

## **SLOUGH BOROUGH COUNCIL**

**REPORT TO:** Neighbourhood & Community **DATE:** 10 September 2012  
Services Scrutiny Panel

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**WARD(S):** All

**PORTFOLIO:** Neighbourhoods and Renewal - Councillor Swindlehurst

### **PART I**

#### **CONSIDERATION & COMMENT**

##### **THE FUTURE OF HOUSING POST LOCALISM ACT 2011**

###### **1 Purpose of Report**

1.1 The Localism Act gained Royal Assent late last year and proposed a variety of changes to the management of social housing by local authorities. This report highlights some of the changes already implemented and those yet to be introduced.

###### **2 Recommendation(s)/Proposed Action**

2.1 The Panel is requested to

- a) consider the impact of the Localism Act 2011 on the Council's Housing Service; and
- b) agree to receive a further report within six months to further update on the implementation status of the Act.

###### **3 Sustainable Community Strategy Priorities**

3.1 Priorities:

- Economy and Skills
- Health and Wellbeing
- Regeneration and Environment
- Housing
- Safer Communities

The provision of good quality, inclusive and efficient housing services are fundamental to delivering the Council's Sustainable Community Strategy priorities and, as such, accurate interpretation of legislative changes together with the use of inherited flexibilities will ensure that the service and the council as a whole is best placed to meet the needs of the local community.

## 4 **Other Implications**

### (a) Financial

There are no financial consequences inherent within this report and in accordance with the Council's Medium Term Financial Strategy all budgets and expenditure are kept under review to ensure services are efficiently delivered and that resources, both financial and operational are deployed where they are needed. The current financial climate means that there are increasing pressures on homelessness services and the sooner the proposals are enacted the sooner the Council can rise to this challenge.

### (b) Risk Management

As with any new legislation there is a period of time when responses are open to legal challenge, and caselaw and best practice guidance clarify the accepted intentions of the Act. Officers are keen to implement the new proposals, however, we will not be moving forward until the Government has provided the necessary guidance to safeguard the Council and ensure that we are free from legal challenge in having interpreted the legislation incorrectly.

### (c) Human Rights Act and Other Legal Implications

There are no human rights or other legal implications arising from this update report.

## 5 **Supporting Information**

### Background

- 5.1 The Localism Act 2011 (the Act) received Royal Assent on 16 November 2011. The Act devolves more powers to Local Authorities in relation to governance and planning, and gives local communities more control over local decisions such as housing and neighbourhood planning. It also introduces "community rights", such as the right for community groups to bid to run local services and to take over local assets.
- 5.2 Although a full timetable for the commencement of some of the provisions in the Act is yet to be published, the majority of the Act came into force in April 2012. Therefore the Council is preparing now for the changes to ensure that we take advantage of the opportunities in the Act, and prepare ourselves for the challenges that may present themselves to the Authority as a result of the Act.

### Council Tenancies

- 5.3 Future council tenancies will continue to be known as Secure Tenancies however while at present they are unlimited in length (generally known as lifetime tenancies), in future the Council will be able to grant tenancies of a fixed term, usually for a minimum of five years, but in special circumstances this can be reduced to two years.
- 5.4 There are numerous benefits to the Council of this approach, the greatest being that the Local Authority will in future be able to review a tenant's eligibility to continue as a tenant and also their entitlement to any specific property. This might provide, for example, an easier resolution to cases of persistent but low level anti-social behaviour which could not otherwise have lead to an eviction. Alternatively a

review might determine that a family residing in a three bed property no longer need such accommodation once the children have reached adulthood and moved away into their own properties. This is most starkly identified where parents evict teenage children from council houses thereby under occupying a much needed home while the Council is charged with responsibility for also finding accommodation for the homeless teenager.

- 5.5 A fixed term tenancy will also be a useful tool associated with another aspect of the Localism Act proposals whereby individuals undertaking work of community benefit can be afforded some degree of priority on the housing allocation waiting list. One such example might be fostering & adoption where a couple or individual might be granted a tenancy for a period while they undertake the function but have their eligibility reviewed at any future time when they decide to stop.
- 5.6 Fixed term tenancies will assist the Council in recovering possession of properties where domestic violence or matrimonial dispute leads to one party leaving the family home. In circumstances where a partner leaves with children and the remaining adult has no childcare obligations or other needs or vulnerabilities, it will be much simpler for the Council to end the housing obligation.
- 5.7 Consultation with existing tenants has already been undertaken on these issues and a new tenancy agreement, reviewed by this Panel at its meeting on the 21 June 2012, is due to be adopted by Cabinet next week ready for immediate introduction. While existing lifetime tenancies cannot be extinguished in favour of fixed term tenancies, the issuing of new agreements has also given the council the opportunity to review the details of the document and the new versions will be much more explicit regarding the Council's and tenant's obligations and what constitutes a breach of tenancy conditions. This will assist in the management of the stock and assist in the eviction of persistent offenders who through their actions affect the quiet enjoyment of their neighbour's homes on an ongoing basis.

#### Rights of succession

- 5.8 The Act also proposes amendments to the rights of succession to a council tenancy when an existing tenant dies. This is currently an area which causes more grief than almost any other for tenants and Housing Officers alike. Housing Officers are charged with securing vacant possession of desperately needed homes at the time when surviving partners, relatives or co-habitees are coming to terms with the loss of a loved one so improving clarity for all concerned is to be welcomed.
- 5.9 In essence the Government has introduced a proposal that the single right of succession can be limited to only a spouse or civil partner, rather than anyone who has been resident in the property for at least 12 months at the point of succession. Council's also have discretion to adopt any alternative proposal which meets their needs and in the case of Slough, we have opted to limit successions to spouse or civil partner and sons and daughters.
- 5.10 There will be no discretion so the proposals will be clear for all in advance, identifying who will and who will not succeed to a tenancy. It should also be noted that the right of succession is to the tenancy which does not necessarily mean the current property, therefore in future a single adult child succeeding to their parents three bed house, might succeed but be allocated an alternative property which meets their needs.

## Allocation of council homes

- 5.11 Until now Local Authorities have had very little discretion as to who is eligible for a council house or who has priority to be allocated a council home. Although yet to be enacted, the Act will allow council's to determine who is eligible to join the waiting list as well as who is ultimately eligible to be allocated a home. Although existing policies are based upon a fair and reasonable assessment of priority, the system has led to a public perception that only the least deserving cases are allocated homes with many being given straight to families who have newly migrated to the country. In fact this has never been the case but the Council has always been forced onto the back foot in defending nationally determined policies.
- 5.12 In future the Council will be able to determine eligibility for housing based upon positive criteria rather than negative ones, for example, giving priority to households in full employment or children in full time education, or with no ASB complaints and clear rent accounts, rather than offering rehousing because someone is perceived to be a problem family.
- 5.13 Households found guilty of benefit fraud or other criminal behaviour could be determined as ineligible for housing either for a fixed period or permanently. Whereas those on low incomes or who undertake voluntary or charity work could be afforded a degree of priority to reflect the community benefit that they provide.
- 5.14 The options for inclusion and exclusion are almost infinite and the forthcoming proposals will be subject to wide consultation to ensure that the emerging policy reflects the priorities of the Council and the community which it serves. All that is awaited before commencing the project is the production of the necessary subordinate legislation and codes of guidance from the Government which, although promised since April, are yet to be released.

## Homelessness

- 5.15 As with changes to allocation policies, proposals to amend the Council's obligations to homeless households are yet to be implemented in the new Act, but when it arrives the changes to this area are likely to have a major impact on the Council and its finances. At present any household found to be unintentionally homeless, in priority need and eligible for assistance, must be provided with temporary accommodation and then ultimately a council or housing association property. As with current allocation policies this leads to a perception that the least deserving cases get priority when households who strive to resolve their own housing issues never have the chance of accessing a council home.
- 5.16 Once enacted this proposal will enable councils to accept the liability for a homeless household and then to discharge its duty by placing the household in a suitable private rented sector home. Homelessness will no longer be seen as a quick route into council housing and, unfortunately while many homelessness cases are genuine and unavoidable, it will mean that households who contrive to worsen their own situation in order to access council housing will not benefit from doing so. Instead, in future, priority access to council homes will be limited to those who strive to sort out their own situations and who would benefit and thrive from such housing, rather than those who might sit around waiting for others to provide for them.

## Complaints

- 5.17 In addition to any Council's Corporate Complaint Policy there has always been the option for a complainant, dissatisfied with the Council's response to forward the issue to the Local Government Ombudsman (LGO). In parallel, housing associations and other registered providers have where necessary been called to account by the Housing Ombudsman (HO). The Act rationalises this so that in future all housing-related complaints are the jurisdiction of the Housing Ombudsman regardless of the nature of the provider.
- 5.18 Although there is a clear sense in this, one can imagine that complaints regarding, for example ASB, will still be a grey area and may not be clear whether this is the remit of the LGO or the HO.
- 5.19 In accordance with the requirements of the Tenant Services Authority (TSA) the Housing Service has established an independent tenant's complaints panel to hear any Stage III formal complaints. While the Panel will be given every support and necessary training, the service aspirations are of course to improve services and responses such that complaints never reach this stage.

## Tenant Services Authority

- 5.20 The TSA set up to regulate housing in the last year of the previous government has been scrapped and its regulatory responsibilities reduced to one primarily concerned with the financial stewardship of housing providers. This reduced role will now be undertaken by the Homes and Communities Agency (HCA).

## Housing Revenue Account (HRA) Self-financing

- 5.21 The Localism Act also dismantled the housing subsidy system through which approximately one third of the rent collected annually by Slough was passed back to the Government for reallocation to other metropolitan housing authorities. Instead we are now operating in a system known as self financing through which the council took on a debt of £137,000,000 in lieu of the rent to be collected over the next 30 years. Essentially this can be thought of as having remortgaged the housing stock and the Council now has to prudently manage and maximise its income to ensure that it can make the necessary loan repayments, fund the management of the service, invest and maintain the stock and if all goes according to plan, for the first time in a generation, build new council houses to meet the needs of local people.

## **7 Conclusion**

Nothing within this report constitutes a policy decision of the Council. Other than the changes to council tenancy agreements and the rights of succession all other aspects remain to be determined in detail and consulted upon with elected members and the wider community. However, this report demonstrates that the Localism Act is beginning to change the operational face of Housing and this change will accelerate throughout the remainder of this year as the Government implements the additional parts of the Act.