

6/2018 Green Paper: A New Deal for Social Housing



14/8/18

Key Points

- The Social Housing Green Paper: *A New Deal for Social Housing* was published on 14 August; it includes 48 questions for consultation, which will run until 6 November.
- It asks whether the Decent Homes Standard needs to be revised or updated in the light of Grenfell and other developments since 2006?
- It canvasses several proposals for reform of arrangements for handling residents' complaints, including statutory requirements on local authority complaints schemes, scrapping or shortening the waiting period before a complaint can be referred to the Housing Ombudsman, training for "designated persons", and raising residents' awareness of how to make and escalate complaints.
- It proposes a set of key housing management performance indicators landlords would provide annually to the Social Housing Regulator, who would publish them in a set of league tables; views are invited on how these arrangements might best be made to work and what changes to the Regulator's objectives and powers might be necessary.
- It asks whether access to Affordable Homes funding should be made dependent on management performance.
- It asks for views on arrangements for national representation of tenants.
- It asks whether a new programme of stock transfers or reform of the Right to Manage arrangements, or other measures, would be helpful in giving tenants more choice and control over the services they receive.
- It commits the Government to tackling the stigma attached to social housing, proposes a "best neighbourhood" competition and steps to improve the customer service and neighbourhood management provided by all social landlords.
- It asks how planning guidance can best support good design in the social sector and how social housing residents should be encouraged to be involved in the planning and design of new developments.
- It invites views on the case for longer-term certainty over funding for housing associations, and on reform of shared ownership, particularly "staircasing" arrangements.
- It confirms that the Government does not intend to implement the Higher Value Assets Levy, and will repeal the relevant legislation when Parliamentary time allows.
- Nor will the Government implement the fixed-term tenancies provisions of the Housing and Planning Act 2016 "at this time"; this wording suggests that they may not be repealed.

Background

On 19 September 2017, the then Secretary of State for Communities and Local Government, Sajid Javid announced the Government's intention to publish a Green Paper on Social Housing. He promised that it "would be the most substantial report of its kind for a generation" based on "a wide-ranging, top-to-bottom review of the issues facing the sector". As part of this review, Housing Ministers held a series of meetings involving 1,000 social housing tenants from November 2017 to March 2018, and MHCLG considered 7,000 written submissions. The Green Paper was published on 14 August under the title *A New Deal for Social Housing*. It includes 48 questions for consultation, on which views are invited by 6 November 2018. Simultaneously, MHCLG published the promised consultation paper on the use of capital receipts from Right to Buy Sales, which is the subject of a separate ARCH Briefing.

Social housing is defined as housing to rent below market levels or to buy through schemes such as shared ownership. The Green Paper considers the issues facing all residents of social housing, including those who rent, leaseholders and shared owners, and uses the term "residents" to refer

to all three, reserving “tenants” for issues that are only relevant to those who rent from a social landlord.



The Green Paper sets out 5 principles which, it says, will underpin a new, fairer deal for social housing residents:

- A safe and decent home which is fundamental to a sense of security and our ability to get on in life;
- Improving and speeding up how complaints are resolved;
- Empowering residents and ensuring their voices are heard so that landlords are held to account;
- Tackling stigma and celebrating thriving communities, challenging the stereotypes that exist about residents and their communities, and
- Building the social homes that we need and ensuring that those homes can act as a springboard to home ownership.

It is organised into 5 chapters, with an Introduction providing basic information about the current situation of social housing and residents, and an Annex summarising the current regulatory framework for social housing.

Chapter 1: Ensuring homes are safe and decent

The Chapter begins by summarising the action the Government has already taken in response to the Grenfell tragedy and then invites views on 4 issues:

1. How can tenants best be supported in the important role of working with landlords to ensure homes are safe?

One of the recommendations of Dame Judith Hackett’s review of the building regulations and fire safety is that residents should be proactively given information about building safety; landlords should also have a resident engagement strategy which sets out how they will share information and engage with residents on safety. Pending legislation to reform arrangements across all tenures, the Government wants to accelerate an early response from the social sector, building on existing good practice. Beyond asking for views on this from the sector, MHCLG wants to establish a pilot with a small group of social landlords who would innovate and trial options for communicating with and engaging with residents on safety issues.

2. Should new safety measures in the private rented sector also apply to social housing?

3. Are there any changes to what constitutes a Decent Homes that we should consider?

4. Do we need additional measures to make sure social homes are safe and decent?

The Decent Homes standard has not been revised since 2006, so the Government believes it should be reviewed to consider whether it is demanding enough and delivers the right standards for social housing. The Green Paper asks for views on this, and in particular on:

- whether new safety measures applying to the private rented sector since 2015, covering smoke and carbon monoxide alarms should also be applied to social housing;
- whether the energy performance of social homes should be upgraded to Energy Performance Certificate Band C by 2030 wherever practical, cost-effective and affordable.

Chapter 2: Effective resolution of complaints

Chapter 2 proposes that residents should have a stronger voice to influence decisions and challenge their landlord to improve performance. They must also be able to access good complaints processes, as well as swift and effective redress where appropriate.

The Government will publish its response to the consultation on a single housing ombudsman later in the year.

The current process for complaints requires residents to first make a complaint through the landlord's in-house complaints process. If they are unhappy at the end of this process, they can refer their complaint to a "designated person" (such as a local MP, councillor or tenants panel); if they do not want to do this or the designated person does not resolve the issue, they must wait 8 weeks before the complaint can be referred to the Housing Ombudsman.

The Green Paper invites views on potential reforms to this process:

5. Are there ways of strengthening the mediation opportunities available for landlords and residents to resolve disputes locally?

This refers to alternative dispute resolution or mediation arrangements that could be available as an alternative to a formal complaint to the Housing Ombudsman after initial attempts at resolution have failed.

6. Should we reduce the eight week waiting period to four weeks, or should we remove the requirement for the "democratic filter" stage altogether?

This reflects the view of many residents that 8 weeks introduces too long a delay; however, since this step would involve primary legislation, the Green Paper also asks what can be done to ensure that "designated persons" are better able to promote local resolution of complaints.

7. What can we do to ensure that the "designated persons" are better able to promote local resolutions?

Whatever the process for handling complaints, it is useless unless residents are aware of it and feel confident in using it. The Government is considering an awareness campaign to support social residents in understanding and using their rights to redress, and asks, more generally:

8. How can we ensure that residents understand how best to escalate a complaint and seek redress?

The Government also wants to know whether residents need better access to independent advice and potentially advocacy to support them in making a complaint, asking:

9. How can we ensure that residents can access the right advice and support when making a complaint?

There are currently no statutory guidelines setting out a timeframe for landlords' in-house complaints processes; the Green Paper floats the option of asking the Social Housing Regulator to set out a timescale in a Code of Practice, and asks:

10. How can we best ensure that landlords' processes for dealing with complaints are fast and effective?

Since speed of response is particularly important in dealing with fire safety concerns, the Green Paper also asks:

11. How can we best ensure safety concerns are handled swiftly and effectively within the existing redress framework?

Chapter 3: Empowering tenants and strengthening the regulator

Chapter 3 begins from the premise that for residents to be empowered they need good information on how their landlord is performing compared to others. It includes proposals to require landlords to supply specified performance information to the Regulator, who would publish league tables annually comparing performance. The proposed performance indicators would cover:

- keeping properties in good repair
- maintaining the safety of buildings
- effective handling of complaints
- respectful and helpful engagement with residents
- responsible neighbourhood management, including tackling anti-social behaviour.

The Green Paper asks:

12. Do the proposed performance indicators cover the right areas? Are there any other areas that should be covered?

13. Should landlords report performance against these key performance indicators every year?

14. Should landlords report performance against these key performance indicators to the Regulator?

15. What more can be done to encourage landlords to be more transparent with their residents?

The Regulator already expects landlords to publish information about complaints handling (as part of the Tenant Involvement and Empowerment Standard), but approaches vary. The Green Paper asks for views on a standardised approach that would enable comparison of landlord performance, requiring publication of the number of complaints made and resolved at the successive stages of the complaints process, up to and including the Housing Ombudsman.

16. Do you think that there should be a better way of reporting the outcomes of landlords' complaints handling? How can this be made as clear and accessible as possible for residents?

The Government proposes that the Social Housing Regulator should prepare the proposed key performance indicators in consultation with social landlords and tenants, and publish them in the form of league tables, noting however that the Scottish Housing Regulator stops short of a comprehensive comparison of landlord performance. It asks:

17. Is the Regulator best placed to prepare key performance indicators in consultation with residents and landlords?

18. What would be the best approach to publishing key performance indicators that would allow residents to make the most effective comparison of performance?

Views are also invited on the feasibility of financial incentives to support better performance, in particular the suggestion that the Regulator should take into account a landlord's governance rating, which could reflect performance, as well as its viability rating, in considering bids for Affordable Housing Programme funding.

19. Should we introduce a new criterion to the Affordable Homes Programme that reflects residents' experience of their landlord? What other ways could be incentivise best practice and deter the worst, including for those providers who do not use Government funding to build?

The Government wants to ensure a more consistent picture across the country of genuine engagement with residents, and to this end asks for views on the effectiveness of current resident engagement and scrutiny arrangements, and the case for stronger representation for residents at a national level.

20. Are current resident engagement and scrutiny measures effective? What more can be done to make residents aware of existing ways to engage with landlords and influence how services are delivered?

21. Is there a need for a stronger representation of residents at a national level? If so, how should this best be achieved?

The Government also wants to offer residents more choice over their day-to-day services; this might include a new programme of stock transfers and review of the arrangements for setting up and disbanding Tenant Management Organisations. It could also include arrangements “to embed community leadership in the governance and culture of mainstream landlords”.

22. Would there be interest in a programme to promote the transfer of local authority housing, particularly to community-based housing associations? What would it need to make it work?

23. Could a programme of trailblazers help to develop and promote options for greater resident-leadership within the sector?

24. Are Tenant Management Organisations delivering positive outcomes for tenants and landlords? Are current arrangements for setting up and disbanding TMOs suitable? Do they achieve the right balance between residents’ control and local accountability?

25. Are there any other innovative ways of giving social housing residents more choice and control over the services they receive from landlords?

Local management arrangements have been used by residents to take control of small-scale services such as cleaning or gardening, including through the Community Cashback scheme which ran from 2013 to 2015. The Green Paper asks whether this approach should be encouraged or extended.

26. Do you think there are benefits to models that support residents to take on some of their own services? If so, what is needed to make this work?

Are there also ways to give residents more say in the choice of contractors that provide services such as repairs and improvements, perhaps by allowing residents to select from a list of approved contractors?

27. How can landlords ensure residents have more choice over contractor services, while retaining oversight over quality and value for money?

While the above issues apply generally to all residents, the Green Paper asks what measures might need to be taken to address concerns specific to leaseholders, who are normally a minority in the blocks they occupy.

28. What more could we do to help leaseholders of a social housing landlord?

The final section of the Chapter concerns potential revisions to the Regulator’s objectives and powers to enable it to carry out the extended role envisaged. At present, the Regulator’s powers in relation to the regulation and enforcement of consumer standards are relatively limited, compared those applying to the economic standards (which do not apply to local authorities) and intervention

will not be considered unless there is a risk of “serious detriment” to existing or potential tenants. In addition it asks whether existing arrangements for local authority oversight of Tenant Management Organisations and ALMOs are adequate. It asks:



29. Does the Regulator have the right objective on consumer regulation? Should any of the consumer standards change to ensure that landlords provide a better service for residents in line with the new key performance indicators proposed, and if so how?

30. Should the Regulator be given powers to produce other documents, such as a Code of Practice, to provide further clarity about what is expected from the consumer standards?

31. Is “serious detriment” the appropriate threshold for intervention by the Regulator for a breach of consumer standards? If not, what would be an appropriate threshold for intervention?

32. Should the Regulator adopt a more proactive approach to regulation of consumer standards? Should the Regulator use key performance indicators and phased interventions as a means to identify and tackle poor performance against these consumer standards? How should this be targeted?

33. Should the Regulator have greater ability to scrutinise the performance and arrangements of local authority landlords? If so, what measures would be appropriate?

34. Are the existing enforcement measures set out in Box 3 adequate? If not, what additional enforcement powers should be considered?

35. Is the current framework for local authorities to hold management organisations such as Tenant Management Organisations and Arms Length Management Organisations to account sufficiently robust? If not, what more is needed to provide effective oversight of these organisations?

36. What further steps, if any, should Government take to make the Regulator more accountable to Parliament?

Chapter 4: Tackling stigma and celebrating thriving communities

Stigma was the most consistent theme raised by residents at the engagement events. Research by Shelter shows that 90% of social housing residents say the media portrays a stereotype of them. The Green Paper argues that the measures proposed to increase social housing supply and rebalance the relationship between residents and landlords will, over time, contribute to changes in attitudes. In addition this chapter proposes a “best neighbourhood” competition to celebrate successful communities, steps to embed good customer service and neighbourhood management in all social landlords and to promote good design in the social sector. It asks:

37. How could we support or deliver a best neighbourhood competition?

38. In addition to sharing positive stories of social housing residents and their neighbourhoods, what more could be done to tackle stigma?

39. What is needed to further encourage the professionalisation of housing management to ensure all staff deliver a good quality of service?

40. What key performance indicator should be used to measure whether landlords are

providing good neighbourhood management?

41. What evidence is there of the impact of the important role that many landlords are playing beyond their key responsibilities? Should landlords report on the social value they deliver?

42. How are landlords working with local partners to tackle anti-social behaviour? What key performance indicator could be used to measure this work?

43. What other ways can planning guidance support good design in the social sector?

44. How can we encourage social housing residents to be involved in the planning and design of new developments?

Chapter 5: Expanding supply and supporting home ownership

The first part of Chapter 5 sets out how the Government intends to increase the supply of social housing. There are no proposals for new money beyond the additional £2 billion for the Affordable Homes Programme announced in the 2017 Budget, and the £1 billion in additional borrowing headroom that selected local authorities were invited to bid for in June. However, the Government has published, alongside the Green Paper, a separate consultation paper offering greater flexibility in the use of Right to Buy receipts to fund the provision of new homes. The Green Paper also includes a commitment that the Government will not bring the Higher Value Asset provisions of the Housing and Planning Act 2016 into effect, and seek to repeal them as soon as Parliamentary time allows.

Without quite saying so in terms, the Green Paper asks for evidence that the Government needs to do more:

45. Recognising the need for fiscal responsibility, this Green Paper seeks views on whether the Government's current arrangements strike the right balance between providing grant funding for housing associations and Housing Revenue Account borrowing for local authorities.

The next part of the Chapter sets out the Government's position on Local Housing Companies in similar terms to last year's White Paper. It states that, where local housing companies are used to provide affordable housing, they are expected to offer an opportunity for tenants to become homeowners; where Government consent is required for disposal of local authority homes to a company, this would be a requirement. It also states that local housing companies should consider transfer of newly built affordable homes to a social housing provider when they are complete.

Views are invited on how best to promote housing coops.

46. How can we boost community-led housing and overcome the barriers communities experience to developing new community-owned homes?

The Government is also interested in exploring the case for giving housing associations longer-term certainty over funding, building on the 8 5-year strategic partnerships announced in July.

47. What level of additional affordable housing, over existing investment plans, could be delivered by social housing providers if they were given longer-term certainty over funding?

Paragraph 186 of Chapter 5 confirms that the Government has decided not to implement the fixed-term tenancy provisions of the Housing and Planning Act “at this time”, leaving local authorities free to decide whether or not to use them. The difference in wording from the commitment in relation to the Higher Value Assets Levy suggests that these provisions may not be repealed.

Despite abandoning the Higher Value Assets Levy, the Government remains committed to a regional pilot of the voluntary Right to Buy for housing associations, which is Government-funded. The Green Paper is silent on whether and when full implementation for housing associations will go ahead and how it will be funded.

The final paragraphs of Chapter 5 invite suggestions for reform of shared ownership, particularly the arrangements for “staircasing” – buying an additional share. They identify three obstacles:

- the requirement to buy an additional share of at least 10%;
- the problems caused when house prices rise faster than incomes;
- the additional fees payable whenever shared owners “staircase”.

The Green Paper asks:

48. How can we best support providers to develop new shared ownership products that enable people to build up more equity in their homes?