



Via Email: [housingreform@communities.asi.gov.uk](mailto:housingreform@communities.asi.gov.uk)  
Frances Walker  
Communities and Local Government  
Zone 1/J9  
Eland House  
Bressenden Place  
London  
SW1E 5DU

Centurion House,  
77 Northgate Street  
Chester CH1 2HQ

Telephone: (01244) 305503  
Minicom: (01244) 305500

Your reference:  
My reference:

Please ask for: Dave Shaw

Direct Line: (01244) 305489  
Fax: (01244)

Personal E-mail: [d.shaw@cdht.org](mailto:d.shaw@cdht.org)

17 January 2011

Dear Frances

## **RE: Local Decisions: a fairer future for social housing consultation**

Please find Chester & District Housing Trust's response to the consultation paper, 'Local Decisions: a fairer future for social housing'.

The Trust has constructed its response having taken views and direction from members of the Trust's Main Board, Residents Board and Executive Management Team to consider the proposed changes and the impact both locally and nationally.

In addition to our response to the prescribed questions in Section 10 of the proposals, our response seeks to identify additional points for consideration.

### **Tenure**

Whilst the Trust welcomes opportunity to provide more flexibility in length of tenure, we anticipate that a minimum tenure period of 3-4 years would be most appropriate, including an initial starter/introductory 12 month period. In reference to the Localism Bill, the Trust would also welcome stronger links

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between tenure length and specific local commitments which may include examples such as school attendance, employment aspirations and tenancy management/behaviours.

The Trust would support a cyclical tenancy review period on a 5 yearly basis across all housing tenure to identify any significant changes.

## **Mobility**

The Trust is concerned over the reliance on one form of choice for existing tenants to seek transfer to alternative homes through Mutual Exchange. Fundamentally, we feel that this will lead to reduced choice for our existing tenants and potentially restricts the choice and access for existing tenants to new build developments in the future. As an alternative, we would welcome further proposals which create a housing offer which draws on the best principles of choice based lettings but reflects a quota based system to ensure that specific customer groups are targeted, local knowledge of our communities are considered and the maximum choice is available for all customer groups. This would ensure a balanced approach to meeting housing need, existing tenants and community sustainability concerns.

## **Links between social, affordable and private rented housing offer**

The Trust has a strong history of working alongside the private rented sector to address housing need within the community, including the planned launch of a social lettings company in 2011/12 in order to maximise customer choice. Whilst the proposals to discharge duty into the private rented sector are welcome, further proposals to provide additional levels of tenancy security and length of tenure would be welcome to create a viable alternative housing offer in the private rented sector.

## **Section 10 Summary of consultation questions**

Question 1: As a landlord, do you anticipate making changes in light of the new tenancy flexibilities being proposed? If so, how would you expect to use these flexibilities? What sort of outcomes would you hope to achieve?

The Trust welcomes opportunity to offer more flexible tenure to meet the needs of our diverse customers. Outcomes we would seek to achieve would include increasing choice, decreasing the waiting list, provide further options for accessing housing and achieve higher income levels to enable a greater re-investment in future provision.

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## Question 2: When, as a landlord, might you begin to introduce changes?

The Trust has already delivered a pilot in 2009/10 which reflects many principles of the sub market rent offer in these proposals, aimed at providing opportunity for those in employment to secure an affordable intermediate market rent home through our Empty Homes Purchase Initiative. We would anticipate introducing changes to our future affordable development programme as early as April 2011, subject to agreement with our Local Authority funding partners.

## Question 3: As a local authority, how would you expect to develop and publish a local strategic policy on tenancies? What costs would you expect to incur?

N/A

## Question 4: Which other persons or bodies should local authorities consult in drawing up their strategic tenancy policy?

The Trust recognises the fundamental changes which these proposals can bring. In response, it is critical that Local Authorities undertake considerable consultation to ensure that concerns which include affordability, tenancy & community sustainability, impact on employment, access to education and schools and a fuller understanding of demand for affordable housing products is established. Underlying all these principles, a need for a structured consultation process is needed with all customers, both existing and future to establish their needs and interest in these proposals prior to drafting their Strategic Tenancy Policy and the direction to Registered Providers within their communities.

## Question 5: Do you agree that the Tenancy Standard should focus on key principles? If so, what should these be?

The Trust welcomes flexibility in providing a new Tenancy Standard, including both length of tenancy and rent setting levels as long as these reflect the presenting customers needs, aspirations for the future and financial ability. Underlying this standard should include a protection of security of tenure which should not be time limited for those clients recognised as vulnerable. We would expect this definition to be agreed through central Government Legislation so as to provide clarity to those Registered Providers who provide

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homes across geographical boundaries and provide consistency for all customers. However, the Trust does recognise the acute shortage of social housing provision and that where a customer's circumstances change in the long-term future, the ability to address incidences such as significant under occupancy and maximising use of all properties would be welcome on condition that appropriate levels of support, advice and legislation is in place to meet the needs of all customers.

**Question 6: Do you have any concerns that these proposals could restrict current flexibilities enjoyed by landlords? If so, how can we best mitigate that risk?**

The Trust does not support proposals which would reduce the security of tenure for our existing tenants, these being the principles which we agreed in 2000 following the housing stock transfer. However, existing and future tenants would inevitably benefit from a stronger ability of landlords to help to address examples of overcrowding and under occupancy through better management of the housing stock. Proposals therefore which provide incentives to existing tenants to reduce under occupancy or free up social housing through moves to alternative housing products such as low cost home ownership would be very welcome and have proved effective in the past.

**Question 7: Should we seek to prescribe more closely the content of landlord policies on tenancies? If so, in what respects?**

The Trust would welcome Central Government legislation on tenancy management through appropriate changes to Housing Law, this being the bedrock which local policy and responses are then built upon. The decision however to work with our customers and the Local Authority to develop a local response is critical.

**Question 8: What opportunities as a tenant would you expect to have to influence the landlord's policy?**

The Trust expects that the Localism Bill will provide a clearer framework and opportunity that all landlords and Local Authorities ensure that significant influence is held by our tenants in reaching local decisions. We would anticipate a joint consultation and communication process between local providers and the Authority to reach agreement on the key messages within

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any proposed changes, taking into account existing and future tenants views and ideas.

**Question 9: Is two years an appropriate minimum fixed term for a general needs social tenancy, or should the minimum fixed term be longer? If so, how long should it be? What is the basis for proposing a minimum fixed term of that length? Should a distinction be drawn between tenancies on social and affordable rents? If so, what should this be? Should the minimum fixed term include any probationary period?**

The Trust believes that a fixed term of 2 years is insufficient to enable the circumstances of most new customers to have had such a material change as to enable them to 'next step' to alternative, more long-term housing choices, regardless of whether the offer was general needs social tenancy or a flexible affordable tenancy. Further consultation and evidence based research is needed to establish a minimum term but the Trust would consider 3-4 years as a potential minimum. The Trust believes that no distinction needs to be drawn between the time limits of a social tenancy and those of an affordable tenancy; these decisions should be led by the assessment of the presenting new customer, not by tenancy provision. The Trust would welcome, if not expect legislation which ensures that those most vulnerable within our society are provided for across all tenancy provision with no time limits where appropriate, most notably our older population in supported housing. Underlying all decisions of tenancy length, the Trust continues to see a benefit in offering an initial 12 month Introductory/starter tenancy to address poor tenancy management.

**Question 10: Should we require a longer minimum fixed term for some groups? If so, who should those groups be and what minimum fixed terms would be appropriate? What is the basis for proposing a minimum fixed term of that length? Should a distinction be drawn between tenancies on social and affordable rents? If so, what should this be?**

Answered this in Q.5 and Q.9. The Trust welcomes clarity on definition of vulnerable groups and the afforded protection of tenure with ability at a local level to further define both those deemed to be vulnerable and the support available. The Trust remains concerned over the lack of funding nationally and locally through the Supporting People framework to ensure that vulnerable clients are able to sustain their tenancies. Any proposals which reduce the security of tenure, increase rent levels or restrict time limits of

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tenancy length have the potential of placing additional pressures on these already scarce resources.

**Question 11: Do you think that older people and those with a long term illness or disability should continue to be provided with a guarantee of a social home for life through the Tenancy Standard?**

The Trust agrees that our existing tenants should continue to benefit from security of tenure. However, the Trust has had significant success in addressing examples of acute under-occupancy for similar clients through our Release & Reward Scheme. The Trust recognises the necessity to maximise use of our homes and as such would encourage stronger legislation to ensure that Local Authorities provide guidance, financial incentive and opportunity for those clients wishing to downsize to more appropriate accommodation yet still retaining security of tenure. Guidance which ensures regular reassessment of our existing customers housing and support provision would be welcomed to ensure all Registered Providers promote/incentivise downsizing.

**Question 12: Are there other types of household where we should always require landlords to guarantee a social home for life?**

Extremely vulnerable people or those diagnosed with severe mental health needs, but can manage to sustain a tenancy in generic housing. It would be those groups that would find it difficult to cope with the threat of homelessness or changing landlords every two to three years. Again, a clear definition would benefit consistency in this decision making. As a matter of course, the principle should be established that whilst a customer may be deemed vulnerable at point of housing offer, for example due to homelessness then it is very likely that any vulnerable would be reduced following a period of tenancy sustainment and as such there are some client groups or circumstances who may go in and out of needing support over periods of time.

**Question 13: Do you agree that we should require landlords to offer existing secure and assured tenants who move to another social rent property a lifetime tenancy in their new home?**

Yes, the Trust welcomes proposals that existing security of tenure would passport to any new homes they transfer to. The proposals are unclear as to

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whether the transferring, fully secure tenants would have to accept the higher rent charges where they are moving to a new affordable rent property. Clearer guidance is welcome.

**Question 14: Do you agree that landlords should have the freedom to decide whether new secure and assured tenants should continue to receive a lifetime tenancy when they move?**

Yes, The Trust believes that these should form part of the tenancy standard or the strategic tenancy policy developed with LA's, RP's and tenants bodies. The Trust would be concerned should any legislation be agreed which penalises existing or future customers in that if they move they incur significantly higher rent charges or reduced security of tenure and length. This would have a detrimental impact of helping these customers to move, for their own benefit in terms of support provision but also to free up larger homes for future provision.

**Question 15: Do you agree that we should require social landlords to provide advice and assistance to tenants prior to the expiry of the fixed term of a tenancy?**

Yes - housing options advice. This needs to be reflected that the cost implications, especially for those non-geographically based organisations may be significant. Further clarity is needed to determine the level and quality of this provision and whether this would include statements such as requirement to secure alternative provision or merely housing advice only.

**Question 16: As a landlord, what are the factors you would take into account in deciding whether to reissue a tenancy at the end of the fixed term? How often would you expect a tenancy to be reissued?**

A complete customer profile, housing options, support assessment and financial assessment would need to be completed in order to determine the outcome of a tenancy review. The Trust would anticipate conducting this every 2 years in order to provide any customer with appropriate timescales to source alternative housing choices in a planned and supportive manner.

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Question 17: As a local authority, how would you expect to use the new flexibilities to decide who should qualify to go on the waiting list? What sort of outcomes would you hope to achieve?

The Trust remains concerned that this proposal to focus housing waiting list merely on those who reflect tight vulnerability or housing need provision is a regressive step which will not ensure that a cross section of our community benefits from the proposed new tenure choices to be made available. Significant research and evidence has demonstrated the necessity of generating a balance within our communities of a diverse nature. The allocation of social housing focussed entirely on acute housing need/vulnerability will have a significant and detrimental impact on some of our communities. The Trust would welcome proposals which ensure that whilst a high percentage of allocations should focus on those in acute housing demand, this should be complimented by allocations to other client groups, including clients with limited housing need. The Trust feels the offer of fixed or flexible tenancies have the opportunity to assist customers in moderate housing need, paying an affordable rent levels for their circumstances, acting as a springboard to long-term tenancy choices where appropriate. Any decision to make significant numbers on the housing register ineligible will have impacts on other housing tenures such as private rented and owner occupation, all of which needs to be considered both locally and nationally to ensure an adequate strategic response.

Question 18: In making use of the new waiting list flexibilities, what savings or other benefits would you expect to achieve?

The Trust would anticipate a marginal reduction in costs on managing a waiting list function in terms of basic administration. We would however anticipate significant increases in costs associated with support assessments and financial assessments at point of allocation.

Question 19: What opportunities as a tenant or resident would you expect to have to influence the local authority's qualification criteria?

The Trust would welcome and support the Local Authorities full twelve week consultation exercise across all partners, customers, tenants and stakeholders.

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Question 20: Do you agree that current statutory reasonable preference categories should remain unchanged? Or do you consider that there is scope to clarify the current categories?

Yes, we believe that the statutory categories should remain the unchanged. In addition, we would welcome further clarity on definitions which include unacceptable living conditions, a far more customer focussed definition of overcrowding.

Question 21: Do you think that the existing reasonable preference categories should be expanded to include other categories of people in housing need? If so, what additional categories would you include and what is the rationale for doing so?

No

Question 22: As a landlord, how would you expect to use the new flexibility created by taking social tenants seeking a transfer who are not in housing need out of the allocation framework? What sort of outcomes would you hope to achieve?

The Trust remains concerned over the proposals to minimise the choices or access for existing tenants to transfer. As an active member of a national mutual exchange scheme, well promoted and used by our tenants, this provides only a percentage of outcomes for existing tenants transfer aspirations. We believe that removing the ability for existing tenants to be actively considered on a Common Housing Waiting List/Policy restricts choice and is a regressive step. The implications need to be rigorously considered as we feel this will contribute to tenant dissatisfaction, lack of choice, lack of access to new build properties, lack of mobility and thus increases in those tenants residing in unsuitable homes/under occupying. Many of these implications are exactly those which the Housing Reform is seeking to address. Better proposals would see the creation of a retained Common Allocation Policy, accessible to existing tenants, with a quota system to ensure that a balanced outcome between existing tenants and new customers in acute housing need. Those with moderate need or those with greater financial ability could continue to be considered but through the provision of fixed term/flexible affordable rented products. This proposal would allow maximum choice for all clients but property would be then allocated based on clients need, financial ability and a form of tenancy which was appropriate to their circumstances.

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**Question 23: What are the reasons why a landlord may currently choose not to subscribe to a mutual exchange service?**

The Trust can see no rationale why a landlord would not want to commit to mutual exchange provision, whether on a local scale or national.

**Question 24: As a tenant, this national scheme will increase the number of possible matches you might find through your web-based provider but what other services might you find helpful in arranging your mutual exchange as well as IT-based access?**

The Trust's experience is that the vast majority of both applicants and new tenants are from within the local area boundaries. Whilst we benefit from access to a national mutual exchange IT provider, we believe that our local advertising and marketing of 100% of our available properties through a Common Choice Based Lettings Service underpins our success in addressing housing need. We therefore remain concerned if the proposals to exclude existing tenants from this service would be adopted.

**Question 25: As a local authority, how would you expect to use the new flexibility provided by this change to the homelessness legislation?**

As a contracted deliverer of the Local Authorities statutory homelessness provision within the area, The Trust welcomes the ability to the discharge of duty into the private sector that offer 12 months AST. The Trust would however welcome further proposals which provide increased security of tenure within the private rented sector in able to support this tenure as a viable alternative to social housing provision.

**Question 26: As a local authority, do you think there will be private rented sector housing available in your area that could provide suitable and affordable accommodation for people owed the main homelessness duty?**

The Trust believes that with changes to single room rate being increased from 25 to 35 years of age and changes to level of LHA we foresee a problem in being able to access affordable housing in the private sector. We have significant experience of working alongside the private sector and lost a number of landlords that would work with us when direct payments came in; if they are asked to reduce their rents for homeless people/families that are on benefits this will be yet another disincentive for private landlords to work with us.

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Question 27: Do you consider that 12 months is the right period to provide as a minimum fixed term where the homelessness duty is ended with an offer of an assured short hold tenancy? If you consider the period should be longer, do you consider that private landlords would be prepared to provide fixed term assured short hold tenancies for that longer period to new tenants?

The Trust's view is that 12 months should be the minimum when discharging duty, but have found difficulty in getting landlords to agree to any fixed term longer than 12 months.

Question 28: What powers do local authorities and landlords need to address overcrowding?

We feel that appropriate powers are already available to address overcrowding across all tenures. A lack of affordable rented property remains the barrier to resolve examples of overcrowding.

Question 29: Is the framework set out in the 1985 Housing Act fit for purpose? Are any detailed changes needed to the enforcement provisions in the 1985 Act?

The Trust welcomes a review of the legislation. A clearer definition of overcrowding and of impact of housing on health with a stronger focus on customer impact would be beneficial.

Question 30: Should the Housing Health and Safety Rating System provide the foundation for measures to tackle overcrowding across all tenures and landlords?

The Trust welcomes a more robust definition of overcrowding which reflects modern living conditions. We remain concerned that whilst the HHSRS provides a reasoned basis for discussion and compromise for individual families who are overcrowded, it still requires further clarity.

I trust you may find this helpful.  
Yours sincerely

Dave Shaw  
Assistant Director  
Customer & Housing Access

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