt from this requirement.

Many providers work together in partnership – for example within Choice Based Letting Consortiums. The Direction should reflect that it is acceptable

for providers to make available mutual exchange services for tenants via partnership/group arrangements.

We would suggest that where the Direction states

‘registered providers must subscribe to either –‘

This should be changed to say:

‘Wherever reasonable and practicable to do so, registered providers must subscribe to ‘

Finally, if all providers are required to subscribe, what regulation will apply to the providers of mutual exchange services and what incentives will there be for providers of these services to continually improve?

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

Government comments:

We are proposing to amend the existing tenant involvement and empowerment direction in order to:

- implement several recommendations set out in the Review of Social Housing Regulation on strengthening the ability of tenants to hold registered providers to account; and
- reflect the Government’s Tenant Cashback scheme

The draft direction reflects three key recommendations set out in the Review. Firstly, that there should be a clear expectation in regulation that tenants are able to scrutinise registered providers’ performance. The text in sub-paragraph 4(2) (a) of the proposed direction is designed to deliver this outcome. In particular we are proposing that tenants should have a wide range of opportunities to influence and be involved in *“the scrutiny of their landlord’s performance and the making of recommendations to their landlord about how performance might be improved.”* Alongside effective scrutiny, the Government wishes to ensure that registered providers provide further opportunities for tenants to take responsibility for managing their homes, and support tenants in exercising this choice, including through the Right to Manage where this is appropriate. Sub-paragraph 4(2) (b) (i) reflects this policy.

Secondly, that registered providers should welcome scrutiny via a tenant panel (or equivalent group). The text in sub-paragraph 4(2) (b) (ii) of the draft direction reflects this recommendation. The proposed text is designed to sit alongside the provisions in the Localism Bill for tenant panels that have been recognised as a designated person for the purpose of referring

complaints to the Housing Ombudsman. It is recognised that tenant panels will not necessarily choose to fulfil the function of a designated person for the purpose of referring complaints.

Thirdly, that there should be a clear regulatory obligation on registered providers to provide timely, useful performance information to tenants in order to support effective scrutiny. The Review also proposed that the Regulator's statutory power to require registered providers to submit an annual report of their performance should be replaced with a regulatory obligation to provide an annual report of performance to tenants. The text in sub-paragraph 4(2) (b) (iii) of the draft direction reflects these commitments.

Sub-paragraph 4(2) (a) (v) of the draft direction reflects the Tenant Cashback model. The intention is to give tenants opportunities to be involved in the commissioning or carrying out of routine repairs, as agreed with their landlord, and to share in any financial savings made as a result. We believe that the publication of information about repair and maintenance budgets will help tenants to judge whether local schemes are sufficiently ambitious. Sub-paragraph 4(2) (b) (iii) is designed to achieve this outcome via registered providers' annual reports.

Council response:

We are in favour of the proposals to strengthen the ability of tenants to scrutinise services and hold registered providers to account. We have worked in partnership with Welwyn Hatfield Community Housing Trust to develop and launch a pilot Resident Scrutiny Panel within the Borough, which represents tenants from all participating social landlords locally.

We also offer incentives to new tenants to decorate their homes and are evaluating a similar scheme to encourage tenants to return properties to us in good condition. We accept that it is possible that the existing arrangements that some landlords have may lend themselves to a form of Cashback Scheme for repairs, but do not feel that it will offer improvements to our current arrangements when considered from both the landlord and tenant perspective.

We have a number of concerns about the practical implementation of a Tenant Cashback Scheme. In order to reduce costs (and time delays) we focus the majority of our efforts into post inspecting works carried out by our contractors, focusing more resources on delivery, rather than on inspection. We also require contractors to have rigorous health and safety policies, safe working methods and training which we can test in order to minimise the level of ongoing supervision needed to protect those carrying out the work and our tenants.

We have also worked with market leading organisations and their supply chains and associated buying power to drive down the cost of quality components in order to increase efficiencies so that our repairs costs have consistently fallen over the last 5-6 years.

It is likely that a Tenant Cashback approach will require significantly greater levels of staff involvement in assessing the need for work and ensuring that the work has been carried out to an acceptable standard. Even with additional resources, it would be difficult to ensure that tenants have the skills and knowledge to undertake the work safely. While a number of tenants do regularly carry out repairs to their homes, without payment, there are also a number who carry out works which at the end of a tenancy require significant investment to rectify, with resulting recharges.

As a result it is difficult to identify a way in which the proposed scheme will deliver savings or improved services for the tenant, once checks and balances are put in place to ensure that only necessary work is done and to a standard acceptable to the 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?

Council Response

Please see response above.

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

Government Comments:

The Government is proposing to update the existing direction on rents to reflect the introduction of the new Affordable Rent model. The formula for traditional social rents will remain unchanged. The Government intends that the resulting standard will continue to apply to private registered providers only.

Our proposed amendments to the direction are consistent with the 2011-15 Affordable Homes Programme Framework. The wording is very similar to that already used by the Regulator in its recent amendments to the rent element of its Tenancy Standard. The revised direction is therefore unlikely to result in material changes to the existing regulatory framework.

In particular, the draft direction provides that:

- 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
- in line with the Housing Minister's statement to Parliament on 9 December 2016, Affordable Rent properties are outside the Government's rent restructuring policy and the social rent formula

- Affordable Rent properties are subject to separate requirements relating to initial rent setting, annual increases and periodic rebasing as set out in the

Council response:

This is contradictory in relation to recent guidance issued by government which states that local councils can also use the Affordable Rent product for properties which they are developing either with grant (where they have an Investment Agreement with the Homes and Communities Agency) or without grant, if they do not. We would welcome clarification on this point.

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?

Government comments:

We are proposing some minor revisions to the existing quality of accommodation direction. These changes are needed to reflect the fact that the original date for compliance with the Decent Homes Standard (31 December 2010) has now expired.

We are proposing to remove the fixed date for compliance from the direction. The resulting Quality of Accommodation Standard would instead work in much the same way as other standards, where compliance is required with immediate effect rather than within a certain period.

The existing direction gives the Regulator's scope to provide 'extensions' to the date by which registered providers must comply with the Quality of Accommodation Standard. The draft direction retains this flexibility in a slightly modified form. As registered providers are expected to maintain their stock at a decent level on an ongoing basis, the direction would give the Regulator scope to grant a temporary exemption for specific properties where the requirements of the standard should be met by an agreed date. Our expectation is that such an exemption would only be granted to local authorities with a backlog of work now and then only in exceptional circumstances in the

Council response:

The council agrees with this approach.

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

Council response:

It would make sense to include a more specific expectation that Registered Providers should ensure that wherever possible good practice is followed in order to meet or improve energy efficiency within their stock.

WEST LANCASHIRE BOROUGH COUNCIL

I am writing to give you West Lancashire Borough Council's comments on the Consultation Paper regarding Directions on Social Housing.

Overall the Council welcomes the reforms and feels that making local decisions with our residents offers a positive way forward.

At this stage the Council has some reservations about the Tenant Cashback scheme and hopes that this does not become a 'white elephant' like the Right to Repair scheme which is costly to administer and which is not used by Tenants. However, the Council notes that it will not be a prescriptive scheme and that local decisions can be made following examination of the pilot schemes.

I will now respond in more detail to the specific questions posed in the Consultation Paper:

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 Council is unclear from the Consultation Paper how Registered Providers will comply with the Tenancy Standard and take into account the published tenancy strategy produced by the Local Authority. The Council believes that if Local Housing Authorities are required to consult on the question of flexible tenure there should be clear timescales to allow the Council to undertake this function and then for Registered Providers to consider how they take the strategy into account. It will be difficult for Registered Providers who work in a number of Local Authorities to have a consistent approach. One wonders whether the tenancy strategy would be best left to each Registered Provider to undertake?

The development of flexible tenures which will pay particular attention to vulnerable tenants and their children will no doubt have an intrinsic link to the development of universal credits and the ability of certain groups to be able to pay affordable rents. It may not be possible to fully explore the impact of the tenure strategy until all the information is accessible.

Q2. Does the draft direction on tenure set out the right minimum requirements for a registered provider's tenancy policy?

Yes. The direction on tenure is helpful and the further letter dated 28th July 2011 helps to clarify the position.

The tenancy policy needs to reflect that circumstances can and may change and in these eventualities the policy needs to be flexible in determining the best and most beneficial way forward.

Q3. Does the draft direction set out the right minimum protections for tenants of registered providers?

Yes. The direction makes the position clear.

Q4. Do you agree with the principle and detail of our proposed direction on mutual exchange?

The Council supports the opportunity for Tenants to participate in Mutual Exchange schemes. The Council favours a National Scheme rather than have a plethora of schemes. The cost of participation falls on the Registered Provider and the Council feels that for the service to have any real commitment and value a payment by each Tenant would add worth to the process.

Q5. Do you agree with the principle and detail of our proposed revisions to the direction on tenant involvement and empowerment?

The Council has already established mechanisms which will facilitate the direction on the tenant involvement and empowerment standard. The Council is comfortable that this is a positive way forward.

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?

The Council works closely with our Tenants to organise a responsible and cost efficient repairs and maintenance service. The financial benefits of this arrangement has enabled greater funds to be diverted to meeting the Decent Homes Standard which benefits Tenants generally. The Council has limited experience of allowing Tenants to undertake repairs or to commission this themselves. There are some reservations about how schemes of this nature would be 'policed'. The Council do not wish to see a repeat of the Right to Repair scheme which has not proved popular and has incurred cost for very limited benefits. The Council is prepared to explore the benefits of the Tenant Cashback pilots with Tenants to see if there is a desire to progress any particular changes. However, at this stage, without the full knowledge of the benefits of the Tenant Cashback pilots, the Council feels that the

wording should be amended to reflect exploration of this with the Tenant Panel or equivalent rather than a commitment to introduce the scheme at this stage.

Q7. Do the proposed revisions to the rent direction adequately reflect the introduction of Affordable Rent

Yes. These are clear and understandable.

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?

The Council plans within its self financing business plan to continue to maintain the Decent Homes Standard. The Council therefore do not have any comments to make on this specifically. However, the Council have on a number of occasions expressed concern about environment conditions within the neighbourhood standard. This is an area that needs to be explored between West Lancashire Borough Council and Government because the full range of asset management options may not be able to be explored fundamentally.

Q9. Energy efficiency is implicit in the revisions to the Quality of Accommodation Direction; should we make it more explicit?

The Council do not feel further clarification about Energy Efficiency is necessary within the Quality of Accommodation Direction.

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?

Overall the City Council considers these to be adequate. However we suggest that there is need for clarity in the tenancy standard on the affordable rent tenure and a more general need for definitions of Affordable Rent to echo each other.

The standard proposes that registered providers issue tenancies 'compatible with the purpose of the accommodation'. This 'purpose', for affordable rent tenancies, currently set out in PPS3 states that the tenure is for households 'eligible for social rented housing'. However, the 2011-15 Affordable Homes Programme Framework, says that 'provided that a local authority's overall scheme is framed around Reasonable Preference categories, local authorities can opt to reserve certain properties for allocation to other client groups'.

Unless local authorities amend their allocations policies to give these wider groups referred to by the framework document eligibility for social rented housing – there is no scope to offer affordable rent tenancies to them, at least in the short term. We note in the longer term local authorities will have greater flexibilities over allocations through the Localism Bill - however Affordable Rent conversions are expected to come on stream shortly.

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

The City Council supports the local authority flexible tenure however considers the minimum fixed period should be two years rather than the proposed five years (with providers needing to demonstrate exceptional circumstances to grant tenancies of less than five years). While it is acknowledged few tenancies would be ended after two years, this flexibility would enable providers to make the best use of stock and to, for example address under occupation, in high demand areas.

Additionally we propose the standard include a requirement that private registered providers (housing associations) 'have full regard' to local authority tenancy strategies and an interpretation of what this means. This is the best way to achieve similar tenancy terms and tenancy renewal policies across boroughs which best meet the needs of the local area. An array of policies with different tenure terms will be confusing and difficult to explain to customers and may lead to management problems where social housing tenants are living in very similar properties, but with different tenancy terms and rents.

If affordable rent levels aren't priced appropriately - with regard to local incomes and affordability there is a danger that social housing stock will be lost to households eligible for social housing as they are unaffordable to them, or there is a conflict with the proposed welfare benefit caps. Ensuring Private registered providers having full regard to local authority tenancy strategies is the best way of mitigating against this.

The City Council welcomes the proposal for the Tenancy Standard to require providers to publish in their policies their approach to tackling tenancy fraud.

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

Communication of the registered provider tenancy policy is critical at the outset and throughout the flexible and affordable rent tenancy - so tenants understand the circumstances when tenancies will not be renewed and can start to make any alternative provision. This needs to be built into the standard. Also if tenancy policies require a review of circumstances, these should be carried out at least six months before the tenancy ends to give households enough time to make alternative arrangements - if their tenancy is not being renewed. Also challenges and appeals against decisions can take place during this period which will enable the property to be relet more quickly if the tenancy is not being renewed.

The standard should include a requirement that older people in sheltered accommodation have security of tenure.

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

The City Council supports the principles in the standard and subscribes to a mutual exchange service. The City Council welcomes the provision to ensure support for tenants without access to the internet.

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

The City Council prides itself in its commitment to resident engagement and has twelve tenant management organisations who manage their estates and twelve local management agreements, where residents have taken over the management of grounds maintenance and cleaning on their estate. Our housing provider CityWest Homes has worked with residents to set up four local area management committees to enable us to have residents monitoring and prioritising the service at a local level.

We support the government's move to ensure residents are involved in participating in and monitoring every aspect of the service. We note further guidance is due on this area shortly and welcome this. We would want this to

be clear on the purpose and scope of tenant panels for example - highlighting how they may fit with any existing resident engagement structures. There is a need for either registered providers, or another independent body, to ensure everyone has the opportunity to be involved in them, that recruitment is transparent and the panel has the right mix of skills. Similarly with the right to manage – there is also a need to set out the scope of management and we propose that the responsibility for the allocation of stock remains with the local authority to ensure statutory requirements and strategic objectives are met.

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 a strong track record of encouraging tenant choice and involvement in the management of repairs services. We support the Tenant Cashback Scheme as a model and are interested in being involved in any national pilots. We do not support however heavily prescribed schemes.

Benefits of Tenant Cashback schemes are:

- Tenants will have more power over their homes and will share in any financial savings generated
- Tenant skill levels will be raised with an opportunity to put them into practice
- A sense of responsibility within communities and provision of work for small local traders.

Our housing provider, CityWest Homes is undertaking feasibility on a scheme for residents who make above average demands on the repairs service. The scheme will focus on training, support and incentives to reduce demand.

Other models in Westminster are:

- Tenant Management Organisations with responsibility for managing responsive repairs services for their estates
- The 'Go it Alone' scheme which provides the opportunity for residents to arrange their own major works. This scheme has been particularly attractive to lessees in street properties for external decorating
- Income from telecommunications aerials is made available to groups of residents through our Residents Panels for estate improvements. The Residents Panels agree collectively how and when the money should be spent. Works delivered include the improvement of communal areas and the installation of cycle racks, benches and CCTV. Schemes vary according to local resident group priorities
- Resident involvement in the selection, management and scrutiny of the performance of repairs contractors as key members of contractor panels or 'Core Groups'.

All these schemes bring the benefit of residents having much more involvement in the repairs which improves satisfaction.

We support the standard not being overly bureaucratic and avoiding centrally prescribed processes - as the Right to Repair and Right to Compensation were unpopular with very low rates of take-up due in part for these reasons.

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

The standard should not only apply to private registered providers, but also registered providers that have had development/affordable rent programmes agreed with the HCA.

We propose that the standard should include that rents are set with full regard to local authority tenancy strategies and to local incomes and local market rents – this is particularly relevant in high rent areas such as Westminster. This would complement PPSPG which says that affordable housing should meet the needs of eligible households including availability at a cost low enough for them to afford, determined with regard to local incomes.

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 met the decent homes standard in 2006 – four years ahead of deadline. We support the revision to keep properties up to the decent homes standard if self financing is introduced as proposed by April 2012, as this is the only way we can fund the works needed.

We completed our most recent stock condition survey in 2010. This provides a clear picture of the investment required to maintain the decent homes standard over the coming years and also the investment needs associated with reaching our Beyond Decent Homes Standard. Our stock condition survey informs our 30 year investment and business plan and in the current funding environment there is a risk that the HRA will be unable to fund the investment required to maintain the stock at the standard over the coming years.

If the funding requirement remains unchanged, then potentially we will start to see homes fall below the decent homes standard by 2012. Also if self financing is delayed or altered additional funding would be needed to keep properties up to the decent homes standard.

We also suggest there is more clarity on timescales around the standard – for example resolution periods for category one failures, validity periods for non access property exemptions and acceptable periods to bring emerging non decent homes up to the decent homes standard.

There are also 'value for money' issues around the management of the timing of works required to maintain the standard. Our ALMO endeavours to plan

work on a “just in time” basis (this is particularly important to our residents due to the high proportion of leaseholders). Whilst we always programme works to ensure replacement of primary elements ahead of failure of the standard - it is interpreted differently by different surveyors. Clearly the reality is that primary elements approaching, or at the point of decent homes failures, are most open to this potential variation in judgement. As such we suggest that a management system be considered to provide clarity to housing providers in this area.

Greater clarity would also be useful around the presentation of statistics on decent homes, i.e. rounding of percentages, inclusion of void properties and inclusion of properties held for conversion or disposal. Also it would be useful to understand if statistics will be required on an ongoing basis.

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

We do not think the standard itself needs to be more explicit as energy efficiency is contained within it. We believe however that it could include guidance on how to meet the energy efficiency elements particularly in difficult stock.

Our stock is mainly 1960s purpose built and the energy performance is far lower than current build. Also we have stock in heritage areas and listed buildings without cavity walls and with restrictions on the types of windows that can be fitted for example - there is a real need to find satisfactory technological solutions particularly in these types of buildings.

The standard could also include a requirement to publicise good practice and successful work piloted in this area, as at present cross organisational sharing of information is limited and we are keen to try new ideas. We have undertaken extensive works ourselves such as cavity insulation and also pilot work to establish solutions for harder to treat stock – for example last year we received a grant from the Technology Strategy Board to retrofit a street property in Queens Park.

Funding for energy efficiency is critical to meeting the requirements of the standard. Last year we were successful in securing and spending £2.9m of grant on thermal insulation works. There is a need to bring together external funding in this area, which is depended upon, and currently providers have to actively locate and pursue grants. There are a number of funds - but making numerous applications to them is time consuming. With a centralised pot there would be potential to explore a more explicit and challenging standard on thermal performance.

**Wigan and Leigh Housing's Response To The CLG Statutory
Consultation:
Directions to the Social Housing Regulator**

We note the proposed directions to the Social Housing Regulator and thank you for the opportunity to comment on them. Whilst we broadly support the outlined reforms to social housing, in particular those that relate to tenant engagement and regulation, we would make the following observations on the draft directions.

Tenure reform

With regards to flexible tenancies, we note that the intention is to make best use of existing stock. The draft direction adequately sets out the relevant factors to be considered by landlords, although we would emphasise the need for landlords to maintain a flexibility to decide on tenure, and to have full discretion to decide what works best locally.

The proposed direction refers to a minimum of 2 years, although the current thinking is that 5 years should be the minimum period. These proposals to grant short fixed term tenancies rely upon alternative affordable and sustainable housing options being available for people. In considering a change in tenants' circumstances, there needs to be recognition that some local authorities have a mismatch of stock size compared to household size, alongside the current economic climate and some of the issues that tenants might face. It may be feasible that for some people having a fixed term tenancy may be long enough for them to secure sustainable accommodation in another sector. However, given the current employment and financial context, people may be in and out of work and social housing may be the only sustainable option for them. We would also like to see that any final proposal makes allowances for vulnerable people, who would have more difficulties in securing affordable and sustainable accommodation.

Mutual exchange

With regards to national mobility schemes, there have been similar proposals in the past which have not gone ahead. We assume that there is to be an assessment of the actual demand for such a scheme and that it will be cost-effective and benefit more than a relatively small number of people, taking account of the reluctance from many people to move a great distance from where they live within one Borough. We agree with the principle of the proposed direction, but would emphasise the reference to cost effectiveness and would suggest that the prescribed service is based upon payment by results.

Tenant involvement and empowerment

We agree with the proposals within the draft direction on tenant involvement and empowerment. In particular, we support the view that tenants should have a wide range of opportunities to influence and be involved in the scrutiny of their landlord's performance, and this reflects the co-regulatory approach that we have in place at Wigan and Leigh Housing.

With regards to the Tenant Cash Back proposals, we would need the evidence of the pilots to be able to understand fully how the proposed scheme will work and how any concerns will be addressed. However, we do support the principle behind the scheme to give tenants increased choice and an ability to take increased responsibility for the upkeep of their homes and neighbourhoods. It is possible that there would be low take-up of any scheme, but we do raise some concerns regarding how it will work in practice and impact on the landlord.

The risk is that it may be difficult to ensure quality and consistency of repairs works, potentially resulting in additional costs to the landlord with a need for increased administrative and monitoring processes. Any works commissioned by the tenant would need to meet both quality and health & safety standards, placing a requirement on landlords to post inspect any works. There is also a risk that such a scheme may result in additional costs to rectify poor workmanship and to recover any payments.

Another potential impact on the landlord where tenants choose their own contractor to carry out works, is on the partnering arrangements already in place. Our partnership contracts include provision for local labour and any reduction in work could result in reductions in this labour force. Additionally, the reduction in specific trade repairs would reduce the economies of scale built in the rates agreed with partner contractors, meaning that other repairs may cost more.

Rents

We note that the proposals on rents is for private registered providers only. The proposed revisions to the rent direction appear to adequately cover the introduction of Affordable Rent.

Quality of accommodation

We have no issues in relation to the proposed direction to reflect the expiry of the original target date and a requirement to maintain stock at a decent level on an ongoing basis. Our own stock is 98% decent and we have programmes to maintain decency going forward. We agree with the suggestion that the reference to energy efficiency is made more explicit within the direction.

In general, we broadly support the amendments to the directions to the Social Housing Regulator. However, our main concerns with these draft directions lie with the proposals on tenure and the Tenant Cash Back scheme. We note that the proposals throughout the consultation document continue to support the emphasis on co-regulation that runs throughout the regulatory framework, and we will review any amendments to national standards with our customers and stakeholders.

WILTSHIRE RURAL HOUSING

We welcome the opportunity to comment on the proposed directions and have the following general points to make regarding the proposed 'directions':

- Very disappointed to see that the proposed directions are much more detailed than those issued under the last Government, returning to a very prescriptive and controlled environment which is unnecessary and overly burdensome. It does not recognise the ability of Housing Associations (HA) to direct their own businesses, it adds to the overall cost for HA's whilst adding little value to tenants overall. It flies in the face of the commitment to reduce "red tape" and the proposals seem contrary to the Minister's assertion at the outset that they are "devolving power from the State to the people" and giving "greater freedoms and flexibilities to landlords to provide these services".
- Ministers had given assurances that regulation would not be used to impose political priorities on landlords. The proposed directions are clearly being used to impose political priorities on HA's.
- The proposed directions will stifle innovation in the short, medium and long term, which will have a negative impact on tenants.
- The requirement to participate in mutual exchange schemes fails to recognise that some landlords have specific restraints on whom they can house for example housing provided on exceptions sites for local people are not available to someone without that local connection, nor does it recognise local lettings policies. The introduction of Choice Based Lettings Systems has already done much to create flexibility. Real flexibility and choice can only come from an over supply of the commodity, in this case housing and these directions do nothing to increase supply. Government needs to recognise that there have been several attempts in the past to establish mutual exchange schemes, some of which the Government have committed to fund, all have foundered and it would be worth Government establishing why this has been the case. In addition the cost of membership of mutual exchange schemes will be prohibitive for smaller HA's particularly as there is a direction 3.(2)(b)(ii) that HA's subscribe to as many internet based mutual exchange services as necessary to provide tenants with access to as many mutual exchange properties as possible. The directions do not take account of the possible impact of the affordable housing product which is likely to restrict mutual exchanges as existing tenants on secure or assured tenancies are less likely to wish to move into affordable tenancies on a fixed term.
- The directions on tenure will do little to create balanced and sustainable communities and are very likely to have an extremely negative impact on those balanced and sustainable communities which HA's and Local Authorities through Choice Based Lettings have been working to create. Efficient use of stock will not be achieved as existing

tenants are protected so long as they stay within their own landlords stock and this is where most of the under occupancy occurs. The under occupancy argument and the impact of building more smaller less flexible homes in the longer term does not bode well for balanced and sustainable communities. UK space standards are already well below that of other countries.

- The directions on tenure again do little to enable HA's to run their own businesses.
- The directions on tenant involvement are substantially expanded, again doing little to recognise HA's exemplary work in this field. We do not believe that Ministerial direction is required in this area.
- The requirement in relation to tenants commissioning repairs is premature, we believe that the results of the pilot schemes should have been awaited before directions were drawn up. These directions are likely to add significantly to the costs of HA's providing repairs services, there is likely to be a falling repair standard as a result, there is likely to be a variation in repair standards achieved in certain areas, the requirement to maintain decent homes standards will be jeopardised and the impact on smaller HA's will be disproportionate.
- The requirement to support tenants to exercise their Right to Manage detracts from HA's ability to run their own businesses and again is likely to add significantly to the costs especially for smaller HA's
- There are possible financial implications with regard to securing borrowings from lenders as maintenance and management standards may well fall as tenants wish to 'share in the savings' they try to achieve, and arrears may rise as tenants have a greater say in policy formulation and implementation.

Wirral Council Response to the Consultation

Implementing social housing reform: directions to the Social Housing Regulator

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?

Wirral Council is now a strategic housing authority following stock transfer which took place in 2005, therefore can only comment on this question from a strategic point of view.

Wirral Council agrees that future tenancies should be compatible with the purpose of the accommodation, reflecting the needs of the individual households, the sustainability of the local community and maximising the use of local housing stock.

We welcome the requirement for Registered Providers to publish clear and accessible policies outlining their approach to tenancy management and recognise this approach will enable people to make an informed choice when considering accessing social housing in the future.

Wirral Council does however consider the minimum fixed term of tenancies for two years, not to provide security, as time limiting the tenancy could be considered a disincentive to work and could destabilise communities by residents being required to move if the tenancy is ended. It is important for tenants to be able to settle into their new home and the community. Wirral feels that it is more realistic for a minimum five year fixed term tenancy to be introduced.

We also welcome the proposed requirements to ensure existing social housing tenants continue to have no less security of tenure in their future tenancies should they choose to move to another social rented home.

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

Wirral Council believes that all vulnerable groups should be considered for the most appropriate tenancy based on their circumstances and needs and this should be addressed further in more detail, in the Registered Providers tenancy policy.

Wirral also believes that existing secure and assured tenants who move into another social rented property should have a lifetime tenancy in their new home, this should also be detailed within Registered Providers tenancy policies.

As detailed in question 1, Wirral feels the minimum guarantee of tenancies for two years is considered not to provide security, as time limiting the tenancy could be considered a disincentive to work and could destabilise communities by residents being required to move if the tenancy is ended. It is important for tenants to be able to settle into their new home and the community. Wirral feels that it is more realistic for a minimum five year fixed term tenancy to be introduced.

Wirral feels that the probationary period for a tenancy is fair if equal to those for local authority tenancies. Within the Registered Provider's tenancy policy, we feel there should be an obligation on the Registered Provider to assist the tenant to move on

once the tenancy comes to an end should the Registered Provider choose not to renew the tenancy. Reasons should also be given to the tenant detailing why. There should also be national policy to detail the responsibility that Registered Providers have when not renewing tenancies together with a level of responsibility to assist poor tenants (for example those in rent arrears) rather than using the opportunity to no longer have a duty to house them.

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

As identified in question 2, Wirral believes that existing secure and assured tenants who move into another social rented property should have a lifetime tenancy in their new home.

As in question 2 Wirral feels that the probationary period is fair if equal to those for local authority landlords. However within the Registered Provider's tenancy policy there should be an obligation on the Registered Provider to assist the tenant to move on once the tenancy comes to an end should the Registered Provider choose not to renew the tenancy. Reasons should also be given to the tenant detailing why. There should also be national policy to detail the responsibility that Registered Providers have when not renewing tenancies together with a level of responsibility to assist poor tenants (for example those in rent arrears) rather than using the opportunity to no longer have a duty to house them.

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

Wirral Council agrees with the principle of mutual exchange and introducing a nationwide home swap programme. As is no doubt the case in other Local Authority areas, some Registered Providers in Wirral such as Wirral Partnership Homes already advertise schemes such as Homeswapper (the website is www.homeswapper.co.uk – internet based national home swap service), through their own websites so this concept is already available albeit not on the scale Government are proposing. However Wirral believes a nationwide scheme will enable some tenants to be able to identify and access properties in areas they may not have been able to do before. To be as effective as possible Wirral suggests the detail on the national home swap scheme should also be included in the Registered Provider's tenants handbook or their Providers tenancy policy.

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

Wirral Council agrees with the principle that tenants are able to assess information on their landlord's performance however would suggest it is important that tenants panels should enable representatives to be rotated on a regular basis to ensure all tenants wishing to participate, a fair chance to do so at the same time as reducing consultation fatigue. We suggest tenant involvement policies and where appropriate incentives to encourage involvement, should be detailed in the Registered Providers tenancy policy.

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?

Wirral Council is now a strategic housing authority following stock transfer which took place in 2005, therefore can only comment on this question from a strategic point of view.

Wirral does agree in principle to the idea of involving social tenants in repairs and maintenance and sees the benefits, however feels that this should be subject to guidance to ensure that quality standards are met and there are no risks or health and safety implications to both the tenants and the properties.

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

Wirral Council is now a strategic housing authority following stock transfer which took place in 2005, therefore can only comment on this question from a strategic point of view.

Wirral agrees that revisions to the rent direction adequately reflect the introduction of Affordable Rent detailed in the 2011-15 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?

Wirral Council is now a strategic housing authority following stock transfer which took place in 2005, therefore can only comment on this question from a strategic point of view.

Wirral Council agrees that proposed revisions to the Quality Accommodation direction reflect the expiry of the original target date for compliance, meaning that compliance will be required with immediate effect other than where the Regulator has provided an extension in exceptional circumstances to a Local Authority with a backlog of work.

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

Wirral feels that energy efficiency is implicit in the revision to the Quality of Accommodation Direction and therefore feels it should be made more explicit.

Wirral Council believes that the legal minimum of the Decent Homes Standard for a reasonable degree of thermal comfort should be reached. Ideally Registered Providers should have plans in place to improve the SAP rating to the fuel poverty proof homes (ideally to a SAP rating of 81) and we would expect these plans and any subsequent performance should be included in the performance information provided to tenants.

Wirral Partnership Homes (WPH) response; CLG Consultation Document, “Implementing social housing reform: directions to the Social Housing Regulator.”

Question 1: WPH response;

WPH welcomes the flexibility offered by the proposed directions to deliver the updated overall new outcome stated in the consultation document. The key for providers will be deciding, on a case by case basis, when there are potential conflicts between balancing the needs of vulnerable households with community sustainability issues and the efficient use of stock.

Question 2: WPH response;

WPH accepts that the draft direction on tenure includes the key factors providers should consider when deciding the most appropriate tenancy type. An organisation's existing complaints procedure should be used for disputes/appeals. The possibility of fraud should always be considered by a Landlord but in our opinion, the biggest issue is that of *vulnerability*. Lord Freud recently stated that 10% of all registered provider tenants fit into this category. From experience, WPH believe our figure to be at least double that national average figure and we will undoubtedly need to pay particular with regards to the needs of this very needy group. Again, in the more severe cases, WPH works with, and funds, a local Family Intervention Project (FIP) to tailor specific interventions. However, it should be recognised that this is resource intensive and providers are increasingly concerned that they are being expected and often forced to fund such services that Council's are no longer able to fund.

Question 3: WPH response;

WPH previously expressed concern about a minimum tenancy period of just 2 years. In previous submissions we pointed out some of the potential practical pit falls of such a short period of time in terms of neighbourhood sustainability and the effect on vulnerable households. WPH welcomes the ability to use, and extend, probationary tenancies, specifically to tackle anti-social behaviour. However, the legal uncertainty that shrouds this type of tenancy needs to be clarified once and for all before all providers will consider main streaming probationary tenancies.

WPH welcomes the flexibility in terms of tenancy type that providers can grant on an affordable rent basis. This approach however, requires the need for a strong neighbourhood sustainability and business case to be proven through detailed analysis before other re-let properties are occupied on an affordable rent basis. It is particularly important for government to realise and understand the consequences in areas such as the North West which has far lower market rents than other parts of the country, where affordable rents will be much higher.

Question 4: WPH response;

The principle behind a better coordinated, electronic mutual exchange scheme is recognised by WPH. It should not be for a regulator to dictate how a provider should support those wishing to participate in a mobility scheme

who do not have access to computers. Individual providers, groups or a consortium of providers in the areas WPH operates will work out the details through a sub-regional choice based lettings scheme. However, from experience, WPH doubt whether this approach will help tenants in any significant numbers.

Question 5 & 6: WPH response;

As an organisation that was awarded the status of a co-regulatory champion by the TSA for the work involved liaising with WPH tenants in the ASP (Advisory and Scrutiny Panel), WPH recognises the benefits of being open with customers and allowing scrutiny of performance and services from a customers perspective. It became obvious when the 10 successful co-regulatory champions first met in Manchester that there is no one blue print for effective scrutiny. Landlords should be given sufficient flexibility to agree scrutiny arrangements locally and not rely solely on tenant panels. Also, WPH tenants are involved in the preparation and production of our annual report. They have specifically stated that they want *some* information on performance but they are also definitely interested to hear about what new services are available and how residents have been involved in helping change WPH services for the better. Our tenants want far more from annual reports than pure performance information. Performance information can be fed back to interested tenants through other channels.

WPH did not volunteer to take part in the tenant cash back pilot scheme as the organisation has concerns over how we can accurately ensure that works are carried appropriately to our properties at no extra cost. WPH tenants are protective towards our in-house Building Services contractor as they are perceived as delivering improved services carried out by local labour who know their customer base and are accountable for the services delivered. WPH has a very well established Customer Maintenance Group (CMG), a team of tenants who work closely with staff to challenge and scrutinise all aspects of the repairs and maintenance service. The work of the CMG is publicised to all tenants in newsletters and new 'recruits' are always welcomed.

Question 7: WPH response;

WPH believe that the proposed revisions to the rent direction are adequate.

Question 8 & 9: WPH response;

WPH accepts the revisions to the quality of accommodation direction with the ability for the Regulator to provide certain extensions.

WPH would recommend maintaining energy efficiency as an implicit part of the quality of accommodation direction rather than expanding to give any greater detail.

WM Housing Group Consultation Response

WM Housing is a mutually supportive group of six housing associations organised on a federal basis, sharing resources and expertise for the benefit of its customers and to facilitate the effective delivery of services and new homes.

The Group consists of the parent organisation WM Housing Group, West Mercia Homes, Harden Housing, Nexus Housing, Kemble Housing and Whitefriars Housing.

The Group manages more than 24, 000 homes across the West Midlands, Herefordshire and Worcestershire.

The Group is a large regional organisation and in addition, operates as the partner lead for the Spectrum Development Partnership, which works to utilise its strength in diversity to be able to deliver the provision of affordable housing across the whole West Midlands region.

September 2011

Consultation 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?

Response

Yes although 49 needs to be clarified. We support the flexibility as it allows us to work with our tenants to meet their specific needs and circumstances.

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

Response

No – 52 is confusing. Are RPs going to be given flexibility or are they expected to introduce probationary tenancies for all new tenants and how does this fit with the new guidance on issuing tenancies for less than 2 years in exceptional circumstances.

The resourcing of probationary tenancies is high and for RPs that have a lot of stock this will be extremely cumbersome with little evidence that they are required for all new tenants. The standard should provide flexibility for local lettings initiatives that are transparent to enable early intervention in cases where there is a medium to high risk that ASB will become a problem in an area or from a certain individual/ household.

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

Response

Yes

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

Response

No, with regard to paragraph 56, this should be the RPs choice because we need to balance the VFM of this. i.e. will our customers actually benefit from an internet-based service? Do they benefit nationally. Where is the evidence that backs up this requirement?

Please note that we responded in the Local Decisions consultation to say that there is already a mutual exchange scheme that is operating nationally and that we subscribe to.

We consider this to be an inappropriate use of regulation and it will be costly too. We therefore question why there is a need to provide such a new service in this current difficult economic climate.

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

Response

Yes except for RP's with a high level of stock as this would be cumbersome to manage and may actually encourage people to damage their homes to get replacements/repairs. It could create a high level of complaints if our customers just go ahead without RP agreement and then want reimbursing for the repair.

We welcome that you state that tenant panels may not be appropriate in all cases and that alternative approaches are acceptable and we agree that the provision of timely information is implicit in effective scrutiny.

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 support the aim implicit in this proposal of more tenants and their families developing a pride in their home and where they live. We support the concept of facilitating the up-skilling of resident's life skills to improve chances of future employment.

We do believe however that the tenant clawback model as currently described is ill conceived as a major tool for delivering such outcomes.

There is already a right to repair for tenants, a scheme that is little used by tenants. Please note that we have recently undertaken a fundamental review of our repairs service in consultation with our customers, starting with a blank sheet of paper. The desire for residents to be able to carry out more of their own repairs was not raised during this extensive consultation process. In fact, the key issue for tenants was for work to be carried out in a timely manner with them having to make a single contact, have an appointment made, and the work being completed at the first visit.

Repairs are likely to take longer for tenants to organise if they are commissioning their own work.

We do not believe that this model will create cost savings; in fact, we would expect costs of the overall repairs service to increase, possibly significantly. It is interesting that the Communities and Local Government Impact Assessment does not include any financial information or appraisal. In its place is a statement that says *'the analysis assumes that social landlords will take steps to ensure that the greater tenant involvement will be cost neutral or*

cost saving measure when designing schemes. There is a risk that in some cases, landlords may only be able to offer limited tenant involvement because savings are insufficient to offset the costs of setting up and running more involved schemes.' This indicates that even CLG do not expect this to have more than a marginal impact with little or any cost savings.

We believe such a scheme will increase costs for the following reasons:

- Administration of the scheme;
- Quality control post work inspection;
- Reduced volume on remaining contracts has the potential to increase unit costs;
- Increased reporting of repairs if tenants believe they could receive a payment;
- Effect on warranties if tenant undertakes or commissions work on item under warranty;
- Potential for fraud with unnecessary work being reported;
- Tenants may decide to replace items (e.g. kitchens) significantly before the end of their planned lifecycle. This will adversely affect business plans;
- Having to rectify poor workmanship or replace unsatisfactory materials.

We are concerned the scheme has the potential to lead to poor standards because of:

- Lack of skills of tenants;
- Over ambition of tenants on jobs they believe they are able to tackle;
- Potential for residents employing "cowboy builders";
- Selection of inferior materials;
- Potential for work undertaken to breach fire safety or introduce Housing Health and Safety Rating System hazards.

Health and Safety concerns would limit the type of work we would want to open up to tenants to undertake or commission. We would not want them to deliver works associated with gas, electrics, or in common areas of blocks of flats nor works that would be covered by working at height regulations.

We would also be concerned about the ability of tenants to identify works that require planning and building regulation approval and their capability to apply for them. Or the ability to identify and deal appropriately with health and safety issues such as asbestos containing materials.

We assume that there could be a potential impact on tenant's benefits should they receive payment for undertaking repairs.

Furthermore, funders, insurers and stakeholders may have concerns on this issue if we implemented these proposals.

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

Response

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?

Response

Yes - provided that should a material change be made to the standard in the future, that sufficient time and resources are given in order to meet the new standard. This would include any changes with regard to the energy performance of homes.

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

Response

We would support the improvement of the energy efficiency standard provided that it considered the potential scope for improvement for each property. We would also want any standard to initially encourage insulation of homes including wall insulation of solid wall homes. This potentially has the greatest impact of dealing with fuel poverty. Funding would need to be made available for this work on social rented homes potentially through the energy companies' obligation.

General Comments

Please note that we consider that some of the detailed and prescribed regulatory requirements as set out in your draft proposals result in more burden being placed upon registered providers and therefore this contradicts the basis of the "light touch" 2010 regulatory framework.

WOLVERHAMPTON HOMES

IMPLEMENTING SOCIAL HOUSING REFORM: DIRECTIONS TO THE SOCIAL HOUSING REGULATOR

CONSULTATION RESPONSE

CONSULTATION QUESTION	DIRECTION	COMMENTS
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 requirement is to publish clear and accessible policies which outline their approach to tenancy management. It is similar to the requirements in the existing Tenancy Standard and incorporates tackling fraud and preventing unnecessary evictions. The policy needs to set out an appeal or complain process and pay particular regard to the needs of more vulnerable tenants and their children.	The City Council in collaboration with Wolverhampton Homes will produce a strategic housing policy. Notwithstanding continued anxiety around tenancy reforms the draft direction is clear on what factors need to be considered on deciding what type of tenancy should be issued. Wolverhampton Homes is already proactive in tackling fraud, the income management service is delivered within a clear strategic framework and the financial inclusion strategy is aimed at reducing poverty, maximising income and sustaining tenancies. A vulnerability strategy has been developed which aims to identify people early and offer support. An existing complaint, compliment and appeals process is in place and can be adopted if flexible tenancies are ever introduced.
2. Does the draft direction on tenure set out the right	Introduces flexible tenancies, the extension and use of	The draft direction does provide sufficient detail to produce a tenure

minimum requirements for a registered provider's tenancy policy?	probationary tenancies, guarantees existing tenants who choose to move to another social rent home no less security. It will not apply if the tenant moves to an Affordable rent home although there will discretion if the landlord wishes to do so. Protects tenants who need to decant.	strategy and it is helpful that Government expectation is that the vast majority of tenancies will exceed the minimum two year period The continued use of probationary tenancies is welcomed
3. Does the draft direction set out the right minimum protections for tenants of registered providers?	The Tenancy Standard issued on 13 April 2011 will be revised and extended to traditional social rented housing. The draft direction is clear that in relation to general needs housing the alternative to Assured and Secure tenancies is to offer fixed term tenancies.	Any guarantees that protect security for tenants are generally welcome however the City Council has no intention of introducing flexible or fixed term tenancies and has resolved to respect tenant's rights and will resist any attempt to introduce measures that could see people forced out of their homes.
4. Do you agree with the principle and detail of our proposed direction on mutual exchange?	Registered providers should subscribe to an internet based mutual exchange scheme which enables tenants to register their details and for a mutual exchange and search for reciprocal matches. The housing option is promoted, support is provided for tenants who do not have access to a computer.	Wolverhampton Homes already subscribes to a national mutual exchange scheme, which is promoted on our website, within one stop shops housing advice leaflets and posters. Support is provided by officers and access to computers is available in the one stop shops. However users say that often the data matches are very tentative and require more detail and refinement
5. Do you agree with the principle and detail of our	Need to ensure that tenants are given every opportunity to	Any proposals to increase tenant involvement and

<p>proposed revisions to the direction on tenant involvement and empowerment?</p>	<p>form tenant panels or equivalent groups that will enable them to hold registered providers to account and scrutinise service delivery. Need to provide timely, useful information about their performance and annual report on performance.</p>	<p>empowerment are welcomed. Wolverhampton Homes is strongly committed to tenant and leaseholder involvement. A comprehensive, well promoted range of opportunities for tenants to shape and influence services. These range from Tenant Board Members, Review Panels, Special Interest Groups, Tenant and Resident Associations, Get Together Meetings, focus groups, estate inspections, surveys and mystery shopping. An annual report is already provided on performance.</p>
<p>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>	<p>The intention is to give tenants opportunities to be involved in the commissioning or carrying out of routine repairs, as agreed with their landlord and to share in any financial savings made as a result.</p>	<p>The outcome of the pilots currently taken place is eagerly awaited and will inform whether such a scheme is introduced within Wolverhampton. Previous attempts to encourage tenant led repairs through right to repair or right to improvement has traditionally had a low take up. Additionally poor quality repairs and improvements by tenants have led to significant numbers and amounts of rechargeable items. A review of the repairs policy would also need to be undertaken before any cash back scheme is implemented.</p>
<p>7. Do the proposed revisions to the rent direction adequately reflect</p>	<p>The direction provides that properties are to be treated as Affordable</p>	<p>The direction is clear</p>

the introduction of Affordable Rent?	Rent where they are provided pursuant to a housing supply delivery agreement with the Homes and Communities Agency under the 2011-2015 Affordable Housing Programme	
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 changes are required to reflect the extensions beyond the original date for compliance with the Decent Homes Standard (31 December 2010)	Subject to confirmation of future funding promises we are confident of achieving Decent Homes compliance in 2014/15 and have a robust asset management strategy to ensure we maintain decency thereafter.
9. Energy efficiency is implicit in the revisions to the Quality of Accommodation Direction; should we make it more explicit?	The direction includes so far as possible that accommodation includes facilities or services for the provision of a reasonable level of thermal comfort	The definition of a 'reasonable' level of thermal comfort could be considered subjective and greater clarity would be welcome

Worcester Community Housing

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

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

Views on the Direction on Tenure (Reform)

While we support the overall outcome at the start of the direction being changed to reflect new flexibilities for landlords, we disagree with the detail of the rest of the direction. The government will remove flexibility for landlords by going into such detail on what should be considered in tenancy policies. This should be left up to each landlord to develop with their tenants and local authorities.

The detail in this direction is 'policy passporting' through regulation which is something this government was keen to avoid (for example seeing probationary tenancies as standard practice). Leave the detail to each registered provider.

Direction on mutual exchange

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

No

Views on the Direction on mutual exchange (Nationwide homeswap programme)

This is not something that should be in the regulatory standard at all as it is an operational matter. Landlords including WCH already participate in such a scheme and it is up to us and our tenants as to what we should participate in and support financially.

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 on principle

No on detail

Views on the Direction on tenant involvement: Reform of social housing regulation

The changes here are acceptable where they reflect the new co-regulatory approach. So encouraging tenant scrutiny for example, reflects the reality. Beyond that the detail is unnecessary

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?

Removing the burden of the costly practice of OJEU compliant procurement and allowing RPs to engage with local contractors who support local employment would be more appropriate than this direction. It is difficult to see how costs will be saved, when the landlord still has the responsibility to effectively guarantee the repair. This could only be effected with a costly and burdensome process of post-inspecting each repair.

Views on the Direction on tenant involvement: Tenant Cashback

This should not form part of the regulatory standards, that is not the place to develop new government policy, especially when the proposal has yet to be tested in an operating environment. It is also puzzling that, whilst having to conform with the restrictive and costly practice of OJEU compliant procurement, why a direction should be made that encourages a very small scale approach to repairs.

We would welcome any proposals that actually allow RPs to engage with appropriately qualified contractors in their local areas.

Direction on rents

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

Yes

Views on the Direction on rents

This reflects the new Affordable rent regime and helps deliver consistency

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

No

Views on the Direction on quality of accommodation

This reflects the reality of having completed decent homes so is a sensible change. Achieving energy efficiency will be driven by incentives rather than regulatory activity.

Wulvern Housing Ltd

Implementing social housing reform: directions to the Social Housing Regulator

Wulvern welcomes the Government's drive to reduce red-tape and the stranglehold of regulatory bureaucracy placed on Registered Providers (RPs). We are also in support of the Government's drive to give customers an even greater say in how services are provided. Wulvern has, for some time, been successfully working to encourage the comprehensive involvement of our customers in the work and management of the organisation and therefore, is a committed advocate of this approach.

However, we are concerned about the general emphasis of the Government's proposals, as laid in the consultation document. We feel the focus placed on aspiration overlooks the social and economic fragility of many communities. Rather than creating a *"system that does not block aspiration but instead acts as a springboard to help people make a better life for themselves and for their communities"*, feedback from Wulvern customers indicates that there may be unforeseen consequences resulting from the Affordable Rent and Flexible Tenure proposals. This could result in outcomes which are the exact opposite to those sought by the Government and RPs alike – namely supporting neighbourhoods and individuals to achieve their housing and quality of life aspirations.

We feel there is not enough recognition in the proposals about the social, economic health and wellbeing of neighbourhoods. We feel these issues matter, and in many cases are of greater importance because without neighbourhood wellbeing and stability, aspiration and improved quality of life remains out of reach for many and is therefore deemed to be unachievable.

Aspiration is suppressed on estates where vulnerable households are concentrated because few people work or train, where schools are overwhelmed by the decline that surrounds them and where the combined community income cannot support shops, banks, and other local services. They are not places sought by people by choice. These environments do nothing to support and assist the vulnerable – indeed just the opposite.

Through our work with vulnerable communities Wulvern is acutely aware of the continued fragility of many neighbourhoods and estates. We recognise that issues caused by multiple of deprivation require a considerable degree of time and determination to address.

As a consequence of the consultation, Wulvern would wish to see a greater balance so that aspiration and choice is the result of economic and social wellbeing. Wulvern has achieved considerable the success with addressing such issues through our work to regenerate of the Sherbourne Estate in Crewe. Most significantly, the transformation of the estate, 'Sherbourne Reborn' has been achieved without significant grant funding. The project was

delivered by an enthusiastic partnership of local agencies, led by Wulvern. Most importantly it was driven by residents hungry for a change in the fortunes of their neighbourhood.

Should the Housing Minister have diary commitments in the North West in the near future, Wulvern would be happy to host a visit to Sherbourne so that he can meet with partners and residents and learn more about the transformation of the estate.

Wulvern's detailed response to specific proposals contained in the consultation document are as follows.

Tenure Reform and Affordable rents

The Government argues that tenure reform will give greater flexibility to Registered Providers (RPs) and will lead to a more efficient use of social housing stock; the aim is to give relatively short term housing assistance until people are able to afford to move out of social housing.

The tenancy changes and the proposed new direction mark a shift of emphasis away from the cornerstones of the existing direction – community sustainability and security of tenure. There is grave concern from all levels at Wulvern - Board, housing staff and by 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.

The Government's proposals for tenure and affordable rents accept a degree of inequality. The HCA Equality Impact Assessment for Affordable Rent dated June 2011 acknowledges that potentially households will be disadvantaged but this hardship will be mitigated in so much that *"Any households potentially disadvantaged by the new policy are nevertheless expected to benefit from a social housing property with rents set (and maintained) at a minimum of 20 per cent below market rate"*. Such a generalisation fails to acknowledge the depth of crisis and lasting vulnerability of many communities in which RPs work.

Wulvern has made considerable progress in transforming some of the most vulnerable neighbourhoods in the Cheshire. It is our experience that a sustainable neighbourhood is a place where people want to live and they have pride in. At the heart of a sustainable community is a mix of people with different income levels, at different life stages and with access to training and work opportunities. It is also about having access to local services such as schools, local GPs, shops and green spaces etc.

The Tenure and Affordable Rent proposals will potentially be counterintuitive because they reduce the incentive for tenants to move to affordable rent homes with shorter tenancies, for reasons resulting from the instability this will cause, such as the impact on children and their schooling by moving home in quick succession. Also, it can be argued that the instability and churn caused

by shorter term tenancies for families moving in and then out of social housing will be detrimental to overall community well-being and if not carefully managed could cause further social segregation and exclusion as non-affordable rent homes and certain housing types become the only recourse for the most economically disadvantaged.

Mutual Exchanges

The **third consultation question** asks whether the draft direction sets out the right minimum protections for tenants of registered providers. Further guidance is required in situations where a tenant is seeking a mutual exchange with a tenant on a fixed term tenancy regarding existing security of tenure entitlement.

Repair and Maintenance

The **sixth consultation question** asks 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 question would suggest that the Tenants Cashback scheme has not been properly researched or costed and that adequate safeguards on quality of repair, price and standards have not been addressed.

The brevity with which the consultation paper deals with the issue of the Cashback proposals would appear to suggest that very little preparation has taken place about how the scheme for commissioning repairs will work in reality and the considerable difficulties it will create for RPs. This is an area where RPs are required to ensure exceptional standards of work to meet with health and safety duties because poor craftsmanship can lead to health hazards or worse. Poor workmanship resulting from tenants engaging 'cowboy' agents could endanger lives of the tenant concerned and their neighbours. Ensuring tenants who commission repairs are getting value for money and are not being "ripped off" is another issue that merits more attention and thought prior to the scheme being introduced.

For these reasons Wulvern is strongly opposed to the Cashback proposals and remains sceptical of the merits of the scheme because the publicity value is far outweighed by the magnitude of the impracticality in terms of operation by RPs

Quality of accommodation

The **Eighth consultation question** relates to changes to the direction on Quality of Accommodation which reflects the fact that the original date of December 2010 for the completion of Decent Homes work has now expired and thus that date is removed from the direction. Instead, RPs will be expected to maintain their property to Decent Homes standards. Whilst Wulvern concurs with this requirement we cannot help but feel it misses the fundamental issues which face the vulnerable communities we serve.

Whether homes are 'decent' is only part of the framework required to assist the most vulnerable neighbourhoods.

In conclusion, Wulvern has welcomed the opportunity to put forward its views as part of the consultation on: Implementing social housing reform: directions to the Social Housing Regulator. We hope that the points raised as part of our submission will assist the Government in its deliberation. We will continue to work to achieve jointly the ambitions of the Government and the customers we serve so that RPs are provided with a workable regulatory framework that allows them *"to run their own businesses and give tenants more control over the decisions they make about their lives"*.

Implementing social housing reform: directions to the Social Housing Regulator

Consultation Response from Wychavon District Council

Thank you for the opportunity to provide comments on the draft direction for the Social Housing Regulator.

The following response has been produced by Officers and has been supported by Members through the Executive Board process.

* * * * *

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: This direction meets the council's local aspirations as set out in our Worcestershire Housing Strategy 2011 – 2016 in terms of making best use of the stock and to meet local housing needs, achieving sustainable communities.

It is important that the offer and allocation of tenancies is fair, open and transparent. Regard needs to be given to the 'preferred preference criteria' set out in legislation and guidance when assessing housing needs and prioritisation.

Good working relationships between Local Authorities and social housing providers are viewed to be an essential requirement to ensure that local needs are being met appropriately. Regard for Local Authority 'Tenancy Strategies' is vitally important to ensure a joined up approach across a number of providers for the local area.

The move away from 'tenancies for life' gives registered providers more flexibility in terms of the offers they make and the way the stock can be managed, enabling more efficient use of this valuable and sought after resource. It is important that the use of 'flexible tenancies' is well managed to avoid an increase in homelessness and increased burdens for the Local Authority

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

Response: There should be clear and defensible guidelines on when it is appropriate to give a 'tenancy for life' and under what circumstances the decision may be made to terminate a tenancy and the ability to appeal such decisions. The underlying ambition should be to sustain tenancies and to prevent homelessness.

Again there needs to be regard for Local Authority 'Tenancy Strategies' as it is vitally important to ensure a joined up approach within the Local Authority geographical area. It is acknowledged that this will be problematic for social housing providers with stock in a number of Local Authority areas.

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

Response: The move of the Government to propose that 2 year flexible tenancies will be the exception with most flexible tenancies being for longer periods of time is supported. There will need to be close liaison between Local Authorities and Registered Providers regarding strategic approach to this issue. It may be inappropriate for older or disabled households with long term needs who are appropriately and suitably housed and may cause unnecessary stress for people already in a vulnerable circumstance.

It is important to protect the rights of tenants and to ensure these new tenures and flexibilities do not result in increased homelessness for those who have no other options. There is concern that a Tenancy Standard and the appeals mechanism may not afford the same level of protection as statute.

There also needs to be full consideration of the impact of the Benefit Reforms and the options that people will have when a flexible tenancy is ended. In some areas options for privately rented accommodation will be very limited due to the economic situation and the impact of recent welfare reforms. This could potentially lead to increased pressure for Local Authority Homelessness Teams and increased temporary accommodation demands and costs.

There should be early warning if a move or ending of a tenancy was being considered to enable the tenant to more fully consider options to avoid a homelessness situation. There should be some flexibility where a tenant is making every effort to secure alternative accommodation with the Registered Provider working with the tenant to secure alternative accommodation.

There should be a requirement to have a full assessment to reflect a tenant's level of housing need, suitability of the home, financial resources and local pressures for

social housing. Reasons for ending a tenancy need to be properly evidenced and linked to the Tenancy Standard.

Discussions will need to take place with Registered Providers in developing the policy on flexible tenancies to also consider households whose needs are being met due to homelessness

Where a Local Authority accepts a duty to assist under the homelessness legislation there will need to be a joined up approach and co-operation to finding solutions even where a social housing provider has made the decision to evict or end a flexible tenancy

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

Response: A more effective mutual exchange service will undoubtedly improve the effective use of the existing stock and help mobility of tenants for economic as well as social reasons.

There needs to be honest and open sharing of information about the tenants applying to exchange with the relevant Landlords to ensure proper risk assessment for both the household concerned and the local community when these moves are enabled.

It is recognised that the responsibilities on registered providers is much higher with more resource required to deliver this service but the potential outcomes would have a significant impact on balancing the local housing market.

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

Response: With the increasing responsibilities of registered providers there is a need to have strong scrutiny by tenants and effective procedures for challenge and redress.

The implementation and effectiveness of tenants' panels has improved over recent years. However to ensure this is widely implemented this direction is welcomed.

In terms of the Tenancy Cash back scheme, it is recognised that this scheme would help empower tenants, potentially result in cash savings for the landlord, for the individual household or indeed where mutually agreed a community group creating a 'community cash back'. The scheme could be supportive of local, small business and potentially bring added value, better meeting the needs and/or preferences of the household. There are however concerns regarding the implementation of such a scheme in terms of quality of work could be variable, there is the potential for health & safety issues to arise, also the potential for duplication of effort and additional cost in monitoring and remedying unsatisfactory workmanship, increased risk of fraud, issues around cash flow etc. The current pilots of this scheme will be important in developing best practice in this area.

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: There appear to be very mixed views about this proposal. Partner registered providers will want to consult their tenants regarding this proposal and then possibly instigate a local pilot. It will be essential that the cost of administering such a scheme and the risks for tenants do not outweigh the benefits achieved.

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

Response: This Rent Standard seems to reflect the previous guidance provided about the Affordable Rent tenure in the Affordable Homes Programme Framework 2011 – 2015.

There remains a tension between meeting the local needs of the area based on evidence and the requirement to provide Affordable Rent to attract investment from the Homes & Communities Agency. It is difficult to bring schemes forward that are not-qualifying under planning policies unless investment can be agreed between partners to bring a site 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?

Response: The direction on the quality of accommodation is welcomed although there are some concerns regarding the use of the Decent Homes Standard which is now out of step and behind compared to the Housing, Health & Safety Rating Standard which is more commonly used to assess standards in the privately rented sector. A common standard is required which also has synergy with Building Control standards.

The original target date for the decent homes was December 2010 with 92% of registered providers meeting the standard by April 2011. The ability for the Regulator to permit temporary exemptions in exceptional circumstances needs further clarity regarding what 'exceptional circumstances' may mean. It is difficult to support this part of the proposed direction without a better understanding of what this means and the potential impact.

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

Response: There does need to be more emphasis on combating fuel poverty and improving thermal comfort of domestic homes. Possibly to link in with the Government's new Green Deal scheme.

Energy efficiency requirements for registered providers should be more explicit so that it is clear to the provider what they need to achieve. This would be especially useful for a set standard i.e. SAP rating / level of loft insulation / cavity wall insulation required to determine reasonable level of thermal comfort.

Hello,

I have read your consultation document and one this concerns me:

"32.

The purpose of the Tenant Cashback model is to give social housing tenants opportunities to be involved in the management of repair and maintenance services for their homes. Rather than registered providers always carrying out or commissioning repairs, the model would give tenants opportunities to undertake or commission routine repair tasks themselves, as agreed with their landlords.

33.

Tenants who choose to take up these opportunities will be able to take more responsibility for the upkeep of their homes and neighbourhoods. They will have a chance to share in resulting efficiencies, potentially building up worthwhile savings through the scheme. They may also gain practical and transferable skills."

This could, potentially, lead to serious damage to properties if the people who carry out repairs and alterations are not properly trained or qualified. There needs to be a national scheme set up (which would benefit all home-owners) to ensure that all people carrying out building or decorating work on properties be either qualified to do so (i.e. hold a City & Guilds qualification to at least Journeyman level or any EU equivalent) or be a trainee who is apprenticed to a C&G qualified person trained to Master's level. Such a scheme needs to be introduced to cover all building and decorating work, i.e. all trades in this field, with a proper licensing scheme. This is already in place in the Republic of Germany so could be copied directly.

The only other issues I would like to raise are

1. The acquisition of property by social landlords and the need for local authorities to exercise Eminent Domain over abandoned buildings that are either domestic in nature or could be converted to dwellings. This practice is widespread in the Royal Borough of Kensington & Chelsea and many housing associations have benefited over the past 30 years or so, the local authority providing grants where necessary in exchange for potential tenants being taken off the council waiting list and rehoused in the new property. I am

drawing this to your attention because I feel that there is a great need to fight any attempts to ruin this country with new housing where existing buildings can be used instead. One of the worst offenders is central government, which owns thousands of empty properties (the houses belonging to Derbyshire Royal Infirmary that were left empty for many years are a good example, their having been used previously to house student nurses);

2. The need for proper rent control throughout the UK. This would bring private rents into line with Housing Benefit limits and thereby solve the issue of capping Housing Benefit. A return to a national rent control system with registered rents for all rented properties of all kinds would do a great deal to reduce public spending not only on Housing Benefit but also on the rental of business premises by government departments.

Best wishes,

Zoe Bremer