



Department for
Communities and
Local Government

Right to Move

Response to Consultation



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Introduction and consultation process

1. On 10 September 2014, the Government published for consultation proposals to introduce a Right to Move for social tenants by:

- Regulating to disapply a residency test for tenants who need to move for work or training
- Issuing strengthened statutory guidance to make clear that the 'hardship' reasonable preference category relates to social tenants moving for work or training, or
- Creating a new reasonable preference category for those who need to move for job related reasons, and
- Using guidance to ensure councils set aside a proportion of lets to enable existing social tenants to move across local authority boundaries within England for work related reasons

2. This document summarises the responses to consultation, and sets out the Government's response, the way forward and next steps.

3. Over 140 responses were received. The majority were from local authorities and Arms Length Management Organisations, and area based partnerships of local authorities and housing associations. Responses were also received from housing associations, local authority and landlord representative bodies, tenant groups, voluntary and community organisations, other interested organisations and individuals.

4. Not all respondents replied to each of the proposals in the document and some expressed equivocal views. Whilst therefore we have given a broad sense of support or opposition in relation to the proposals in the consultation document, it is not possible to provide precise numbers.

Responses to consultation proposals

Summary

5. Respondents were overwhelmingly supportive of the objective of the Right to Move proposals, to help social tenants move to secure or retain employment, recognising the benefits for individuals, families and communities. Most local authority respondents said that they already encouraged employment or employment related mobility within their allocation policies, through the adoption of local policy priorities or by applying a local connection test which took account of employment as well as residence. Many councils and social landlords were also helping their tenants into work through other means, and supporting mobility through existing mobility schemes.

6. There was general support for ensuring that social tenants who need to move for work related reasons are given appropriate priority through guidance or regulation. There was less support for removing a residency requirement for this group and very little support for setting aside a quota of lets.

Responses to individual proposals

Qualification

Consultation proposal: regulate to remove a residency requirement for social tenants moving across local authority boundaries to be closer to work, or to take up a job offer, apprenticeship, or work related training.

7. Not all consultees responded directly and some responses were ambiguous. Of those responding directly, a slight majority supported the proposal. Councils outside London and the South East – and housing associations - were more likely to be supportive.

8. Some commented that formalising the requirement through regulations would ensure a consistent approach across the country. Others favoured the approach as it was in line with their existing policy, where for example they operated an open waiting list or employed a local connection test allowing people to move into the area if they have a job or offer of employment (although some questioned the need to regulate where this was the case).

9. While some thought the proposal would open up opportunities for their own tenants to move to take up work or training which they might not otherwise have been able to do, others commented that the proposal on its own would not result in accommodation of the right sort being available at the right time.

10. Some, while supporting the proposal generally, did not think it should be extended to job offers, temporary work, or job related training. However, others suggested that the proposal should be extended to all tenants who need to move. Some advocated the use of fixed term tenancies where work was temporary or there was a risk that a job offer might fall through.

11. Some respondents called for accompanying guidance to ensure a standard approach, for example, to what constitutes a need to move for work, but others thought it should be for local authorities to decide how to implement the regulations.

12. While the majority of responses were positive, there were concerns that this would add to the pressure on already long waiting lists, be unpopular with local residents, and could raise expectations which would be difficult to manage. Some were of the view that this should be locally determined, rather than centrally prescribed.

13. A few respondents expressed the view that the needs of tenants seeking to move across the country were adequately served by existing mobility schemes or the private rented sector.

Government response

In the light of the response to consultation, we have decided to introduce regulations to remove the residency requirement for existing local authority and housing association tenants seeking to transfer from another local authority district and who need to move in order to be closer to their work, or to take up a job offer or apprenticeship. We will do this by

preventing local authorities from applying a local connection test to this group of applicants, which will also ensure that local authorities do not take account of connections to the district other than residency (for example, employment of family associations) when setting their qualification criteria which could undermine the purpose of the regulations. We have decided that the regulations will not apply to those tenants who wish to move for work related training, taking into account respondents' concerns about the temporary nature of such training and the fact that it may not lead to a person taking up work in the same area.

Reasonable preference

Consultation proposals:

Strengthen and expand statutory guidance on the 'hardship' reasonable preference category in relation to those moving for work or work related training

Or

Introduce regulations to create a new reasonable preference category for transferring tenants who need to move for work related reasons

14. The vast majority of respondents expressed a view on this proposal. Some were equivocal or supported the general objective of giving more priority to tenants moving for work but did not have a particular preference for either proposal. Where respondents expressed a preference, they were three to one in favour of strengthening the guidance on the hardship reasonable preference category. While this was the case particularly for local authorities, it was also the favoured option for housing associations.

15. A small number of respondents – particularly local authorities – were opposed to the proposal in general, preferring to make local decisions without further guidance or regulation. In some cases, this was because local authorities considered that they already met the Government's objective. Others were concerned that a 'one size fits all' approach was not suited to all parts of the country. While others considered that the needs of this group were already met satisfactorily through existing mobility schemes. There was also some concern that prioritising this group could disadvantage those unable to work, while others questioned whether someone who needs to move to an area for work is in the same housing needs as a person with severe disabilities or health needs.

Benefits and disadvantages of guidance on the 'hardship' reasonable preference category

16. The main benefits of guidance were considered to be that:

- It would be quick and simple to implement: there would be no need for the Government to make legislative changes; and local authorities could make the necessary changes within their existing allocation policies without the need to review and redefine their entire banding scheme. It would also be cheaper as there would be no need to make expensive software changes

- It would allow for a more flexible approach, more responsive to the local context, to different housing and employment markets, and to different levels of housing needs. As such it would be more compatible with the aims and objectives of the Localism Act changes. Regulation was considered to be a more rigid approach.
- It would be able to specify the factors which local authorities should take into account when considering applications, which in turn would ensure consistency across local authorities.
- By focussing on 'hardship', it would also ensure that tenants have a need to move across boundaries rather than a preference.

17. However, it was recognised that by providing further guidance on the hardship category which focused solely on those who need to move for work-related reasons, the guidance could cause confusion and that some may be unhappy to be classified as 'in hardship' because they wish to move for a new job. It was also suggested that it might be more difficult to measure the success of the change, as outcomes for those moving for work could get lost within the general 'hardship' reasonable preference group.

Benefits and disadvantages of a new reasonable preference category

18. The main benefits of creating a new reasonable preference category were considered to be that: it would be more transparent, easier for tenants to understand, and less open to misinterpretation; and would ensure greater consistency and uniformity, and facilitate reporting and monitoring.

19. On the other hand, it was suggested that it would create a two tier approach, as other applicants (ie not social tenants) needing to move for work would still rely on the hardship reasonable preference category. There were also concerns that, by increasing the number of reasonable preference categories, it would dilute the focus on those with higher levels of need, such as people with disabilities and overcrowded families.

20. While recognising that there is no requirement to give equal weight to each reasonable preference category, there were concerns that creating a separate reasonable preference category might make it more difficult for local authorities to set a limited quota of lettings for this group, or open authorities up to court challenges.

21. Respondents also thought that it would require changes to policies and procedures and supporting ICT, with associated costs for local authorities.

Government response

We have decided to issue strengthened statutory guidance in relation to the existing 'hardship' reasonable preference category to ensure that social tenants who need to move for work related reasons are given appropriate priority. This will ensure that we can deliver the 'Right to Move' as quickly as possible. We are minded to introduce a new reasonable preference category for the Right to Move when time allows, and will consult further on the detail of this as soon as practicable.

Consultation questions: How do local authorities satisfy themselves that employment, a job offer or training opportunity are genuine, and that the employment is not of a purely temporary nature?

How do local authorities assess whether a person needs to move for work?

22. For about a quarter of local authority respondents, employment was already a factor in their allocation policy, most often in relation to determining whether an applicant has a local connection or their level of priority.

23. In determining whether the employment is genuine, local authorities would look at the duration of the employment and the number of hours worked. Many would look for the contract to last for at least 12 months (though some would not consider fixed term contracts at all) and some would require the applicant to have been in work for a period before applying (from 6 months to 2 years). Most would require part-time work to be a minimum of 16 hours a week (in line with Housing Benefit). Some concerns were raised about zero hours contracts. Another consideration was where the work actually took place – ie not where head office was located or the person was based.

24. Local authorities would expect the applicant to provide documentary evidence in support of their application, most commonly:

- A copy of the employment contract
- Wage/salary slips covering 3 to 6 months, or bank statements

25. Some would require a letter from the employer – although others were concerned this might be open to abuse – and some would contact the employer direct. Other evidence included tax and benefits information – eg proof that the applicant is in receipt of working tax credit (if eligible). Several said that they would check on the employment status at application stage and again at the point of offer.

26. Local authorities were much less likely to take into account work related training because of the temporary nature. One said that they would only consider an apprenticeship which would lead to longer term employment. Where authorities did (or might) take account of training, they would require written confirmation from the educational establishment, and would expect the course to involve a minimum number of hours.

27. Local authorities were also much less likely to take account of people moving to take up a job offer. Where they did they would expect the applicant to provide a letter from the employer or a contract – and would contact the employer to confirm. One local authority said that they would require evidence that taking up the job offer would end unemployment. Others said that they would be concerned about job offers from family or friends.

28. Very few respondents mentioned the self-employed. One local authority would expect the applicant to provide evidence that they had been in self-employed for at least

12 months and that a minimum of 50% of their turnover was directly related to activity within the local authority's district.

29. The factors local authorities would take into account in assessing whether a person had a 'need' to move for work included:

- Distance and/or time taken to travel between work and home
- Availability of public transport during working hours
- Affordability, ie the cost of public transport and level of earnings
- Whether the tenant has their own transport
- Whether the tenant had medical/welfare conditions or needs which would be impacted if they could not move
- The length of the work contract

30. Some authorities were concerned that staff would have to make complex assessments or difficult judgements about affordability and reasonableness.

Government response

We are grateful to local authority and housing associations for the information they have provided which will be helpful in formulating the new statutory guidance on the Right to Move.

Setting aside a proportion of lets

Consultation proposal: issue statutory guidance to ensure local authorities set aside a proportion of lets for tenants who need to move across local authority boundaries in England for job related reasons

31. More than three quarters responded directly, with less than half of these in support of the proposal.

32. Some local authorities said they would be able to accommodate the proposal within their existing allocation scheme as they already set aside a proportion of their lets for transferring tenants, often as part of a partnership approach. Those London Boroughs in support of the proposal suggested that the 1% (proposed in the consultation paper) should be part of their 5% contribution to the GLA's Housing Moves scheme.

33. Many respondents suggested there should be flexibility on setting the proportion to reflect varying labour markets and to suit local housing needs, and there should be scope to review and revise the proportion as appropriate. A small minority considered that 1% was too low and that authorities should be incentivised to set aside a higher proportion. A small number of local authorities considered that the proposal was inconsistent with the Localism Act flexibilities.

34. A number of respondents called for guidance on how the scheme should be administered, including, for example, a requirement to consult local housing associations on the percentage of lettings to be set aside and clarification as to whether there would be

an expectation for vacancies to be re-advertised under the scheme if they were refused by a Right to Move applicant.

35. Many respondents were concerned to ensure that the quota would not undermine local authorities' ability to meet housing need. There were also concerns that the proposal could impact on void times, reduce flexibility to make best use of stock, and that setting up and administering the quota would have cost implications.

36. Others questioned the need for the proposal, either on the ground that this group were already catered for within their current allocation policy; or that there was unlikely to be sufficient demand. A few local authorities suggested the onus should be on housing associations to set aside a proportion of their lets, rather than delivering the proposal through local authority waiting lists.

Government response

We want to see all local authorities adopt an approach similar to the Mayor of London's housing mobility scheme, Housing Moves, and to make available a proportion of their lets for tenants moving into their area to be closer to work. The new statutory guidance will therefore include an expectation for local authorities to set aside a proportion of their lets for social tenants who need to move across local authority boundaries for work related reasons. The guidance will set a minimum expectation of 1% of lets, although it will be for local authorities to decide on the appropriate proportion in the light of local circumstances.

<u>Consultation proposal</u>: require local authorities to publish information on demand and lettings in relation to the right to move quota

37. Around a half of consultees responded directly to this proposal and about two thirds of these were in support.

38. Many local authorities already published information on demand and lettings (usually as part of a choice based lettings scheme) and considered that information on the Right to Move quota could readily be published as part of this. Some local authorities believed that the additional transparency would help build confidence in the system and enable tenants as well as relevant partners to monitor the scheme – enabling adjustments to be made where necessary. Some respondents suggested the information should be provided as part of an annual report or as part of the existing Local Authority Housing Statistics return.

39. A small proportion of respondents however opposed the proposal. Most considered that any added value would be outweighed by the additional administrative burden and cost implications from changes to supporting software.

Government response

We think it is important that local authorities are open and accountable, to their own tenants as well as tenants seeking to move into the area for work related reasons. Accordingly, the new statutory guidance will include an expectation for local authorities to report locally on demand and lettings in relation to the right to move quota.

Consultation proposal: statutory guidance should include an expectation for area-based choice based lettings schemes to provide for cross-boundary movement for tenants moving for work related reasons

40. About a third of respondents expressed a view on the proposal, most of them local authorities already operating an area-based choice based lettings scheme. In some cases, a single response was submitted from the partnership, while in others local authority partners responded individually.

41. Most area-based schemes responding to the proposals already facilitated cross boundary lets and either allowed for work related moves or said they could easily be adapted to do so. A few respondents considered that, as this was already provided for, there was no need for further guidance. One respondent suggested such schemes provided a good basis for cross-boundary mobility, as housing and employment circumstances were likely to be similar within broad local areas.

42. Local authorities that were partners to area-based schemes which did not provide for cross-boundary mobility were less likely to support the proposal. Some said they had tried this in the past but had stopped doing so, because there had been little demand. Others suggested that good transport links between partner authorities rendered this unnecessary. There was also some concern the proposal would create a net inflow of applicants to those districts with greater employment opportunities than their neighbours.

43. A few respondents were members of the West Midlands Making Best Use of Stock partnership which, while not an area-based choice based lettings scheme as such, seeks to maximise customers opportunities to move within the region.

44. A very small number of housing associations responded directly to the proposal and were generally supportive of encouraging schemes similar to the GLA's Housing Moves. One said that they operated their own choice based lettings scheme which enabled their tenants to move within the association's stock across the country.

Government response

Building on the positive response to consultation, the Government will use the new statutory guidance to encourage those choice based lettings schemes which do not already do so, to ensure they provide for mobility between the partner authorities to make it easier for tenants to move for work-related reasons.

Local transfers

Consultation questions: what barriers do local authorities and housing associations encounter in helping working tenants move within or outside the local authority area; what are they doing to address them; and what more could be done to remove them?

45. Around half of local authorities and Private Registered Providers responded to this question directly.

46. About a third of those responding said that they did not encounter any barriers in enabling working tenants to move. For some this was because they had already framed their allocation policy to help such tenants move, including adopting a partnership approach with neighbouring authorities. For others, it was because good transport links within and outside the district meant that there was no need for tenants in work to move. While for others, this was because there were very few tenants seeking to take advantage of such an opportunity.

47. The main barriers respondents identified were the shortage of social housing; competition from other applicants, particularly those in urgent housing need; and the application of a residency test which prevented tenants moving to another local authority district. Other potential barriers included:

- Affordability issues and high rents
- Difficulty in finding someone prepared to swap (particularly for those living in less desirable areas)
- Lack of reciprocal arrangements between local authorities
- Nomination arrangements restricting housing associations' flexibility
- The fact that tenants may have to give up a lifetime tenancy if they moved into Affordable Rent properties, and restrictions on moving for tenants with rent arrears
- Wider considerations such as the lack of available child care, moving costs, and disruption to existing community and family ties
- Rural exception sites which give priority to those with a strong local connection

48. A number of respondents said that they had already taken steps to address barriers through changes to their allocation policy to support mobility or to give more priority to working applicants generally. Provisions included prioritising work via a 'community contribution' priority or ring-fencing a proportion of properties for working households or for transferring tenants; adopting a local connection test (ie including employment) rather than a more restrictive residency test, or dis-applying a residency test from existing tenants to help them move into their area for work. Other approaches included:

- Encouraging the use of mutual exchange and Homefinder UK
- Making direct lets (ie outside the usual allocation process)
- Working in partnership with neighbouring local authorities and landlords (eg as part of the London-wide Housing Moves scheme)
- Involving local employers in housing action plans
- Encouraging tenants to consider other options including the private rented sector and low cost home ownership

49. Few responded directly to the question about what more could be done to remove barriers, but where they did, increasing supply in the longer term was the main proposal. Some suggested the solution was not to be found in the social rented sector but in making the private rented sector and low cost home ownership more attractive alternative options. A number of housing associations thought the answer lay in allowing them more flexibility over whom they could house.

Government response

We intend to make available a small amount of financial support to local authorities in 2015/16 to enable a small number of local authorities and their partner Private Registered Providers to test out approaches that make use of the new and existing flexibilities in the allocation legislation to increase mobility for existing social tenants, in order to reward positive behaviour or make better use of the stock.

Consultation question: how do local authorities and housing associations use a 'community contribution' to help existing tenants who want to move within their local authority area?

50. About a quarter of local authorities and a handful of housing associations said that their lettings policy included a 'community contribution', but that this did not distinguish between transferring tenants and other applicants. Households who might expect to benefit included those in low paid employment or undertaking work related training or an apprenticeship, people doing unpaid voluntary work, foster carers and adopters, those caring for a relative, and members of the Armed Forces. Relevant applicants might be awarded extra points or a higher banding, or they might be able to apply for specified properties under a local lettings policy. Some local authorities had set a target for the proportion of properties going to those who could demonstrate a 'community contribution', varying from 10% to 50% of lettings.

51. A small number of local authorities, while not using a 'community contribution' as such, sought to reward tenants who could demonstrate a positive tenancy record by making it easier for them to move. This might be by increasing their priority on the waiting list (or when shortlisting applicants for properties), or by giving them preference for a proportion of new build properties. One local authority had introduced a Tenant Reward Scheme which amongst other things restricted tenants' ability to move within the local authority area if they had breached their tenancy conditions.

52. Where local authorities said they did not apply a community contribution test, the main reasons given were:

- the difficulty in defining and evidencing 'community contribution' or applying it consistently
- concern that some groups, such as disabled people, would be less likely to be able to contribute to communities
- concern that it would reduce the focus on meeting housing need

53. Some local authorities had consulted on including a community contribution but had not received a positive response. For some local authorities, this was an area they were currently reviewing, or were monitoring how it worked elsewhere, and might consider including a 'community contribution' in future.

Way forward and next steps

54. We will introduce regulations to prevent local authorities in England from applying a local connection test for social housing in relation to existing social tenants who need to

move to another local authority district (in England) for work related reasons. We aim to lay the regulations before the end of March.

55. At the same time, we will issue new statutory guidance on social housing allocations for local authorities in England. The guidance will make clear that the Government expects local authorities to apply the existing 'hardship' reasonable preference category to social tenants who need to move for work related reasons.

56. We are minded to introduce a new reasonable preference category to give effect to the Right to Move, when time allows. Before doing so, however, we will consult further on the detail of how a new category would work.

57. The new statutory guidance will include an expectation for local authorities to set aside a proportion of their lets for social tenants who need to move across local authority boundaries for work related reasons to publish the quota as part of their allocation scheme, and to report locally on demand and lettings.

58. The guidance will also encourage choice based lettings partnerships to provide for mobility between the partner authorities.

59. Local authorities will need to have regard to the guidance when exercising their allocation functions including framing their allocation policies.