CIH Localism Bill Briefing
Report stage

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‘Shaping Housing and Community Agendas’
1. Introduction

The Chartered Institute of Housing (CIH) is the professional body for people involved in housing and communities. We are a registered charity and not-for-profit organisation. We have a diverse and growing membership of over 23,000 people – both in the public and private sectors – living and working in over 20 countries on five continents across the world. We exist to maximise the contribution that housing professionals make to the wellbeing of communities. Our vision is to be the first point of contact for – and the credible voice of – anyone involved or interested in housing.

The Chartered Institute of Housing (CIH) presented oral evidence to the Public Bill Committee and also submitted written evidence. We are pleased to provide this briefing to inform debate as the Localism Bill reaches Report Stage.

The Localism Bill is large and contains numerous provisions. We are focussing on the provisions to reform social housing.

Our position on the Bill draws on the collected experience of hundreds of committed housing professionals, and thus offers informed commentary on how the proposals could or will work on the ground.

CIH supports the broad aims of the government’s proposals relative to social housing, in particular:

- Making the social housing system fairer, striking a proper balance between the needs of new and existing tenants
- Giving local authorities and housing associations new powers so that they can make best use of their housing, in a way which best meets the needs of individual households and their local area.
- The emphasis on localism, transparency and flexibility.

Despite this, we have a number of significant concerns that government policy will change provision and management of social housing in ways that are not positive for individuals or communities.

The proposals to reform social housing are taking place alongside other significant changes which affect housing such as regulatory reform, the launch of affordable rent, planning reform, and benefit reform. The impact of these proposals is not isolated from other changes in government policy, and the likely impacts and interrelationships of these policies need thorough consideration.
2. Summary of our main points

We hope to see a number of changes to the bill before it passes into law. Our priorities for amendments to the legislation are:

1. A minimum fixed term of two years for a flexible tenancy is too short because of its impact on personal and community stability. We would like an amendment to the Bill so that a minimum of five years is introduced for general needs tenancies.

2. We would like an addition to the Bill to enable social landlords to change the terms of occupancy (e.g. to charge a market rent or convert to shared ownership) where a fixed term tenancy ends and the tenant is deemed to no longer need social housing, rather than requiring the tenant to leave. This would promote personal and community stability, and CIH would like amendments to enable it.

3. CIH does not support the proposal that the Housing Revenue Account deal can be reopened in future, because local authorities need security to plan their business for the future. We would also like local authorities to be able to keep receipts from Right to Buy sales.

4. Whilst we support local resolution of disputes, the provision for a ‘democratic filter’ (that tenants can only access the Ombudsman if they are referred by an MP, councillor, or tenant panel) creates a barrier to accessing a valued independent dispute resolution service, and creates a process which many will find difficult to negotiate. We would like the ‘democratic filter’ to be removed from the face of the Bill.

5. We support the ambition to improve mobility for existing social tenants. However, there is no need to ‘remove’ existing tenants from the allocation system when they want to move but are not in priority need. Existing allocation systems can be altered to enable the same outcome with significantly less cost and greater transparency.

6. Housing professionals’ capacity to use the new homelessness powers with confidence will be limited by weaknesses in regulation of the private rented sector. We do not oppose the principle of discharging homeless duty by finding accommodation for someone in the private rented sector, but to make it workable in practice we want to see national-level action in the form of greater regulation of the PRS In line with Rugg Review proposals. Much better resourcing of regulatory activity at local level is also required to improve capacity.

Additional points we would like to raise are:

7. We have been supportive of consumer regulation and do not want to lose momentum in the journey towards co-regulation. We want to avoid a
situation where national consumer-focused regulatory activity is withdrawn before local capacity is fully ready to replace it.

8. The affordable rent model is problematic – a revenue model has inbuilt instability for tenants as well as providers; it creates a two-tier social housing offer which will be confusing and inconsistent for tenants; and it does not provide sufficient capacity outside of high value areas.

9. The tenure and waiting lists reforms risk having impacts which run counter to government intentions, and creating bureaucracy and cost without significant return to tenants.

10. Government’s approach to housing reform risks further residualising the sector and turning social housing exclusively into welfare. This will have significant consequences for housing and estate management – which will hinder individual community sustainability and engagement.

3. Detailed information on specific points

This briefing is based on a very detailed submission of evidence to the Bill committee, which can be provided on request.

Point 1: Fixed term (flexible) tenancies

- CIH supports in principle a flexible approach to tenure which includes fixed-terms (where these are of an appropriate length) and tenancy reviews; however, the emphasis must be on offering tenants positive and supported choices to improve their housing options and to support the development of sustainable communities, rather than on enforcing particular behaviour or eligibility. As such, we have concerns about the current proposals for tenure reform.

- Two years is too short as a minimum term for a general needs social tenancy because this will create instability in households and communities with additional negative social effects, and lead to additional and burdensome administration and housing management costs which may have no clear benefit for the customer. Five years may be a more appropriate minimum term.

- We are very resistant to any proposals which could see tenancies ended on the basis of an income-based means test.

- Tenancy reviews which determine whether someone keeps their home will be confrontational and not conducive to a positive landlord-tenant relationship. On the other hand, building an ‘active housing-options approach’ into housing management (as indeed some housing providers have done) where reviews are used to plan for the future and offer support can be a positive, customer-focused experience. The emphasis of any support and advice provided to tenants must be on tenant choice and not landlord expediency.
We see the benefit of landlords being able to move tenants to make better use of stock, but we are sceptical about whether fixed term tenancies can really improve availability of social housing overall.

From a tenant and community perspective, CIH has a number of concerns about use of a two year minimum fixed term general needs social tenancy:

- Perverse incentive: A two year period could act as a major disincentive for tenants to change their circumstances. Assuming that access to the housing register is restricted to people in the most need (statutory preference groups), people gaining social tenancies will be leaving difficult circumstances which they may have endured for some time. If tenants fear that changing their circumstances might jeopardise their home, there is a psychological incentive to suppress aspiration and not to move forward in their lives.

- Unsustainable communities: A two year fixed-term general needs social tenancy would not support sustainable communities. There is no incentive for tenants to invest in their homes and communities if their tenancy is only guaranteed to have two years duration. Widely used shorter tenancies would break up neighbourhoods and communities; and where properties within existing communities were converted to fixed-term tenancies this could provoke tensions between tenants with different tenancies. Many local authorities point to problems with former right to buy properties that are now in the private rented sector and where there is rapid turnover, affecting the stability of communities.

- Community engagement: Shorter tenancy terms could result in less willingness on the part of tenants to engage positively with their landlords and the community which runs counter to broader government aims to reinvigorate community activism. Effective individual and community empowerment provides opportunities for people to influence and shape decision making processes which in turn can foster a more genuine sense of ‘community’, social cohesion and collective responsibility. For service providers, it can lead to better knowledge and awareness of the needs of local communities and the impact of current service provision. It can also lead to the development of more informed and responsive services for the future. Where tenants experience instability in their housing, these objectives are compromised.

- Negative effects on children: Additional negative social effects could result including unstable housing for children and the possibility that they might

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1 Key to the government’s agenda are its visions for Localism and strengthened participative democracy and the Big Society where individuals in communities take action over what matters to them.

2 Duncan, P and Thomas, S (2007) *Successful Neighbourhoods: A good practice guide.* Coventry, CIH
have to change their schools more often, damaging their educational opportunities.\footnote{Thornhill J and Kent Smith J (2009) \textit{Housing, schools and communities}, Coventry, CIH: Poverty, instability, deprivation and neighbourhood decline has a detrimental effect on educational outcomes and achievement. Housing providers already work with tenants and school to tackle these factors.}

**Point 2: Flexible terms of occupancy**

- We are concerned that the impact of the flexible tenure proposals as currently described will lead to social housing becoming more residualised, and further stigmatising those living in the sector. There needs to be greater flexibility in the way in which local authorities work with their housing association partners to facilitate access for customers with a broader range of income and housing needs.
- As an alternative to means tested fixed term tenancies, CIH proposes an approach to flexible tenure for future tenants in which the terms of a tenancy could be altered to recognise changes in an individual's circumstances: this would not impact negatively on individual security or affect stable communities.
- Social housing should not be exclusively used as part of the welfare system, and moves to further residualise it or to require housing managers to police eligibility will be strongly resisted by the profession.
- CIH would like to see an approach to housing management where security of tenure is be preserved for all tenants but where there would be an end to the guarantee of a permanent sub-market rent for tenants whose financial or other circumstances improve, linked to active support to assist tenants access other housing options if they want to as their circumstances and aspirations change.
- This could mean that rent increased to full market rent, or a proportion of it. It could also mean that tenants could become shared owners if they wished. We would not want to see a micro-managed system where small changes in income triggered rent increases. Rather, we would prefer broad bands which linked to local affordability and only affected tenants with incomes significantly above the average. Such a system would probably be unworkable if a conversion to private rent levels triggered repayment of grant to the Homes and Communities Agency – procedures for implementation would need detailed consideration and development to ensure positive outcomes.

**Point 3: Local authority housing finance**

- CIH has been very supportive of the process of HRA reform and wants to maximise the degree of local financial control for authorities and ALMOs, their tenants, members and officers. We have long argued that the current
national HRA subsidy system is outdated, no longer fit for purpose and actively works against effective local management of council housing, and we look forward to next April when the system will be replaced by one based on more local choice and more local financial control. Self financing for the HRA is a key aspect of the government’s localism agenda. For all of the 160+ authorities with council housing, the new system will mean the opportunity for the first time to develop a long-term and effective business plan for their housing, developed locally with local people.

• We are disappointed that the government has felt it necessary to confirm that some central controls will continue. We would like to see the localism within this settlement increased further and believe there is potential to do so by amendments to the key macro issues of setting a cap on borrowing, continued pooling of a proportion of right to buy receipts and ensuring that the circumstances in which the settlement can be revisited are limited and clear:

• **Right to buy receipts:** the proposal is to retain 75% pooling but to offer a concession on taking account of property losses in the settlement so that all authorities take on less debt instead of keeping all their receipts. There are a number of issues:
  
  o Retaining any form of pooling runs counter to the principle of localism, and reduces the impact of local asset management on which government wants authorities to focus.
  
  o Uncertainty around making the right assumptions – the RTB market is notoriously volatile and unpredictable – what assumptions do you make?
  
  o The RTB proposals now bring a further layer of risk and uncertainty into the settlement process which we need to see reflected in the assumptions made.

• **Capping debt:** we acknowledge the need to control borrowing but will urge the government to consider the consequences for those authorities where decent homes backlogs and other investment needs still exist. Capping borrowing could hurt tenants by preventing investment in properties in the short term and risks stock deterioration until the resources become available – which could be many years away. We believe the government should consider offering some headroom for those authorities where their tenants need it the most.

• **Reopening the settlement:** this appears to be set in stone in the bill and in some ways is a failsafe for authorities if things do go wrong. We are encouraged that the reasons will be limited and believe that, in time, the risk of reopening might reduce as the new arrangements become the norm. Nonetheless, it is not necessarily appropriate to start a long-term planning process with any threat, imminent or otherwise, of the
government coming back for more in the short term. We will continue to press for commitments to be made that the circumstances for reopening will be limited and that the settlement cannot be reopened for the medium term so that each authority’s business plan can really bed down.

**Point 4: Housing complaints**

- The provision for a ‘democratic filter’ (that tenants can only access the Ombudsman if they are referred by an MP, councillor, or tenant panel) is a barrier to access to a valued dispute resolution service, and creates a process which many will find difficult to negotiate.

- We agree that local representatives can play a valuable role in local dispute resolution - as advocates, scrutineers, and brokers. These representatives can be involved before the landlords’ complaints process is exhausted, rather than delaying tenants’ access to an independent and trusted arbiter.

**Point 5: Housing mobility**

- CIH supports broader government objectives to improve tenants’ mobility. Improved mobility for existing tenants could help make better use of stock (e.g. reducing under-occupation), improve satisfaction and quality of life, and give existing tenants a greater sense of fairness.

- However, we feel strongly that restricted mobility is not just a feature of social housing and actually affects low income households in all tenures. The current proposals do little to improve inter-tenure mobility, which will be needed to support the wider aspirations of this policy.

- Mobility within social housing is restricted because of lack of vacancies and new supply, low priority given to existing over new tenants within allocations systems, low priority given to people wanting to move into an area, lack of suitable alternatives (especially for downsizing), and difficulties for housing managers to create ‘chains’ of moves.

- CIH would like to see social landlords enabled to address the transfer aspirations of existing tenants – as in any service it can be frustrating to cater for new customers to the detriment or exclusion of existing ones. The idea of taking existing tenants outside of the allocation framework is unclear, and as described so far sounds as though two systems will be required to run in parallel, which will be cumbersome and lack transparency. The challenge for housing providers would be to balance between meeting the most acute need and using discretion to provide incentives to earn points to move up a waiting list.
There are potential problems if separate systems are required:

- It could potentially generate higher levels of demand for internal moves which could be difficult for landlords to manage, particularly in areas of high demand.
- It could perversely create less transparency about who is moved.
- It could generate additional staffing, administration and management costs.
- It could create tensions with local authority partners.
- It could create ‘springboard tenancies’ – where tenants get a home through the housing register and then instantly request a transfer on the existing tenants register to see if they can get a ‘better’ property.

We accept that there is a range of advantages to proposals to enable landlords to use the new flexibility created by taking social tenants seeking a transfer who are not in housing need out of the allocation framework. These include:

- Increasing mobility in and through the social rented sector.
- Generating shorter waiting times for internal movers.
- Enabling social landlords to take action to deal with under-occupation and thus make more efficient use of the housing stock.
- Enable providers to exercise greater flexibility in their allocation decisions.
- Make it easier for social landlords to create chain lettings.
- Provide greater customer choice and enhance the way existing customers are treated by their landlords.
- Accelerating the transfer process.

Our preference, to gain these benefits and avoid the problems listed above, would be to see the allocation framework amended so the aspirations of existing customers could be included without requiring a demonstration of ‘need’ – for example by building on the good practice around chain lettings and management moves.

**Point 6: Homelessness**

- CIH broadly welcome proposals on homelessness reform as an immediate solution to current problems in terms of use of temporary accommodation and an insufficient supply of social housing units to meet demand. CIH believes that it is not possible to look at social housing in isolation from the wider housing offer and the private rented sector should be a key component in a more joined up approach to meeting housing need in England.

- We anticipate that most local authorities will make use of the power to discharge the homeless duty by housing people in the private rented
sector. The scale of use is likely to vary by authority – depending on the price and availability of private rented accommodation in different market areas.

Potential positive outcomes which could be seen in some areas are:
- More realistic expectations around tenancy options.
- Greater availability of social housing for non-homeless households.
- Homeless people could be moved into a settled home more quickly.

Although we support the change of powers, there are challenges around discharging the homelessness duty into the private rented sector which will need to be addressed:
- Private sector landlords not being prepared to supply housing to people deemed statutorily homeless or in receipt of welfare benefits
- The creation of a revolving door of homelessness with tenants losing their homes after a fixed period of time
- Local housing allowances payable to tenants in the private rented sector not keeping up with private sector rent levels resulting in tenants having to top-up their rent from their own income or other welfare benefits
- Access to private rented sector housing being limited by new local housing allowance caps and the shared room rate.
- Increases to the overall housing benefit bill.
- The need to increase local authority resources to find suitable properties in the private rented sector and to support landlords letting to formerly homeless households
- There is a risk that formerly homeless households will be concentrated in one area – where PRS rents are cheapest – if many duties are discharged into this sector, thus concentrating deprivation and creating problems for an area. Local lettings plans have been used to address this problem in social housing and may become needed in the PRS to maintain a balance between community sustainability and flexibility around discharge of homelessness duties.

For more information on any of the points raised above, please contact Abigail Davies, Assistant Director of Policy and Practice: abigail.davies@cih.org or 024 76851756