



Local decisions: a fairer future for social housing
Consultation



Local decisions: a fairer future for social housing Consultation

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Ministerial foreword

Social housing is of enormous importance. For the millions who live in it now and for many thousands more who look to social housing to provide the support they need to live safe, healthy and prosperous lives.

And yet the social housing system too often fails the people it is intended to help.

Social housing – affordable and stable – should act as a springboard to help individuals make a better life for themselves. But all too often it can be a block on mobility and aspiration.

Too many people who need social housing spend years languishing on waiting lists. A quarter of a million social homes are overcrowded, while over 400,000 are under-occupied.

It is time to change the social housing system. To ensure that the system is more obviously fair; that good, affordable housing is available for those who genuinely need it; and that we get the best from our four million rented homes.

The case for reform is strong. I know this is not going to be easy. We have to make some tough decisions. But as a society we can no longer ignore the challenges, particularly at a time when resources are so stretched.

Margaret Thatcher introduced statutory lifetime tenure for social housing in 1981. Times have changed, and it is no longer right that the Government should require every social tenancy to be for life, regardless of the particular circumstances. The system must be more flexible – so that this scarce public resource can be focused on those who need it most, for as long as they need it.

But let me put it beyond doubt. Security of tenure, and expectations on rents, will not be changed for people currently living in social housing. It would be unfair to remove what existing tenants have been promised and I have no intention of making people feel uncertain about their future. These reforms will only affect new tenancies. We will ensure that the security of existing social tenants continues to be protected in law.

The Localism Bill provides us with an opportunity to take forward changes – not just to tenancies – but to the way social housing is allocated and the way that homelessness assistance is provided, by enabling councils to use private as well as public sector solutions to homelessness demands.

I believe this is a coherent package of reforms which will ensure that support is better focused and that social landlords can make the best use of resources – allocating existing homes more sensibly, and using funding more innovatively to provide more new housing.

These reforms are about localism. We want to give local authorities and social landlords the flexibility they need to make the best use of their social housing, in a way which best meets the needs of their local area. We will provide them with the tools they need. But it must be for landlords – in consultation with their communities – to decide how they use these tools.

A handwritten signature in black ink on a light blue rectangular background. The signature is written in a cursive style and reads "Grant Shapps".

Rt Hon Grant Shapps, MP

The consultation process and how to respond

Scope of the consultation

Topic of this consultation:	Reform of social housing: social housing tenancies; empty homes; social housing allocations; mobility; homelessness; regulation; and council housing finance.
Scope of this consultation:	This paper sets out the Government's intention to change the legislation governing the way social housing is allocated; how local authorities may discharge their main homelessness duty; and the types of tenancies granted to social housing tenants: provisions on these matters will be introduced in the forthcoming Localism Bill. The paper also seeks views on the contents of a direction on a new tenancy standard.
Geographical scope:	England.
Impact Assessment:	Impact assessments of the legislative changes set out in this paper will be published for introduction of the Localism Bill.

Basic Information

To:	This consultation is aimed primarily at local authorities, housing associations, social housing tenants and people who are registered on social housing waiting lists, and voluntary and community organisations representing new and existing social housing tenants.
Body/bodies responsible for the consultation:	This consultation is being run by the Housing Management and Performance Division within the Department for Communities and Local Government.
Duration:	This consultation will run for 8 weeks from 22 November to 5pm on 17 January 2011.

Enquiries:	<p>For enquiries, please contact the following:</p> <p>Tenure: patrick.owen@communities.gsi.gov.uk 0303 444 3666</p> <p>Affordable rent: ruth.bloomfield@communities.gsi.gov.uk 0303 444 3776</p> <p>Empty homes: dylan.grimes@communities.gsi.gov.uk 0303 444 3706</p> <p>Allocations: frances.walker@communities.gsi.gov.uk 0303 444 3655</p> <p>Mobility: nicki.goddard@communities.gsi.gov.uk 0303 444 3669</p> <p>Homelessness: alan.edwards@communities.gsi.gov.uk 0303 444 3757</p> <p>Overcrowding: david.clayton@communities.gsi.gov.uk 0303 444 3670</p> <p>Regulation: alec.taylor@communities.gsi.gov.uk 0303 444 3779</p> <p>Council housing finance: rob.john@communities.gsi.gov.uk 0303 444 1754</p>
How to respond:	<p>By email to: housingreform@communities.gsi.gov.uk</p> <p>Or by post to:</p> <p>Frances Walker Department for Communities and Local Government Zone 1/J9, Eland House Bressenden Place London SW1E 5DU</p>
Additional ways to become involved:	<p>Key national interest groups will also be engaged directly during the consultation process.</p>
After the consultation:	<p>A summary of the responses to consultation will be published on the Department's website within three months of the end of the consultation period.</p>
Compliance with the Code of Practice on Consultation:	<p>The consultation period has been set at eight weeks to provide the greatest possible opportunities for comment and allow for a draft Direction on a new Tenancy Standard to be considered alongside the Localism Bill.</p>

Executive summary

This document sets out the Government's plans for radical reform to the social housing system.

Tenure

We propose to allow greater flexibility to both local authority and registered provider landlords, enabling them to offer lifetime security where it is needed, but to set shorter terms where that makes more sense.

We are introducing a new more flexible affordable rent tenancy. It will be offered by registered providers (typically housing associations) to new tenants at a rent higher than social rent and at a maximum of 80 per cent of local market rents that will be reviewed after an agreed period of time.

We will introduce legislation to:

- Create a new local authority flexible tenancy with a minimum fixed term of two years. This will be in addition to, rather than replacing, secure and introductory tenancies.
- Protect the rights of existing secure and assured tenants.
- Provide local authority flexible tenants with similar rights to secure tenants, including the right to exchange.
- Provide that all new secure and flexible tenancies include a right to one succession for spouses and partners, but give landlords the flexibility to grant whatever additional succession rights they choose.
- Place a new duty on local authorities to publish a strategic policy on tenancies.
- Allow the Secretary of State to direct on the content of a tenancy standard.

Through a new tenancy standard, we will then provide significantly increased freedom to all social landlords on the tenancies they can grant, subject to appropriate parameters on which this consultation seeks views.

Empty homes

Through the Spending Review, we will invest £100m to bring empty homes back into use as affordable housing. We are also consulting on using the New Homes Bonus to provide an incentive for local authorities to tackle empty homes as part of their strategy for meeting housing need.

Social housing allocations

We will introduce legislation to:

- Give local authorities back the power to better manage their housing waiting list.
- Make it easier for existing social tenants to move within the social sector – by removing the constraints of the allocation legislation from transferring tenants not in housing need.

We will:

- Retain the existing statutory ‘reasonable preference’ criteria which determine who should have priority for social housing.

Mobility

We will introduce a nationwide social home swap programme to ensure that social tenants wishing to move can maximise their chances of securing a suitable match. This will be achieved by working with providers of mutual exchange services to develop a data-sharing approach which we will place on a statutory basis.

Homelessness

We will introduce legislation to enable local authorities to fully discharge a duty to secure accommodation by arranging an offer of suitable accommodation in the private rented sector, without requiring the applicant’s agreement.

Overcrowding

We are seeking views on the reforms needed to enable local authorities and landlords to tackle overcrowding.

Reform of social housing regulation

We will legislate to refocus regulation on the areas where it is really needed – proactive economic regulation and responding to serious service failures – while giving tenants stronger tools to secure better services locally. The Tenant Services Authority (TSA) will be abolished and its remaining functions transferred to an independent committee within the Homes and Communities Agency (HCA), generating efficiency savings in back-office functions and exploiting synergies across investment and regulation.

Council housing finance

We will legislate to replace the existing Housing Revenue Account subsidy system with a transparent, self-financing arrangement that devolves power to councils and will enable tenants and local taxpayers to hold their landlord to account for the cost and quality of their housing.

Section 1:

Introduction – the case for reform

The problem

- 1.1 Our social housing is an enormously valuable national asset, which matters to millions of people – to the eight million people who currently live in social housing and the hundreds and thousands of people who lack good quality, stable, affordable homes.
- 1.2 Stable social housing, with subsidised rents, is the tenure of choice for many, particularly those who experience insecurity in other aspects of their lives, such as health, employment or relationships.
- 1.3 Yet previous Governments have left us with a broken, centrally-controlled system in need of urgent reform.
- 1.4 There are nearly 1.8m households on social housing waiting lists, a substantial increase since the late 1990s¹. However, many of those on social housing waiting lists have no realistic chance of getting a home. The allocation of social housing is not well understood; there are widespread perceptions of unfairness and, in many communities, this can be a source of real tension.
- 1.5 Stable and secure social housing should provide a firm basis on which people can build a successful future. But far too often, the security and subsidised rent that social housing provides do not appear to help tenants to independence and self-sufficiency.
- 1.6 There are high levels of worklessness in the social rented sector. In 2008/9, only 49 per cent of social rented tenants of working age were in work, down from 71 per cent in 1981. By comparison, in 2008/9, 89 per cent of owners of working age were in work and 75 per cent of private renters. Around 60 per cent of social rented households report that they are in receipt of housing benefit, compared to around 20 per cent in the PRS.
- 1.7 Mobility within the social housing sector has fallen. A national mobility scheme collapsed under the previous Government. Fewer than 5 per cent of social sector

¹ Data sources: data on waiting lists is from Housing Strategy Statistical Appendix
Data on moves, economic status, overcrowding is from the 2008–09 English Housing Survey
Data on housing benefit is from the 2007–08 Survey of English Housing
Data on lettings is from Continuous Recording (CORE) of Lettings

households move within the social sector each year compared to almost a quarter of private renters. The percentage of local authority lettings to existing tenants² fell from 33 per cent in 2000 to 30 per cent in 2009. Many households within the social sector remain trapped in unsuitable housing – around a quarter of a million are overcrowded as defined by the bedroom standard³.

- 1.8 Quite rightly, the vast majority of social housing is allocated to those in greatest need. Internal analysis shows that in 2008/9 around 90 per cent of new general needs lettings went to households in some form of reasonable preference⁴.
- 1.9 And yet, social landlords are required – by inflexible, centrally-determined, rules – to grant in the vast majority of cases lifetime tenancies that can take no account of how individuals' and households' circumstances might change in the future. In some instances those tenancies can be inherited by family members, who may be in no need of housing.
- 1.10 In addition, the current system is inflexible in relation to rents, providing social tenants with heavily-subsidised rents for the duration of their time in the sector, regardless of their changing need and ability to pay.
- 1.11 Inflexible, lifetime tenancies also contribute to significant imbalances between the size of households and the properties they live in. While there are around a quarter of a million overcrowded households in social housing (measured against the bedroom standard) there are also over 400,000 households under-occupying their social homes by two bedrooms or more (measured against the bedroom standard). In every region apart from London the number of overcrowded social rented households is exceeded by the number of under-occupiers.
- 1.12 A one-size-fits-all model on rents and tenancies is not the best answer to the wide range of needs and circumstances of those accessing the social rented sector. The current system limits the extent to which subsidy is able to help all of those in real need – many of these people are currently unable to access social housing. An analysis of housing need and demand in England published by Shelter in 2008 indicated that there was a backlog of over half a million households requiring social rented homes who were homeless or living in overcrowded, temporary or other unsuitable accommodation⁵. Many more households will have been prevented from forming, have been forced into shared accommodation, or are struggling to meet

² Includes mutual exchanges

³ The bedroom standard allocates a separate bedroom to each:

- married or cohabiting couple
- adult aged 21 years or more
- pair of adolescents aged 10-20 years of the same sex
- pair of children aged under 10 years regardless of sex

⁴ Internal modelled analysis of CORE data

⁵ Shelter 2008, 'Homes for the Future'.

their rent. A more recent study, *Estimating Housing Need*, by Professor Glen Bramley (Heriot Watt University), based on a broad definition of housing need, shows that a significant number of households suffer from poor housing outcomes⁶.

- 1.13 Despite significant progress by local authorities and their partners in recent years, there are around 50,000 households living in temporary accommodation in England. Most of these have been accepted as being owed a duty under the homelessness legislation and are awaiting an offer of social housing. In London, the average wait in temporary accommodation before moving to a settled home is three years; in the rest of England the average time waiting is 11 months.
- 1.14 The homelessness duty provides an essential safety net for families and others with a priority need for accommodation. But under current rules those owed the duty can effectively insist on being provided with temporary accommodation until offered social housing. Because offers of suitable rented accommodation in the private sector can be declined for no reason, the homelessness duty is ended with such an offer in only around 7 per cent of cases⁷. This lack of flexibility, and the resultant backlog of people in temporary accommodation, means that around 21 per cent of new lettings in social housing are allocated to people who are not actually homeless but are owed the homelessness duty. This significantly restricts the number of social homes that could be made available to others in need on the housing waiting list.
- 1.15 Against this backdrop of housing need, over 300,000 privately owned homes have been empty for over six months, a number of them in areas where there is a high demand for housing. Empty properties blight local communities and are a waste of housing stock which we cannot afford.

Delivering change

- 1.16 The problems outlined above require us to look again at the way social housing is provided, at the way people access social housing and the terms on which it is granted.
- 1.17 We must make far better use of existing social housing – ensuring that we target support where it is needed most. And, given the huge pressures on public finances, we must ensure that we get more for the money which we invest in new social homes.
- 1.18 We will invest nearly £4.5bn in new affordable homes over the Spending Review period. But we will use this sum to get a far bigger return for our money than under

⁶ Bramley, G et al 'Estimating Housing Need' (DCLG, 2010). This study is based on a definition of housing need which includes overcrowding, concealed households, sharing, affordability and unsuitability problems, homelessness acceptances and the associated use of temporary accommodation.

⁷ P1E, 2009/10

the old system.

- 1.19 We will create a more flexible system of social housing, one which recognises that everyone's needs are not the same – a system which offers stability when it is needed; which helps people move for work; and which protects the most vulnerable in society.
- 1.20 The answer to the problem is fundamentally a local one: more choice for existing and prospective tenants; and local discretion that will enable social landlords to promote greater fairness between people seeking social housing and those who are in social housing, and provide the right sort of support to those who need it, for as long as they need it.
- 1.21 We have begun the reforms that are needed, but there is much more still to be done to give local authorities, other social landlords, and communities, the freedoms and flexibilities they need to make arrangements at the local level that meet the needs of individual households and which reflect local circumstances.
- 1.22 We will reform the way council housing is financed. The current annual centralised subsidy system, the Housing Revenue Account subsidy system, will be abolished and replaced with a locally-run system where councils can keep their rental income and use it locally to maintain homes for current and future tenants. We will take powers in the Localism Bill to implement this. Capital funding will also be provided towards completing the Decent Homes programme.
- 1.23 And we will reform the regulation of social housing – focusing on economic regulation, with a stronger role for local tenants to hold landlords to account for service delivery.
- 1.24 The HCA will be a much smaller, investment and enabling agency working more closely with local authorities.
- 1.25 In London we propose to devolve decisions over housing investment to the Mayor and London boroughs through transferring the HCA's funding and functions in London into the Greater London Authority. This will strengthen lines of accountability through recognising the clear electoral mandate of the Mayor and London boroughs, and further enable the development of innovative solutions which address London's specific housing challenges.
- 1.26 And through the Spending Review we are also investing £100m – through the HCA – to support housing associations to refurbish over 3,000 empty properties and manage them at an affordable rent for up to 10 years.

- 1.27 Alongside these reforms to the way social housing is provided, we intend to take the opportunity offered by the Localism Bill, which will be introduced shortly, to make a number of changes to the legislation governing the way social housing is allocated by local authorities, the types of tenancies which are granted to social housing tenants, and how the homelessness duty can be discharged.
- 1.28 Local authorities will no longer be forced to include on their waiting lists for social housing those with no real need and no realistic prospect of ever receiving a social home. Instead they will have the freedom to decide who should qualify to be considered for social housing, while continuing to ensure that priority for social housing goes to those most in need. That will allow landlords to operate a more focused waiting list – one that better reflects need and local priorities and can be more readily understood by local people.
- 1.29 Local authorities and other social landlords will be better able to help existing tenants, previously trapped in unsuitable housing but unable to move because they lack sufficient priority within the allocations scheme. By taking out of the allocation rules those existing social tenants who are seeking a move but not in housing need, we will free up social landlords to find creative solutions, using for example ‘chain’ lettings, to help tenants move to properties better suited to their needs and which make better use of the stock.
- 1.30 By strengthening regulatory powers relating to mutual exchange, we will improve the home swap services that landlords provide for their tenants. When tenants register on web-based services to look for a home-swap partner, they should be able to see all possible matches from other tenants similarly interested in moving. This improved service will increase the choices available to tenants, helping them to move when their circumstances change.
- 1.31 We will give local authorities the flexibility to fully discharge the main homelessness duty by arranging offers of suitable accommodation in the private rented sector, without requiring consent, subject to certain safeguards. Those owed the duty will no longer be able to insist on being offered social housing as the only way the duty can be brought to an end, regardless of whether they have a real need for it. This will give local authorities the scope to arrange appropriate housing solutions promptly, avoiding the need for long periods in temporary accommodation and freeing up social lets for others in housing need on the waiting list.
- 1.32 Existing tenants with secure and assured tenancies, and people who are already owed the homelessness duty, will be protected from any changes to their security or other rights, but we will give social landlords, including housing associations, the freedom to offer more flexible tenancy arrangements to new tenants, and new homelessness applicants, in the future.

- 1.33 It is also right that in the future we introduce flexibility into the system to recognise that different households have a differing ability to meet their housing costs. We will introduce a new model of affordable housing for housing associations, with rents set at less than 80 per cent of local market rents. These 'Affordable Rent' properties, which will be available in the housing association sector from 2011 onwards, are primarily for new tenants.
- 1.34 Affordable Rent tenants will always benefit from sub-market rents, and Housing Benefit will still support those who are unable to pay. Paying an affordable rent will generate additional resources to build more homes. This will enable us to help more households.
- 1.35 Landlords will be able to make available some existing empty properties, together with new properties built under the scheme, as Affordable Rent. Most social landlords use choice-based lettings systems, which would allow potential tenants to decide whether to bid for Affordable Rent properties, or to focus instead on traditional social housing.
- 1.36 We recognise how important stable and secure housing is for individuals and for families. Accordingly, we will provide protections centrally – through legislation and a new tenancy standard. So, for example, those who need and are granted a social tenancy will be guaranteed a minimum period in their home that is significantly longer than in the private rented sector. Otherwise, landlords will be free to make decisions on tenancies that take account of the needs of individual tenants and the needs of the local community, and that enable the efficient management of their stock.
- 1.37 Overcrowding blights the lives of far too many people, including around 260,000 households in the social rented sector. The reforms we are introducing will provide many of the flexibilities that landlords need to tackle overcrowding: nevertheless, we are seeking views on what further changes would allow stronger local action.
- 1.38 Localism, fairness and focusing social housing on those most in need in a way that enables them to use it as a springboard to opportunity are at the heart of our proposed reforms. This will complement other forthcoming Government reforms, such as the sentencing and rehabilitation green paper and the Government's drug strategy, which will set out new approaches to incentivise local partners to deliver outcomes focused on rehabilitation and recovery, including tackling housing needs where appropriate.

1.39 Section 2 gives detail about our planned reforms to tenure, including the new Affordable Rent tenancy, while the Annex sets out how we are reforming the way affordable housing is funded. Section 3 explains how we propose to bring empty homes back into use. Sections 4 to 6 set out how we plan to deliver our reforms to housing allocations, mobility and the homelessness duty. The paper also seeks views on the contents of a Direction on a new Tenancy Standard (section 2) and proposals to revise the legislative framework around overcrowding (section 7). Sections 8 and 9 set out our reforms to social housing regulation and council housing finance.

Section 2:

Tenure

The existing legal and regulatory framework

- 2.1 Under current arrangements, local authority landlords must in most cases provide secure lifetime tenancies. Section 79 of the Housing Act 1985 ('the 1985 Act') provides that, where the landlord is a local authority and a tenant is occupying the property as their only or principal home, and subject to the exclusions of Schedule 1 to the 1985 Act, any tenancy granted by a local authority landlord will be a secure tenancy.
- 2.2 In practice that means that a small minority of local authority tenancies, for example those granted to people being accommodated temporarily under a homelessness duty, are provided on a common law basis with very limited protections, while the vast majority are provided, either immediately, or following an introductory tenancy, on a secure basis. Local authorities have very limited discretion to determine for themselves what sort of tenancy is best suited to the needs of individual tenants or for the effective management of their stock.
- 2.3 Private registered providers of social housing (typically housing associations, and referred to as such below) have more flexibility in statute, but are constrained by regulation in the types of tenancy they can offer. The Regulator's Tenancy Standard requires that they provide the 'most secure form of tenancy compatible with the purpose of the housing and the sustainability of the community'. In practice that means that housing associations are currently required to grant assured tenancies (sometimes following an introductory 'starter' tenancy) to the vast majority of new tenants in general needs housing.

Affordable Rent

- 2.4 As announced in the Spending Review, from April 2011 we are introducing a new Affordable Rent model to be offered by housing associations. Affordable Rent is intended to help those who would not otherwise have been able to afford adequate housing in the market. Combined with the changes to tenure outlined below, this will provide an offer which is more diverse for the range of consumers accessing social housing, providing alternatives to traditional social rent.

- 2.5 Affordable Rent will offer shorter term tenancies at a rent higher than social rent, to be set at a maximum of 80 per cent of local market rents. Affordable Rent will be offered on a proportion of providers' empty properties initially, and also on new stock in due course – it is our intention that the additional rental income providers receive will contribute to the provision of new affordable homes. More detail on this is attached in an Annex to this document.
- 2.6 Where a tenant cannot afford to pay, the new Affordable Rents will be eligible for Housing Benefit and local authorities will be able to discharge their homelessness function through the new tenancy.
- 2.7 We intend that, when letting Affordable Rent properties, existing lettings arrangements operated by local authorities and housing associations will continue to apply. We expect that local authority nominations will continue to play a key role and that Affordable Rent properties will, where appropriate, be made available through the existing choice-based lettings schemes that most social landlords use.
- 2.8 Affordable Rent tenancies will be offered on a fixed term of at least two years with appropriate safeguards around termination. The wider changes to the law and regulation governing social housing tenancies set out below will apply to Affordable Rent, once they come on stream.

Increasing social landlords' freedom on tenancies

- 2.9 Affordable Rent represents a significant first step towards those greater freedoms for social landlords. It will allow greater flexibility, increase choice for tenants and secure greater value for money in the delivery of new homes. Our intention is that the agreed conversion of social homes which become vacant to Affordable Rent should begin from April 2011.
- 2.10 But this is just the start. We want to increase radically the freedom available to all social landlords to determine the sort of tenancy they grant to new tenants. We want both local authorities and housing associations to have the flexibility to promote fairness; to ensure that help and support are focused on those who need it most when they need it most; and to build strong and cohesive communities.

- 2.11 To deliver this new freedom for local authority landlords, we will legislate to create a new type of tenancy for them to offer to some or all new tenants rather than a secure tenancy. That tenancy (referred to hereafter as a ‘flexible tenancy’) will be flexible, allowing landlords to provide tenancies with a range of fixed periods.
- 2.12 And in the case of housing association landlords we want them to have the option to offer a fixed term tenancy at either an affordable rent or at a social rent, depending on local needs and circumstances.
- 2.13 For both local authority landlords and housing associations, therefore, we will take steps to remove the barrier to the use of more flexible tenancies currently imposed by the Regulator’s Tenancy Standard. Taking account of the views expressed in this consultation, and once the necessary legislation is in place, we will consult on a draft direction to the Regulator on the content of a new Tenancy Standard which will allow far greater freedoms to landlords. We are seeking initial views on what that direction should comprise at paragraphs 2.41 to 2.55 below.

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?

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

Existing tenants

- 2.14 We are committed to ensuring that the existing tenancies of secure and assured tenants of social landlords are protected and respected. Those currently with secure and assured tenancies will be protected from any changes to their security or other rights.
- 2.15 We will also ensure that existing introductory, starter and demoted tenants, and those subject to a family intervention tenancy, retain the right to convert or revert to a secure or assured tenancy at the end of the probationary period.
- 2.16 In order to ensure that existing secure and assured tenants are not deterred from moving, our preference is to ensure that they are always granted a new secure or assured tenancy where they move to another social rent property. This guarantee would be provided through provisions in a new Tenancy Standard (subject to consultation) and legislation, and is considered further below.

A new local housing authority strategic policy on tenancies

- 2.17 We want social landlords to enjoy very substantial freedoms on the types of tenancy they provide, and to avoid creating bureaucratic structures which restrict their ability to respond creatively and sensibly to the particular needs of local communities and particular circumstances.
- 2.18 However, we also think it is important that when social landlords in an area consider, in the light of local housing needs and circumstances, what sort of approach they should take to granting tenancies in the future, new policies are developed collaboratively and transparently.
- 2.19 We will legislate, therefore, to create a duty on local authorities to publish a strategic tenancy policy. This would set out the broad objectives to be taken into consideration by individual social landlords in the area regarding their own policies on the grant and reissue of tenancies. The duty will apply to all – not just stockholding – local authorities. Local authorities will be required to draw up the strategic policy in consultation with other social landlords (who are of course already required to co-operate with local authorities in the exercise of their strategic housing functions). We will also take a power to prescribe by regulation other persons or bodies with which local authorities should consult, such as tenants and local voluntary and community organisations.
- 2.20 Publication of these policies will provide transparency, enabling local communities to understand clearly how social landlords are responding to local housing needs and priorities.
- 2.21 Local authorities will need to ensure that the strategic tenancy policy is reviewed from time to time and that it is consistent with their allocation scheme and their homelessness strategy.

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?

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

Other legislative provisions for local authority flexible tenancies

- 2.22 Our aim, in order to maximise flexibility and ensure that a common framework on tenancies applies to all social landlords, is that as far as possible requirements on landlords should be set out in a new Tenancy Standard rather than in legislation. We will therefore, once the necessary legislation is in place, consult on a direction to the Regulator on the content of that Tenancy Standard. We are seeking initial views on what that direction should comprise (see paragraphs 2.41 to 2.55 below).
- 2.23 We need, however, to legislate to create a new local authority flexible tenancy. We take the view that, as it is a local authority tenancy, we should apply statutory rights that take account of those available to introductory and secure tenants, provide a minimum term in legislation and set out protections around termination. While we wish to give local authorities very substantial freedom over the tenancies they provide and would expect them to use that freedom appropriately, we recognise that there is a case for setting some parameters centrally in legislation.

Minimum fixed term

- 2.24 We believe it is right to provide for a minimum fixed term for local authority flexible tenancies in primary legislation and that this period should be significantly longer than the minimum six months provided by an assured shorthold tenancy in the private sector. We therefore intend to provide that the minimum fixed term will be two years. We do not intend to set a statutory maximum fixed term – landlords would be free to set a fixed term of 10 years, 20 years or longer.

The rights attached to local authority flexible tenancies

- 2.25 We think that the new local authority flexible tenancy should carry rights at least equivalent to an introductory tenancy, although not all the rights of a secure tenancy. For instance, we do not think it is appropriate that those who may have a tenancy which may for example last for five years, should have a statutory right to make or be compensated for improvements to the property (although landlords would of course be free to grant such rights within the tenancy agreement if they choose).
- 2.26 We will provide for local authority tenants with flexible tenancies to have the following statutory rights: a right to exchange; a right to take in lodgers and (with the landlord's consent) to sub-let part of the property; rights to have repairs carried out; and rights to consultation and information.

- 2.27 The Right to Buy is an important feature of existing secure tenancies, which has helped nearly two million people become home owners. We believe it is important that in reforming social housing we strengthen, rather than diminish, the opportunities for people to achieve independence and to become homeowners if they wish to do so. Accordingly, we will legislate to extend the Right to Buy to flexible tenants (subject to the same conditions and exceptions applicable to secure tenants).
- 2.28 Recognising that flexible tenancies may be granted for a significant period of time, we will provide for one succession for the spouse or partner of the deceased tenant, and give local authorities the flexibility to grant additional succession rights, if they choose, in line with our proposals for new secure tenants (see paragraphs 2.35 to 2.37 below).

Protections around termination

- 2.29 During the fixed term of a flexible tenancy the tenant will enjoy the same protections from eviction as a secure tenant: the local authority landlord will need to demonstrate to the court both that one of the grounds for possession is proven and that they are acting reasonably in seeking possession.
- 2.30 When the fixed term of a flexible tenancy comes to an end there will be a number of options. Tenants may remain in social housing, either in their existing home or another social property at social or Affordable Rent, or may move into the private rented sector or home ownership. In practice, whether flexible tenants will be able to remain in social housing at the end of the fixed term will largely depend on the landlord's policy (see paragraph 2.45 below) on the reissue of flexible tenancies. We would expect that policy to reflect, among other matters, tenants' levels of continuing need, work incentives and local pressures for social housing.
- 2.31 We expect that landlords will discuss options with tenants well in advance of the fixed term of their tenancy coming to an end. However, we want to provide protections centrally to ensure that tenants are given early warning of any intention not to provide for a further social housing tenancy, as well as the opportunity to challenge such a decision.
- 2.32 Local authority landlords will be required to serve a notice on the tenant six months before the end of the flexible tenancy, where they are minded not to reissue the tenancy at the end of the fixed term. This notice will set out the reasons for the decision, which should reflect the landlord's published policy, and give the tenant the opportunity to seek an internal review. If the landlord's decision is upheld on review, the landlord will be able to seek possession of the property. The tenant will have a right to challenge the landlord's right of possession in the county court on the limited grounds that the landlord has made an error of law or a material error of fact.

Fit with other tenancy regimes

- 2.33 Local authority landlords who currently operate an introductory tenancy regime for secure tenancies will not be required to operate an introductory tenancy regime for flexible tenancies. Where they choose to operate an introductory regime for flexible tenancies as well, we will require them to do so for all flexible tenancies (as with secure tenancies).
- 2.34 Where flexible tenancies are demoted or flexible tenants receive a family intervention tenancy (FIT), the tenancy will revert on successful completion of the demotion period or FIT, to a new flexible tenancy should the landlord choose to grant a new tenancy. Secure tenancies will correspondingly revert to being secure tenancies.

Succession

- 2.35 As part of our commitment to ensure that the existing rights of secure tenants are respected and protected, we will preserve the succession rights of existing secure tenancies.
- 2.36 For all secure and flexible tenancies which are created in the future, we intend to prescribe a minimum right of one succession to the spouse or partner of the deceased tenant only. Beyond this minimum, landlords will be free to offer whatever succession rights they choose, including allowing other family members or resident carers to succeed. We think that this better reflects our aim of giving increased flexibility for landlords to look at the individual circumstances of tenants and resident family members as well as providing greater certainty where appropriate.
- 2.37 Even if a landlord chooses to opt for the minimum succession rights, they will of course still be able to grant a new tenancy on the same property to resident members of the household of the deceased where no right of succession applies. Where a joint tenant dies, the surviving joint tenant will continue to automatically inherit the tenancy.

Legislative provisions for housing associations

- 2.38 We will legislate to ensure that housing association landlords have the same flexibility as local authority landlords to grant additional succession rights, in addition to the statutory right to one succession to a spouse or partner which already applies.

- 2.39 We will require a housing association, where it grants a fixed term assured shorthold tenancy (AST) of two years or more (whether for a traditional social rent or Affordable Rent property) and does not propose to reissue the tenancy, to serve, six months before the end of the fixed term, a 'minded to' notice on the tenant advising that the tenancy is unlikely to be renewed. In the event that this does not happen, the tenant will have the safeguard that a court will not make an order for possession until six months has elapsed since service of the notice. This is in addition to the steps currently necessary to terminate an AST, which will continue to apply.
- 2.40 In line with our policy for local authority flexible tenancies, we will provide that housing association tenants with an AST with a fixed term of two years or more have a Right to Acquire their property (subject to existing conditions and exceptions). We will take a regulation making power so that some other ASTs with a fixed term of two years or more, for example where used for intermediate rent products, can be excluded.

A new tenancy standard

- 2.41 In the light of responses to this document and subject to Parliament's approval of the necessary legislation, we intend to consult on a direction to the Regulator on the content of a revised Tenancy Standard. This direction would provide for significantly increased freedom to all social landlords on the tenancies they can grant and transparency and appropriate protections for all social tenants.
- 2.42 The remainder of this section seeks views on what the extent of those freedoms should be and what sort of parameters and protections should be put in place.
- 2.43 Our starting point is that, while setting out key requirements and safeguards on tenure, the new tenancy standard should remain brief and focus on principles, and should avoid detailed prescription.
- 2.44 We recognise that housing associations already use widely ASTs with a fixed term of six months or a year as starter tenancies and in supported housing. We do not wish in any way to restrict those existing freedoms. Indeed we think that in respect of starter tenancies they should be extended to provide housing association landlords more flexibility to extend probationary periods for tenants where there are ongoing concerns about anti-social behaviour.

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

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?

Publication of landlord policies on tenancies

- 2.45 In addition to the statutory requirement on local authorities to publish a strategic policy on tenancies for the local area, we think that all social landlords should be required to explain how they propose to take advantage of the new flexibilities available on tenure. Accordingly, we propose that they should publish and maintain a policy setting out the circumstances in which they will grant either lifetime tenancies or tenancies with fixed terms, and in the latter case their duration and the circumstances in which tenancies will be reissued at the end of the fixed term.
- 2.46 That policy would need to be in line with requirements of the Tenancy Standard and should be developed in the light of the tenancy strategy for the local area. We do not however propose that we should set out further what landlords' published policies on tenancies should contain.

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

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

Minimum fixed terms

- 2.47 Paragraph 2.24 sets out our intention to legislate for a minimum fixed term of two years for local authority flexible tenancies. Our starting point is that we should provide at least an equivalent minimum fixed term for all general needs social tenancies (following any probationary period) through the tenancy standard.
- 2.48 While two years exceeds by 18 months the minimum period for tenancies in the private sector, and landlords would be free to offer longer fixed terms, we recognise that the guarantee of a longer fixed term may be important to clearly distinguish the social offer and provide a significant period of stability to all social tenants. We welcome views accordingly on whether the minimum fixed term set in the tenancy standard should be more than two years.
- 2.49 For some households a two-year tenancy in social housing may represent the right period of support through a temporary crisis, while for others a longer period of stability in social housing will be important. We would for example expect social landlords to provide longer tenancies to families with children as a safeguard against disruptive changes. We welcome views on whether the tenancy standard should require landlords to provide a longer minimum fixed term for some households.

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?

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?

A guarantee of social housing for life for some new tenants

2.50 Many of those provided with a social home should, over time, be able to move out of the social sector into the private rented sector or low cost home ownership, as their circumstances change. However, 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.

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?

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

Preserved security for existing secure and assured tenants

- 2.51 We have made clear our commitment to preserve the rights of existing secure and assured tenants and recognise that tenants with an existing secure or assured tenancy may be reluctant to move home, if that would entail accepting a lesser degree of security. Accordingly, we propose that landlords should be required to offer existing secure or assured tenants who move to another social rent property (though not an Affordable Rent property) a further lifetime tenancy.
- 2.52 We do not propose that where people become secure or assured tenants in the future, landlords should automatically be required to grant them a new lifetime tenancy if they decide to move, though they would be free to do so. We think it is important that landlords should be able to take those decisions, balancing the need to support mobility and their wider tenancy policy.

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?

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?

Advice and assistance for tenants moving out of social housing

- 2.53 Where a landlord decides, in line with its published policy, not to reissue a tenancy at the end of the fixed term, the tenant may need advice and support to find suitable alternative accommodation in the private rented sector, or to access low cost home ownership. It will be particularly important to ensure that families with children do not become homeless and to avoid disruptive changes to their lives.
- 2.54 Where a landlord decides not to reissue a tenancy at the end of the fixed term, and the tenant is unable to obtain alternative accommodation and becomes homeless, the tenant would be considered to have become homeless unintentionally (unless the decision not to reissue the tenancy is a direct consequence of the tenant's behaviour).
- 2.55 Accordingly, we propose that the Tenancy Standard should include a requirement on all social landlords – where they are minded not to reissue a tenancy – to provide advice and assistance to help the tenant find suitable alternative accommodation.

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 the tenancy?

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?

Section 3:

Empty homes

- 3.1 Over 300,000 privately owned homes have been empty for over six months, a number of them in areas where there is a high demand for housing. Empty properties are a blight on local communities and a waste of housing stock which we cannot afford. The Government is committed to exploring a range of measures to bring empty homes back into use.
- 3.2 There are a number of reasons why properties become and remain empty. Empty homes are more common in areas of low housing demand. In areas of strong demand, they can be the result of stalled renovation works, legal disputes, or personal circumstances. There is often a complex story behind an empty property. Many local authorities work with property owners to support them to bring homes back into use. Some also take enforcement action where advice and support fails. But many local authorities do not prioritise this work, and some say that there is no incentive for them to do so.
- 3.3 This summer, the Department for Communities and Local Government undertook an extensive dialogue with local authorities, practitioners and people whose lives are affected by empty homes. Following that, we are putting in place a powerful package of measures to empower local communities to tackle empty homes by removing the barriers to action, and putting the right incentives in place.
- 3.4 The *New Homes Bonus* will create a powerful and transparent incentive for local authorities to support housing growth by match-funding council tax receipts on new homes for six years. It will enable communities to plan for growth which meets local need and is sensitive to local concerns. Making better use of empty homes should be a part of this debate. We are therefore considering whether bringing empty homes back into use should count as new homes for the *New Homes Bonus*. This would provide a powerful incentive to local authorities to tackle empty homes as a core part of their strategy for meeting housing need. And it would provide local authorities with a direct financial reward for the intensive work that can sometimes be required to bring an empty home back into use.
- 3.5 We recognise that in some difficult cases advice, assistance and even enforcement activity by local authorities might not be enough to bring a blighted property back into use. Through the Spending Review we intend to invest £100m through the HCA in supporting housing associations to refurbish over 3,000 empty properties and manage them at an affordable rent for up to 10 years. This is a significant increase in funding, enabling housing associations to build on their expertise in this area.

Section 4:

Allocating social housing

Open waiting lists

- 4.1 The way local authorities allocate social housing is governed by a statutory framework contained in Part 6 of the Housing Act 1996 ('the allocation legislation'). The allocation legislation applies where a local authority lets a secure or introductory tenancy within its own stock, nominates a person to be a secure or introductory tenant of accommodation held by another person and where a local authority nominates a household from their waiting list to be an assured tenant of a housing association.
- 4.2 Under the current allocation legislation, local authorities are required to operate so-called 'open' waiting lists. This means that, with certain limited exceptions, anyone is eligible to apply for and to be allocated social housing – and they may apply to any local authority, not just the one they currently reside in. The exceptions are:
 - certain persons from abroad specified in regulations
 - persons whom an authority decides to treat as ineligible because they (or a member of their household) have been guilty of unacceptable behaviour serious enough to make them unsuitable to be a tenant of the authority.
- 4.3 Otherwise, provided that an application for social housing is in line with any procedural requirements in the allocation scheme, the local authority must consider the application and treat the applicant as eligible for social housing. In practice, this means that they must accept the applicant onto their housing waiting list.
- 4.4 The requirement to operate open waiting lists was introduced by the previous administration in the Homelessness Act 2002 ('the 2002 Act') with the aim of ensuring the widest possible access to social housing.
- 4.5 We believe that these changes have encouraged households to put their names on housing waiting lists even where they have no real need of social housing. This in turn has contributed to an increase in waiting list numbers. It is notable that the waiting list numbers started to rise steeply from April 2003, following the changes introduced by the 2002 Act.⁸

⁸ Waiting list numbers rose from 1,093,342 at 1 April 2002 to 1,263,550 at 1 April 2003. Housing Strategy Statistical Appendix.

- 4.6 The requirement to maintain open waiting lists, coupled with the introduction of choice-based lettings⁹, may also have encouraged a commonly held – but mistaken – perception that anyone will be able to get into social housing if they wait long enough. Open waiting lists may be acceptable – should even perhaps be encouraged – where there is low demand for social housing. Where there is not enough housing, even for those who really need it, continuing to operate an open waiting list raises false expectations and is likely to fuel the belief that the allocation system is unfair.
- 4.7 We are aware that a number of local authorities are adopting allocation approaches which are aimed at managing who can go onto their waiting list. These approaches differ in detail but all are aimed at ensuring that those who have little or no realistic prospect of accessing social housing under the current reasonable preference criteria are prevented, or strongly discouraged, from joining the waiting list and are instead provided with advice on alternative housing options. We believe that approaches like these have much to commend them. By excluding from the waiting list those who are not likely to be successful in accessing social housing, this should make it easier for local authorities to manage unrealistic expectations. Shorter waiting lists should also be simpler – and as a result cheaper – to administer.
- 4.8 We therefore intend to legislate to give back to local authorities the freedom to determine which categories of applicants should qualify to join the waiting list. In this way we will reverse the changes which were introduced by the 2002 Act.
- 4.9 We take the view that it should be for local authorities to put in place arrangements which suit the particular needs of their local area. Some local authorities might restrict social housing to those in housing need (e.g. homeless households and overcrowded families). Other local authorities might impose residency criteria or exclude applicants with a poor tenancy record or those with sufficient financial resources to rent or buy privately. Others may decide to continue with open waiting lists. If, having taken into account the views of their local community, local authorities decide that there are benefits in maintaining open waiting lists (for example, to stimulate demand for social housing), we believe they should be able to do so.
- 4.10 We want to provide local authorities with the power to decide who should qualify to be considered for social housing, while retaining a role for government in determining which groups should have priority for social housing through the statutory reasonable preference requirements (for a discussion of allocations priorities see further below).

⁹ Choice-based letting schemes allow people to bid (apply) for vacancies which are openly advertised. The successful bidder is the one with the highest priority under the allocation scheme.

- 4.11 It is important that those who are vulnerable and in housing need do not lose out under these changes and that they continue to be in the frame for social housing, together with appropriate support as necessary. This applies not just to victims of domestic violence forced to flee their home, or members of the Armed Forces who have to leave their married quarters, but also to those leaving prison with no family to return to. We believe that the statutory duty on local authorities to frame their allocation scheme to give 'reasonable preference' to certain groups, together with local authorities' wider equalities duties, should serve to ensure that local authorities put in place allocation systems which are fair and that those who are vulnerable and in housing need are properly protected. However, to provide a safeguard, we intend to reserve a power to prescribe by way of regulations, that certain classes of people are (or are not) qualifying persons, if there is evidence that people in housing need are being excluded from social housing without good cause.
- 4.12 The rules that determine which persons from abroad are eligible for social housing will continue to be set centrally. This will enable us to deliver on our policy that foreign nationals should only have access to social housing where it accords with the Government's immigration and asylum policy or meets the requirements of EU law. It should also help to counter perceptions that local policies favour foreign nationals unfairly (or vice versa).
- 4.13 Where local authorities choose to restrict access to their waiting list, people who do not qualify for social housing may look for advice or support to help them secure appropriate alternative accommodation (whether in the private rented sector or in low cost home ownership). A strong housing options approach will help meet this need and ensure that everyone seeking housing in the local area can obtain good quality advice on the options available to them.

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?

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

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

Reasonable preference

4.14 The allocation legislation provides that certain people must be given ‘reasonable preference’ – that is to say overall priority – for social housing. The reasonable preference categories were substantially revised in the 2002 Act with the aim of ensuring that priority for social housing goes to those who need it most. Those who must be given reasonable preference are people who:

- are homeless or owed certain duties under the homelessness legislation
- live in overcrowded, unsatisfactory or insanitary conditions
- need to move on medical or welfare grounds (including grounds relating to a disability¹⁰)
- need to move to a particular locality in the local authority’s district to avoid hardship to themselves or others.

4.15 The Government believes that social housing should continue to be prioritised for the most vulnerable and those who need it most. We think the best way to ensure a consistent approach to meeting housing need is to continue to set the priorities for social housing centrally. Consequently we do not propose to remove the reasonable preference requirements in the allocation legislation.

4.16 We also take the view that the existing reasonable preference categories strike the right balance between the need to be clear and unambiguous, while being broad enough to capture all those in housing need. The Government’s preferred option, therefore, is that the existing reasonable preference categories should remain unchanged to ensure that social housing is clearly focused on those who need it most.

4.17 Nevertheless, we think it is right that people should have the opportunity offered by this consultation to consider whether there are any groups in housing need which are not covered by the existing reasonable preference categories and should be added to the list, or whether there is any scope to clarify the existing reasonable preference categories.

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?

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?

¹⁰ The wording in brackets was introduced by the Housing Act 2004

Transferring tenants

- 4.18 The 2002 Act brought within the allocation framework existing secure and introductory tenants (i.e. local authority tenants) seeking a transfer and assured tenants. Prior to this the allocation legislation did not apply to any existing local authority tenant or to most existing housing association tenants. The rationale for providing that transferring local authority tenants should have their application considered on the same basis as new applicants was to increase the scope for existing tenants to move.
- 4.19 Instead, there has been a steady decline in the numbers of lettings to existing tenants, who are only likely to be able to move if they have sufficient priority under the local authority's allocation scheme – which generally means, if they can demonstrate housing need. As a result many social tenants have been trapped for years in housing which they don't want to live in, unable to change their housing circumstances because they do not have sufficient priority under the local authority's allocation scheme. In 2008/9, out of 139,000 local authority lets (excluding mutual exchanges), only 32,000 (23 per cent)¹¹ went to existing tenants.
- 4.20 Our proposals to introduce a new national home swap scheme will go a long way to help social tenants to move locally and across the country. However, we think we need to go further to free up local authorities to make better use of their stock, and to make it easier for their existing tenants to move within the social sector, without increasing the risk of legal challenge from applicants in greater need on the waiting list.
- 4.21 We believe the best way to achieve this is by taking out of the allocation framework most existing social tenants seeking a move (both local authority and housing association tenants). Again, this would largely be a return to the position before the 2002 Act came into force. Removing housing association (as well as local authority) tenants from the allocation framework should make it easier for local authorities and housing associations to work together to create greater mobility within the social sector. To give an example, it should facilitate the operation of chain lettings – an approach under which a large property released by an under-occupying household can be reserved for existing overcrowded social rented tenants, while still leaving a void for someone on the waiting list at the end of the chain.

¹¹ HSSA. This figure excludes mutual exchanges (and is therefore different to the figure for lets to existing tenants in paragraph 1.4) because these take place outside the allocation framework.

4.22 We believe that taking transferring tenants out of the allocation framework will give local authorities more flexibility to manage their stock, and make it easier for them to strike an appropriate balance between the needs of existing tenants and those on the waiting list. Nevertheless, we want to avoid any possibility that it could make it more difficult for tenants to move by taking away their priority. Accordingly, we will ensure that existing social tenants who are assessed as having reasonable preference will continue to have priority for social housing as they do now.

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?

Section 5:

Mobility

- 5.1 With only around five per cent of tenants moving within social housing each year, it is clear that the current arrangements for supporting moves are inadequate. For far too many people, this traps them in unsuitable accommodation and leaves them unable to take advantage of opportunities to improve the quality of their lives, such as employment offers. That is why we are committed to increasing mobility within social housing and to improving opportunities for tenants who wish to move.
- 5.2 Mutual exchange provides a valuable opportunity for social tenants who wish to move – putting the tenant in charge of their own circumstances and allowing choice over the type of property and area they wish to move to. Secure tenants have a statutory right to request a mutual exchange (with another secure tenant or with a housing association assured tenant) under the Housing Act 1985, and their landlords are only able to refuse a request for a mutual exchange in certain situations set out in the Act. Most housing association assured tenants are also granted the right to exchange tenancies in their tenancy agreement, subject to the landlord’s agreement.
- 5.3 In paragraphs 4.18 to 4.22 we set out how we will make it easier for tenants to move within social housing, by taking most transferring tenants out of the allocation system, so that they no longer have to compete with new applicants on the waiting list. We also intend to ensure there is a social home swap programme which will mean that social tenants wishing to move by exchanging their tenancy with that of another household can maximise their chances of securing a suitable match. Efficient home swap arrangements should enable tenants seeking a move to have access to the complete list of other tenants similarly interested in an exchange.
- 5.4 We have therefore been working with existing providers of home swap services to develop a data sharing or data pooling approach. This would allow tenants seeking a mutual exchange to enter their details into the website of one provider and see details of all potential swap properties registered with all other providers operating in the market.

- 5.5 We will take steps to put this data sharing/data pooling approach on a statutory basis and will legislate to grant the Secretary of State a power to direct the social housing regulator to issue a standard on mutual exchange. The standard would then require landlords (both local authority and housing associations) to subscribe to web-based home swap services which enable tenants to see the full range of properties available which match their search criteria across providers.
- 5.6 We are also determined that any new, more flexible, tenancy arrangements should not act as a barrier to social tenants moving home. In particular, our commitment – to ensuring that those with secure and assured tenancies are not discouraged from moving because of their concern about loss of security – is reflected in the requirements we propose placing on landlords through the Tenancy Standard. We will also legislate to provide that, where those with a secure or assured tenancy at the date of commencement of these provisions exchange properties with a local authority flexible tenant and some housing association tenants, the landlord shall grant the exchanging secure or assured tenant a secure or assured tenancy on their new property.

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

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?

Section 6:

Homelessness

- 6.1 This Government is committed to tackling homelessness and protecting the most vulnerable in society, with a particular focus on preventing single homelessness and rough sleeping. This is why we have maintained a high level of funding for homelessness grant, investing over £400m over the Spending Review period. This funding will help support crucial local services delivered both by local authorities and the voluntary sector to prevent and tackle homelessness effectively.
- 6.2 We will also continue to invest in the Places of Change hostels improvement programme, to ensure those coming off the streets get the support they need. We have minimised cuts to the Supporting People programme, securing investment of £6.5bn over the Spending Review period.
- 6.3 Alongside this investment, Government is determined to see more coordinated work across Whitehall to prevent and tackle homelessness – with all Departments working together to tackle the complex causes associated with homelessness and in particular rough sleeping, such as relationship breakdown, unemployment, offending, bereavement and health problems. We have established a Ministerial Working Group on homelessness to tackle these problems, including a commitment to strip away the needless bureaucracy that can stop frontline staff carrying out their work effectively.
- 6.4 More coordinated work across Government will be particularly crucial to address the needs of single homeless people, such as ex-offenders, who, if they do not have priority need under the homelessness legislation, are not entitled to be secured accommodation. This group does not always get the advice and assistance it needs from local authorities, particularly when discharge from prison or hospital is not planned effectively in advance. We are keen to support the voluntary sector and local authorities to help single homeless people access accommodation in the private rented sector before their problems spiral and they end up sleeping rough. As a first step, we have announced funding of £1.5m this year to test a scheme to expand and incentivise local voluntary sector private rented sector support schemes.

6.5 The homelessness legislation (Part 7 of the Housing Act 1996) provides an important safety net for people who lose their home, or are at risk of losing their home. Under the legislation, local authorities have a duty to secure suitable accommodation for families with dependant children – and other groups who have a priority need for accommodation – if they are eligible for assistance¹² and have become homeless through no fault of their own. This is known as ‘the main homelessness duty’.

6.6 The priority need groups include:

- a pregnant woman or a person with whom she resides (or might reasonably be expected to reside)
- a person with whom a dependant child resides (or might reasonably be expected to reside)
- a person aged 16 or 17 (not owed a duty by Children’s Services)
- a person under 21 previously in care between the ages of 16 and 18 or a person over 20 who is vulnerable as a result of having been in care
- a person who is vulnerable as a result of old age, mental illness or handicap or physical disability or other special reason (or a person with whom such a person resides or might reasonably be expected to reside)
- a person who is vulnerable as a result of having been a member of the Armed Forces; having served a custodial sentence; having been committed for contempt of court; having been remanded in custody; or ceasing to occupy accommodation because of violence (or threat of violence likely to be carried out)
- a person who is homeless, or threatened with homelessness, as a result of an emergency such as flood, fire or other disaster.

6.7 Under the current legislation, although local authorities have considerable flexibility in how to meet the immediate housing needs of people owed the main homelessness duty, they are very restricted in the way they can bring the duty to an end. Suitable accommodation in the private rented sector can be offered as a settled home that ends the duty, but applicants can refuse such offers without good reason, and the duty continues to be owed. In practice, the duty is brought to an end with acceptance of a private sector offer in only around 7 per cent of cases¹³ – compared to around 70 per cent of duties brought to an end with an offer of social housing.

¹² Some categories of person from abroad are not eligible for homelessness assistance (except advice and information) including, for example, nationals of countries outside the European Economic Area who have leave to be in the UK on condition of no recourse to public funds.

¹³ P1E statutory homelessness returns.

- 6.8 People owed the main homelessness duty can therefore effectively insist on being provided with temporary accommodation until offered social housing (and under housing allocation legislation, they must be given reasonable preference for social housing). We believe this encourages some households to apply as homeless in order to secure reasonable preference and an effective guarantee of being offered social housing. Around 21 per cent¹⁴ of social lets to new tenants are allocated to people owed the main homelessness duty, many of whom will have been provided with expensive temporary accommodation while waiting in the housing queue.
- 6.9 In many cases, homelessness (or threat of homelessness) may be the result of a temporary crisis caused by, for example, relationship breakdown or being asked to leave accommodation by family or friends. The concept of a 'priority need for accommodation' recognises that families with children and other vulnerable groups would be at risk of harm if left to fend for themselves without somewhere to live. However, while they have a priority need for accommodation, they may not necessarily need social housing. And if their need for accommodation can be met adequately without the provision of social housing, this will free up scarce social lets for others on the waiting list in housing need.

Greater flexibility to utilise the private rented sector

- 6.10 We do not propose to change the homelessness priority need groups, and we do not propose to change the duty on local authorities to secure suitable accommodation for people in these groups who are eligible for assistance and become homeless through no fault of their own.
- 6.11 However, we intend to legislate to give local authorities greater flexibility in bringing the homelessness duty to an end with offers of accommodation in the private rented sector, without requiring the applicant's agreement. We think local authorities are best placed to weigh the needs of individuals owed the homelessness duty against the overall demand for social housing in their district.
- 6.12 We intend to give authorities the discretion to decide in any particular case whether a person owed the homelessness duty needs social housing or whether their needs could be met with suitable accommodation in the private rented sector. This will depend largely on the circumstances of the particular applicant (and his or her household), but also the availability of suitable accommodation in the private rented sector, and the pressure on social housing in the district.

¹⁴ CORE 2008/9

6.13 When a local authority secures accommodation for someone to meet a homelessness duty, it must always, by law, ensure that the accommodation is within its own district, so far as reasonably practicable. This applies whether the accommodation is being provided as temporary accommodation or settled accommodation that will bring the duty to an end. And, it applies whether the accommodation being offered is in the private rented sector or in the social rented sector. Where an authority considers offering someone accommodation located outside its district, it would have to give careful consideration to whether the location was suitable for the applicant and whether it was reasonable for the applicant to accept the offer, in all the circumstances.

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

Protective measures

6.14 There would be no requirement on authorities to end the homelessness duty with an offer of private rented sector accommodation, and bringing the duty to an end in this way would be subject to a number of protective measures.

6.15 First, the current legislation already includes safeguards and these would apply in cases where the local authority decides to bring the duty to an end with a private sector offer. The accommodation offered would need to be suitable for everyone in the applicant's household. Case law has established that, among others, the factors that must be taken into account include the size and condition of the accommodation, its location and affordability. Applicants have the right to ask the authority to review their decision that accommodation is suitable, and if dissatisfied with that decision have the right to appeal to the county court on a point of law. It must also be reasonable for the applicant to accept the offer.

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?

6.16 Second, we intend to legislate to require that the private rented tenancy offered would need to be an assured shorthold tenancy for a minimum fixed term of 12 months. We also intend to take a power to enable the Secretary of State to vary by regulation the minimum fixed term requirement, in the light of experience and market conditions (but this could not be for less than 12 months).

Question 28: Do you consider that 12 months is the right period to provide as a minimum fixed term where the duty is ended with an offer of an assured shorthold tenancy? If you consider the period should be longer, do you consider that private landlords would be prepared to provide fixed term assured shorthold tenancies for that longer period to new tenants?

6.17 Finally, we intend to legislate to provide that, in a case where the main homelessness duty has been ended with an offer of accommodation in the private sector, the homelessness duty would recur if the applicant became homeless again within a period of two years through no fault of his or her own (and was still eligible for assistance).

Restricted cases

6.18 The current legislation already requires local authorities to end the main homelessness duty with an offer of accommodation in the private rented sector, so far as possible, in a 'restricted case'. A restricted case is where certain eligible applicants have a priority need for accommodation only through reliance on a household member (e.g. a dependant child) who is not eligible. We do not propose to make any changes to the existing legislation governing restricted cases.

Section 7:

Overcrowding

- 7.1 Overcrowding can contribute to stress, can damage health and can interfere with children's progress in education. Too many families are suffering because they lack the space they need.
- 7.2 From the 2008/09 English Housing Survey and Labour Force Survey we estimate that there are:
- 654,000 overcrowded households across all tenures, including...
 - 258,000 overcrowded households in the social sector, of which...
 - 29,000 are severely overcrowded
- 7.3 At the same time, we know that there are around 430,000 households in the social rented sector who under-occupy by two or more bedrooms against the 'bedroom standard'¹⁵. It is clear that more could be done to help overcrowded families by making better use of the social rented housing that we already have.
- 7.4 As we have already made clear, we are committed to ensuring that the existing tenancies of secure and assured tenants of social landlords are protected and respected. No tenant who currently has spare bedrooms in their property will be required to move as a result of our proposals.
- 7.5 Other proposals set out in this document, by removing inflexible barriers and equipping local authorities and landlords with the tools they need, will support local strategies to reduce overcrowding:
- by removing transferring tenants from the allocation rules, we are making it easier for landlords to support under-occupiers who wish to find a more suitable property
 - by strengthening home swap provisions, we are making it easier for under-occupying and overcrowded households to help each other
 - by reforming homelessness rules, we are allowing local authorities to make sensible decisions on how to allocate social housing

¹⁵ Essentially, this allocates one bedroom to each couple or lone parent, one to each pair of children under 10, one to each pair of children of the same sex over 10, with additional bedrooms for individual children over 10 of different sex and for additional adult household members.

- by retaining the 'reasonable preference' categories, we are ensuring that overcrowded households continue to receive priority
- over the longer term, new flexible tenancies will help landlords to provide housing that meets households' needs.

7.6 Many local authorities have developed effective policies to reduce overcrowding, and to offer help and support to under-occupiers who wish to move. There is much good practice available from which other authorities can learn. While some authorities have found that cash incentives can help, in many cases it is clear that tenants are more likely to move if they can be offered suitable alternative properties, or practical support to arrange a move.

7.7 We expect that local authorities and landlords, building on experience and making full use of the new flexibilities, will be able to make significant reductions in the level of overcrowding in the social rented sector. Nevertheless, we recognise that more might be done to remove barriers and to provide the right legal framework to address overcrowding.

7.8 The current legal framework is complicated and in many areas obsolete. In particular, Part 10 of the Housing Act 1985 sets out statutory overcrowding standards which are outdated, and an enforcement framework which is rarely used. Separate statutory provisions cover the operation of the Housing Health and Safety Rating System¹⁶. Further provisions cover the treatment of overcrowded households seeking an allocation of social housing.

7.9 We welcome views on the reform of the legal and regulatory framework concerning overcrowding.

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

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

¹⁶ The Housing Health and Safety Rating System introduced by the Housing Act 2004, coming into force in 2006, is a risk assessment tool used to assess potential risks to the health and safety of occupants in all residential properties in England and Wales. Local authority inspection for enforcement purposes is primarily focused on the private rented sector.

Section 8:

Reform of social housing regulation

Overview

- 8.1 The Government has conducted a review of the role and purpose of the Tenant Services Authority (TSA) and the framework for social housing regulation. We plan to implement the review's recommendations via the Localism Bill.
- 8.2 The current regulatory system came into effect on 1 April 2010, implementing the recommendations of Professor Martin Cave's independent review of social housing regulation published in June 2007. As a result of the Cave Review, a single regulatory system was established for social housing, ensuring that tenants know what standards they can expect. A set of clear, outcome-focused standards are in place, complemented by more specific local offers agreed between tenants and landlords. The regulatory framework has helped to retain lender confidence and avoid failure during the economic downturn.
- 8.3 However, there are several important drivers for change. These require us to consider the appropriate role of state regulation in securing desired outcomes (versus the role that local, non-state mechanisms can play) and how the cost of regulation to landlords and taxpayers can be reduced.

A revised model of regulation

- 8.4 The review considered that the reformed system should be designed to achieve the following outcomes.
- 8.5 In terms of consumer protection:
 - social housing is well managed and of appropriate quality
 - social housing tenants have an appropriate degree of choice and protection and have the opportunity to be involved in the management of their homes and to hold landlords to account
 - social housing provision makes a contribution to the social and economic well-being of the areas in which it takes place, including (for example) to broader environmental objectives.

8.6 In terms of economic outcomes:

- taxpayers are protected – landlords operate efficiently, value for money is obtained from public investment in social housing, public investment is safeguarded and not misused and unreasonable burdens are not imposed on public funds
- social housing supply – private sector investment in social housing is retained and expanded and housing associations remain financially viable and properly managed (consistent with their independent status).

8.7 The review's central conclusion was that achieving the consumer protection and economic outcomes requires substantially differing levels of regulatory activity.

8.8 In terms of consumer protection, the review recommended that the role of the regulator could be restricted to setting clear service standards and investigating and addressing *serious* failures against those standards. The two other consumer protection activities that are currently performed by the regulator – (a) proactively monitoring landlords' compliance with service standards and (b) scrutinising landlords' performance and driving service improvement generally – could be delivered locally, by putting more onus on landlords to provide their tenants with the means by which they can be held to account and improve service delivery.

8.9 To drive this shift to local challenge and scrutiny, we propose that the Secretary of State should direct the Regulator to issue a new standard on tenant involvement. This standard would require landlords to ensure that tenants are given the opportunity to form tenant panels (or other equivalent mechanisms) that will enable them to hold landlords to account and scrutinise service delivery. In order to support effective scrutiny by tenants, the standard would require landlords to seek agreement from their tenants to the provision of timely, useful information about their performance and ensure that this information is made available to all tenants.

8.10 The review proposed a local solution to resolution of tenants' problems. Local mechanisms should be used to address routine problems, with an enhanced role for elected councillors, MPs and tenant panels in the complaints process. This will enable tenants to hold their landlord to account and press for better services. Inspection of social landlords will only be used where there are grounds to suspect a serious failure against the standards, but the Regulator should be free to commission inspections from the open market. Any person will be able to submit evidence of serious failures to the Regulator.

8.11 In order to maintain lender confidence and protect taxpayers, proactive economic regulation of housing associations will continue as now but with more focus on value for money for the taxpayer.

8.12 In line with the Government's commitment to reduce the number of quangos, the TSA will be disbanded and its economic regulation and remaining consumer regulation functions transferred to the Homes and Communities Agency (HCA), generating efficiency savings in back-office functions and exploiting synergies across investment and regulation. In order to ensure the continued independence of regulation, these functions should be vested in a statutory committee within the HCA, legally separated from the HCA's investment functions and with its membership appointed by the Secretary of State.

Section 9:

Reform of council housing finance

- 9.1 For far too long, councils have been frustrated in their efforts to meet the housing needs of their residents by a discredited system for financing council housing. Under the current system, Whitehall makes a series of complex annual decisions about what councils should raise in rents and what they should spend on their homes. On the back of this, government redistributes income between councils. The result is that councils have no certainty about future income, no ability to plan long term, and few incentives to drive up efficiency.
- 9.2 The Spending Review reaffirmed our intention to replace this financing system with a new, transparent, self-financing arrangement that devolves power to councils and will enable tenants and local taxpayers to hold their landlord and local authority to account for the cost and quality of their housing.
- 9.3 Self-financing will be implemented through a one-off settlement payment between each local authority and central government, which will be determined by a valuation of each local authority's social housing business. These valuations will take account of income and expenditure needs over 30 years and the level of housing debt.
- 9.4 Self-financing will:
- end the centralised subsidy system where annual decisions have encouraged a patch-and-mend mentality
 - fully devolve local financing to local government – rents are kept and used locally to maintain homes for current and future tenants
 - provide greater transparency for tenants and a stronger relationship between them and the local authority
 - encourage better long term asset management
- 9.5 Further details about the self-financing settlement will be announced shortly. We also plan to publish a policy document in January detailing the methodology behind the settlement, alongside a model with updated data that will enable local authorities to calculate the likely impact for them of the self-financing deal.

- 9.6 We plan to introduce these new arrangements in April 2012, subject to parliamentary approval, through the Localism Bill. In the meantime, we will continue to run the present system; we are currently consulting councils on a draft Housing Revenue Account subsidy determination for 2011/12.

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?

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

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?

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

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

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?

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

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

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?

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?

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?

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

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?

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?

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 the tenancy?

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?

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?

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

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

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?

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?

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?

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

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?

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

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?

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 shorthold tenancy? If you consider the period should be longer, do you consider that private landlords would be prepared to provide fixed term assured shorthold tenancies for that longer period to new tenants?

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

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

Annex

Developing thinking on the new funding model for affordable housing

For the current Spending Review period, we have secured around £4.5bn in funding for the new supply of affordable housing, including existing commitments. But in future, especially in this time of constrained government finances, we need to ensure that we can deliver more for every pound spent.

We therefore intend to introduce a new approach to funding the delivery of new affordable supply. We will achieve this through a combination of flexibilities for providers to generate additional capacity and maximising the provider contribution through efficiencies, use of cross-subsidy and Section 106 contributions.

From April 2011, registered providers wishing to participate in new development will work with the regulatory and investment agency to develop a bespoke delivery agreement which will agree new flexibilities on rents and an allocation of public funds, in return for a contribution from providers through cross-subsidy and operating efficiencies. This combined approach will drive a significant reduction in grant costs, to help deliver up to an estimated 150,000 homes over the next Spending Review period.

The introduction of the Affordable Rent tenancy is a key element of the new delivery model. It will give registered providers the flexibility to increase the revenue that is available to them through rents. The rights and rents of existing social tenants will not be affected by this change. But the old one-size fits-all model of social housing did not recognise the many differing needs of different types of household. In the future, providers will be able to reach an agreement with the regulator/investor, allowing them to convert a proportion of their empty properties into the new tenure. The higher rents charged will generate additional revenue and debt servicing capacity for registered providers. The new flexibilities will be available on a 'something for something' basis, with surpluses, generated by applying flexibilities, used to generate new supply at higher rent levels and lower grant. This ongoing process of conversion and higher rent levels on new stock will build in long term sustainability for the new funding model.

While grant funding will primarily target the new Affordable Rented product, there may be some scope for delivery of low cost home ownership as part of the contractual arrangements, where this is appropriate for local circumstances and helps to promote the overall supply of affordable homes.

In line with the 'something for something' approach described above, we will also be expecting an enhanced contribution to development from providers. This will be needed to ensure the model's success and maximise outputs that we can achieve. As part of the new model we are also proposing more proactive regulatory oversight to drive value for money, with agreed efficiency savings incorporated in the delivery agreement as part of the provider contribution.

We will be making available more detail on the above issues in due course through the framework document that the HCA will be issuing in January.

Consultation criteria

This document and consultation process have been planned to adhere to the code of practice on consultation issued by the Department for Business, Enterprise and Regulatory Reform (now known as the Department for Business, Innovation and Skills) and is in line with the seven consultation criteria, which are:

- formal consultation should take place at a stage when there is scope to influence the policy outcome
- consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible
- consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals
- consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach
- keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained
- consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation
- officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions when they respond.

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory code of practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department for Communities and Local Government will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Individual responses will not be acknowledged unless specifically requested.

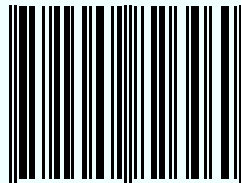
Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

Are you satisfied that this consultation has followed these criteria? If not, or you have any other observations about how we can improve the process, please contact:

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