Chartered Institute of Housing’s Response to the Department of Communities and Local Government’s Review of the Statutory Duties of Local Authorities

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This consultation response is one of a series published by CIH. Further consultation responses to key housing developments can be downloaded from: http://www.cih.org/policy/papers.htm

‘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.

2. **General comments**

CIH strongly endorses the role of local authorities in being a strategic lead for a local area, working with all members of the local community and with other statutory, private, community and voluntary bodies to:

- Develop a shared vision for a vibrant, prosperous and inclusive local area
- Understand the needs and aspirations of people, communities and businesses underpinning that shared vision
- Develop relevant strategies and action plans to achieve the vision
- Review on and ongoing basis that the vision is still relevant for people, and that the steps identified are achieving what was planned.

No single organisation, business or voluntary group can achieve all of this, including the local authority, but it is uniquely placed to lead and facilitate the partnerships that can together deliver for the local area, and it has a vital role to ensure the involvement of all members of local society in that – through ongoing partnership with bodies that support the most vulnerable or those at risk of being marginalised.

Within that overarching strategic lead role, CIH would emphasis the strategic housing role of local authorities as a critical factor in the delivery of successful and prosperous places, and this has shaped the responses we have made about specific duties below. As a general point, CIH believes that the strategic housing role requires local authorities to:

- Have a robust understanding of the housing needs and aspirations of all members of its local communities
- Understand the demographic projections and the likely implications in terms of health, social care, community safety and other needs
- Be aware of the nature and condition of all housing stock in the area and how that addresses or falls short of meeting the above needs and aspirations, and links in to better health, wellbeing etc
- Plan, with businesses, local communities etc, how to address the gaps and shortfalls (addressing housing conditions, enabling adequate adaptations, delivering new homes etc).
CIH recognises that many local authorities are exercising their strategic role effectively and creatively. However, in the light of severe financial constraints many local authorities are facing for the next few years at least, we do not believe that weakening some of the key duties which shape that function is appropriate. Maintaining certain duties will focus local authorities on how they maintain and improve services which are critical to the successful functioning of their local areas (whether directly delivered or through local partners, or local voluntary groups etc). Allowing flexibility in the delivery of the duties will help to mitigate the financial challenges, but removal may lead to a loss of ongoing focus that will have a hugely negative impact for local areas in the long term.

CIH agrees that the ways in which the duties are delivered should be able to be made locally appropriate, and shaped by and in agreement with local people, so it is important that the duties are formulated to allow this. However, the duties in themselves are important to maintain a consistent level of provision to support local people, communities and businesses effectively, to ensure freedom, fairness and responsibility in how local areas develop and the opportunities for all people in an area to participate and benefit.

3. Specific duties

The following table will now address specific duties.

| DCLG_002 | Duty to rehouse residential occupiers displaced by a compulsory purchase order or housing order where no affordable alternative is available | Where the activities of a local authority requires people to move there should be a subsequent duty to support the household in accessing suitable and affordable alternative accommodation, including provision by the local authority if no other can be found and agreed. It may be appropriate to consider how this duty might be combined either in homelessness allocations of local authorities. If this duty were removed, housing duties would no longer be compatible with duties under other CPO legislation, eg for a highway scheme. It is also difficult to see how future compulsory action would be compatible with human rights legislation, |
| DCLG_003 | Periodically to review the housing needs of its area in relation to housing conditions and the needs of the district | Government has set out its requirement that local authorities and partners should look to meet the housing needs and aspirations of local communities. Authorities will not be able to meet this expectation without a robust understanding of:

- current housing stock and condition, current and future demographic projections and the implication for housing size, type, tenure etc,
- the aspirations of communities in terms of housing type, tenure
- the economic factors in relation to housing cost, local incomes etc.

This duty provides the foundation for local housing authorities to plan to meet that expectation. The Audit Commission’s research and reports concerning the strategic housing function of authorities, and the response of authorities to the ageing population demonstrate that many still have to improve their effectiveness and for this reason it is important that the relevant duties are maintained to drive further improvement (See Building Better Lives and Don’t Stop Me Now) |
| DCLG_071 and 042 | Duty to prepare a Sustainable Community strategy and associated duty to consult | The duty to prepare a Sustainable Community Strategy drives the strategic function for local authorities, which is to facilitate the development of a strategy with local people, community and voluntary groups, and local businesses to ensure an agreed vision and direction for the local area. All needs assessments (including housing needs) and strategies such as the housing and homelessness strategies should underpin that agreed vision, setting out how the local area looks currently in relation to it, what steps are needed to travel towards the vision and how the community, authority and all partners can take action to achieve it. The government itself recognises that more effective decisions and better use of resources will be made where a more active engagement with and empowerment of local people can take place – this duty provides the framework in which that should operate. Maintaining it as a duty will ensure ongoing focus on this. |
| Duty of local housing authority to formulate and publish a housing strategy | |
### Duties to seek consent / consult in relation to change of use/disposal of housing assets including sale to private landlords

These duties underpin the approach of ensuring tenants are consulted and involved in relation to decisions being made about housing assets in a local area, and in particular to protect tenants’ rights in the process of changes being made. These decisions are often controversial, and full consultation enables the authority to demonstrate that its subsequent decision has majority support. The coalition government is seeking to extend the rights of local communities to shape and deliver key local services; this duty effectively ensures tenants’ voices are heard and influence local decisions on housing; as such its removal would seem contradictory in the light of other measures the government is seeking to introduce in the Decentralisation and Localism Bill.

### Duties in relation to provision of information to leaseholders (on service charges, rights and obligations, consultation on major works. Duties to enable leaseholders to exercise enfranchisement rights.

These duties provide a fundamental right to information that underpins both rights and responsibilities of leaseholders, and that enables them to exercise enfranchisement. As part of the government’s aims to empower local people and devolve power and responsibility, the provision of timely and accurate information is critical to making that effective. As such it is essential to maintain these.
| DCLG_016-018 | Duties relating to the Housing Revenue Account | CIH has long called for reform to the system of financing council housing, and we have welcomed the reforms proposed by the government. Overwhelmingly in our consultations with the sector, the need to maintain a housing revenue account at the local level was emphasised, so that local tenants realised the benefit of their rental payments in reinvestment in their homes. If duties were removed, HRA monies would simply form part of General Fund accounts and one of the make objectives of HRA reform – transparency – would be lost. For more detail of CIH’s position on the HRA and the new settlement for councils see our website. |
| DCLG_022 | To provide facilities for disabled people in dwellings | This duty enables the delivery of several key government aims, including:

- effective use of resources (particularly in providing prevention services that make significant savings for health and social care)
- supporting older people to maintain health and independence and remain at home
- facilitate speedy discharge from hospital and reduce risk of readmission
- protecting vulnerable people
- supporting carers
- enabling end of life care at home.

CIH is a member of the Home Adaptations Consortium which has submitted detailed evidence to support the retention of this duty. Members of the consortium are concerned that the removal of the ring fence on the funding has already led to a reduction in local budgets, which can only lead to increased waiting times and worsening delivery. The retention of the duty to maintain a focus on these services is therefore critical for individuals requiring help but also in the long term, public services such as health and social care. |
| DCLG_023-024 | Secure advice and information free of charge to persons in the district about the right to make an application for an allocation of accommodation/ have an allocation scheme, publish a summary and allocate accommodation in accordance with the scheme | Enabling people to take responsibility for their own housing solutions includes providing full and accessible information about the options that exist within a local area. Where local authorities have stock or have nomination rights to partners’ stock, it is important that how that will be used and who is eligible for help is clear to everyone. This will be particularly important in the light of the local variations/ additions that government is proposing to allow local authorities to introduce. The proliferation of local differences will mean that clarity of the local conditions and eligibility will be even more important to help people to navigate local circumstances and make effective and wise choices for themselves. Transparency also helps counter allegations that a particular group is benefitting or being penalized in allocations.

As such it is important that this duty is considered in relation to the duties on provision of advisory services (below) and on the provision of better information and advice more widely. This will be particularly important in the light of the additional flexible tenancies the government is proposing to introduce, and the potential that some tenants will only have social/ affordable tenancies for a certain time, after which they may have to consider other housing options. |
| Duties pertaining to homelessness | The coalition government has recognised that the current economic climate and deficit impacts most particularly on some of the most vulnerable in society. As such, it is inappropriate to weaken the duties on the local authority, working with its partners such as housing associations, to address homelessness. Preventative measures (such as housing options/ advice) and quick and effective provision of housing and support will ensure that people are able to address their personal circumstances more effectively (seeking employment/ addressing support issues etc). |
| Duty of local housing authority to provide advisory services | |
| Duty of local housing authority to formulate a homelessness strategy | CIH’s comments about local strategies are highlighted in relation to the housing strategy and Sustainable Community Strategy. In relation to the homelessness strategy CIH would maintain that the duty should remain to ensure a focus, within wider local strategic planning, on adequate resources committed to the support of those in crisis or most vulnerable in local communities. This will enable best facilitation and support to them to address issues that might cause long term problems (which in turn might require ongoing or more costly public interventions - in terms of community safety, health and care, and enabling economic and social participation). |
| DCLG_043-045 | Duties relating to housing conditions and intervention where a category 1 hazard exists | It is appropriate that the local authority should be aware of and able to intervene where the housing conditions in the local area are problematic and causing risks for local inhabitants. Decent housing is fundamental to health and wellbeing and supports people to remain socially and economically engaged in local communities; as such it delivers a key preventative solution in relation to community safety, health and social care agendas. The relocation of the public health function in the near future to local authorities should further strengthen the approach to housing as part of that agenda. However, in times of severe financial constraints the focus on ‘investment to save’ can be at risk to the pressure of more acute services; maintaining these duties will ensure that local authorities work with partners to ensure ongoing investment in housing conditions locally. Flexibility in funding has provided some innovative solutions involving health, social care as well as local authority investment (see for example the integrated work at strategic and operational level in Blackpool and Liverpool - in CIH’s [Housing, Health and Care](http://www.cih.org.uk)) Maintaining the duty but allowing local flexibility in delivery and pooling/aligning the funding of key statutory partners provides the context for local innovation in developing solutions. |
| DCLG_046 | Consult with the fire and rescue authority for the area where a fire hazard exists before taking enforcement action | The existence of this duty ensures appropriate cooperation between the relevant statutory authorities. As such it is critical to maintain ongoing cross sector working for the greater benefit and safety of local people and more effective use of public resources. |
| DCLG_048 | Mandatory licensing of Houses in Multiple Occupation | The increasing use of private sector housing to meet local housing needs, and in particular the government’s proposal to increase its use for the discharge of homelessness duties means that ongoing work to increase the safety and standards of private sector housing is required. This duty is only part of that but addresses the area of the private rented market which previously caused most concern. The strategic housing role of the local authority will require the development of strong partnership with local landlords going forward. |
| DCLG_050-051 | Duties in relation to the authority as landlord with the regulator | CIH called for effective domain regulation to improve standards for tenants regardless of the nature of their landlord and would argue that the reasons behind this are still relevant, so the duty should be maintained. |
| DCLG_172-176 | Duties relating to planning for a local area | A clear local plan that expresses spatially the shared ambition for a local area, and what this means in terms of development of businesses, homes etc, is vital to ensure that all partners in a local area are aware of how they can contribute to the appropriate development in a locality. The operation of housing markets and business areas crossing local authority boundaries means that there will be a need to local authorities to cooperate with other area to maximise appropriate outcomes across boundaries. CIH has maintained that some degree of sub national planning is required to ensure this happens effectively. |