



Local decisions: next steps towards a fairer future for social housing

Summary of responses to consultation



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for social housing

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Section 1: Introduction

- 1.1 In November 2010, the Government published *Local decisions: a fairer future for social housing*, setting out plans for radical reform of the social housing system.
- 1.2 The paper made clear the Government's intention to change the legislation governing the types of tenancies granted to social housing tenants; the way social housing is allocated; how local authorities discharge their main homelessness duty; as well as legislating to improve mobility for social tenants.
- 1.3 These changes are intended to provide greater freedoms and flexibilities for local authorities and social landlords to meet local needs and local priorities; make better use of resources; promote fairness; and ensure that support is focused on those who need it for as long as they need it.
- 1.4 The paper sought views on how landlords and tenants might expect these new flexibilities to be used in practice, as well as on the content of a direction on a new Tenancy Standard. The paper also sought views on the reforms needed to tackle overcrowding and whether changes were needed to the statutory 'reasonable preference' categories which determine who has priority for social housing.
- 1.5 The paper set these legislative reforms within the context of a wider package of measures to reform the social housing system which had previously been announced, namely:
 - Introduction of a new 'affordable rent' product for housing associations to offer to new tenants - from April 2011 - at a rent higher than social rent and up to a maximum of 80 per cent of local market rents.
 - Reform to the way social housing is regulated.
 - Reform of the council housing finance system.
 - Bringing empty homes back into use as affordable housing.

- 1.6 The principal elements of the package of reforms to tenure, allocations, homelessness and mobility, set out in the consultation paper, are as follows:

Tenure

- The creation of a new local authority flexible tenancy with a minimum fixed term of two years and with similar rights to secure tenants - in addition to, rather than replacing, secure and introductory tenancies.
- Protection for the rights of existing secure and assured tenants.
- Providing that all new secure and flexible tenancies include a right to one succession for spouses and partners; giving landlords the flexibility to grant whatever additional succession rights they choose.
- Placing a new duty on local authorities to publish a tenancy strategy.
- Giving the Secretary of State a power to direct on the content of a Tenancy Standard.

Allocating social housing

- Giving local authorities back the power to better manage their housing waiting list.
- Making 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.

Mobility

- Legislating to facilitate the introduction of a nationwide social home swap scheme to increase mobility for existing social tenants.

Homelessness

- Giving councils the power to bring their homelessness duty to an end with offers of suitable private sector accommodation without requiring the agreement of the person owed the duty.

- 1.7 The consultation process closed on 17 January 2011.

- 1.8 We are grateful to the many individuals and organisations who took the time to respond to the consultation paper. Social housing is clearly an issue of immense significance to many people across the country. We are pleased that so many local authorities and social landlords welcome the new flexibilities around tenure, allocations and homelessness, and expect to make use of them.

- 1.9 We have now considered all the responses received. This document summarises the responses to consultation (sections 2 to 7) and indicates the Government's intentions on the next steps in the reform of social housing, in particular in relation to tenure and mobility.
- 1.10 The reforms to the social housing system which were set out in *Local decisions: a fairer future for social housing* are being taken forward in the Localism Bill which is currently being considered by Parliament. We believe that the responses to consultation which are summarised in this report will be extremely helpful in informing that debate.
- 1.11 The Localism Bill will give the Secretary of State the power to issue a Direction to the Regulator of Social Housing on tenure and mobility. We are taking the opportunity presented by this report to set out our thinking on what we believe should be contained in both of these Directions. In both cases these have been informed by the responses to consultation.
- 1.12 Paragraphs 8.10 to 8.12 set out the policy aims we would expect to achieve through a Direction on tenure.
- 1.13 Paragraph 8.24 indicates the elements that we think should be comprised in a Direction on mobility, and includes an expectation on landlords to provide their tenants with access to comprehensive data-matching services.
- 1.14 It is our intention to publish later this year a full technical draft of the Directions on tenure and mobility which will be subject to a full consultation.
- 1.15 We believe that our reforms to tenure, allocations and homelessness will go a long way towards helping local authorities and landlords to tackle overcrowding. Many respondents highlighted the need to tackle under-occupation: in January we announced the allocation to local authorities of £13m to provide support to under-occupiers who wish to move. We will continue to work with local authorities, landlords and interested parties to develop our approach to tackling overcrowding.
- 1.16 In the light of responses to consultation, the Government has decided not to make any changes to the reasonable preference categories which determine who has priority for social housing. We recognise that this is something which we may need to review when the social housing reforms have had time to bed down.
- 1.17 Section 8 sets out in more detail how the changes to tenure, allocations and homelessness are being taken forward by the Department for

Communities and Local Government (the Department). It also includes details on how the Department plans to take forward a national home swap scheme.

- 1.18 The comments to this consultation have helped to inform the Department and the Homes and Communities Agency in their recent work to finalise the details of the affordable rent model, with assistance from partners across the housing sector. The *2011-15 Affordable Homes Programme Framework* was published on 14 February and is available at www.homesandcommunities.co.uk/affordable-homes
- 1.19 On bringing empty homes back into use, the Department is working on the detail of exactly how the £100m, specifically allocated for this purpose, might be used to achieve the greatest impact on problematic empty homes. An announcement will be made shortly. A separate announcement on the New Homes Bonus was made on 17 February (www.communities.gov.uk/housing/housingsupply/newhomesbonus). The New Homes Bonus will measure increases in effective stock - new homes and empty properties brought back into use. This means that an authority will receive the same bonus for bringing an empty home back into use as for the building of a new home. This will provide local authorities with a powerful incentive to tackle empty homes as part of their overall approach to meeting housing need. Finally, the Department is currently working with the Homes and Community Agency on the production of an empty homes toolkit and good practice guide which will be issued later in the year.
- 1.20 The Department published its review of social housing regulation in October last year following engagement with a range of key partners www.communities.gov.uk/publications/housing/socialhousingregulation. The review contains full details of the Government's proposals. This review was driven by the Government's commitment to reduce the number of quangos, eliminate unnecessary bureaucracy and regulation and give power back to local communities. The review recommended that consumer regulation should be refocused on setting binding standards and addressing serious failures. Economic regulation of the housing association sector remains a vital function and this will be retained, with a stronger focus on value for money.
- 1.21 The full details of our proposals for the reform of council housing finance, including responses to the issues raised in this consultation, were set out in *Implementing Self-Financing* which was published on 1 February 2011 www.communities.gov.uk/publications/housing/implementingselffinancing.

Reform will be implemented through the Localism Bill, which will abolish the Housing Revenue Account Subsidy System and replace it with a

devolved system of self-financing. Under self-financing, after an initial adjustment of housing debt, councils will keep all rental income from their tenants. Subject to the passage of the Localism Bill, reform will be implemented from April 2012.

- 1.22 Copies of this document are available on the Department's website at:
<http://www.communities.gov.uk/consultations>
- 1.23 Enquiries about the document should be addressed to:
housingreform@communities.gsi.gov.uk

Section 2: Overview of responses

- 2.1 Six hundred and ninety-seven responses were received, the majority of which were from social landlords: local authorities, housing associations, and arms length management organisations. Responses were also received from tenant and landlord organisations, housing and legal professionals, trade unions and individuals. The table below sets out the full breakdown of the origin of responses:

Type of respondent	Number of responses
Local authorities and arms-length management organisations	230 (215 – local authorities; 15 arms-length management organisations)
Individual tenants/members of the public	156
Housing associations and other social housing providers	141
Tenants and residents groups	53
Other organisations	32
Voluntary and community organisations	22
Councillors	18
Housing partnerships	16
Legal bodies	15
Trade unions	6
Campaign groups	5
Members of Parliament	3
	697

- 2.2 It should be noted that some respondents did not reply to all questions posed. Consequently, we have tried to breakdown responses to each question and indicate the overall level of support, but there have been elements of subjective analysis in doing so.

Tenure

- 2.3 Six hundred and fifty-seven respondents addressed the questions relating to tenure reform. Not all of them answered every question and in a number of cases responses did not fit neatly to particular questions and required some interpretation. Respondents expressed a wide range of views, from strong opposition to enthusiastic support for the proposals. The majority of responses came from local authorities and other social landlords but other organisations, particularly voluntary and community organisations and tenant and resident groups, as well as individuals also commented.

Allocating social housing

- 2.4 Four hundred and eighty-five respondents commented on some or all of the proposals on flexibilities around waiting lists and allocations. Around two-thirds of local authorities who commented welcomed the flexibility to put in place restrictions on their waiting list. Many indicated that they would consider introducing some form of qualification criteria, primarily to focus on those in housing need, but also linked to residency, financial circumstances, tenancy history or supporting those in low paid employment locally.
- 2.5 The vast majority of respondents supported the retention of the current reasonable preference categories unchanged. There were mixed views on the proposal to remove transferring tenants not in need from the statutory allocation framework. Views on the benefits of this proposal were to a great extent dependent on how transfers were supported under existing local frameworks.

Mobility

- 2.6 Over 350 respondents commented on the proposal to implement a national home swap scheme. The majority of these were from landlords, some of whom, having consulted tenant panels, responded on behalf of their tenants as well. Most local authority respondents already subscribed to a mutual exchange service on behalf of their tenants and could see no good reason why others should not. In terms of additional support for tenants to effect an exchange, the majority of responses indicated that tenants would like additional support either to access web-based services or to receive information in other formats such as paper copies, a telephone helpline or face to face contact in the local housing office.

Homelessness

- 2.7 Three hundred and ninety-nine respondents commented on the proposed changes to the homelessness legislation. Three-quarters of local authorities who commented welcomed the proposed new flexibility that would allow them to fully discharge the main homelessness duty with offers of accommodation in the private rented sector without the agreement of the person owed the duty, and believed they would use it. The voluntary and community sector felt however that the use of this new flexibility would not always be appropriate. A number of respondents were concerned that the standard of private rented accommodation may not be adequate and made suggestions on how to improve it.

Overcrowding

- 2.8 Four hundred and six respondents commented on overcrowding. Those who commented on the impacts of overcrowding agreed, in the main, that it was detrimental to the health and well-being of those who experienced it.
- 2.9 A significant number of respondents considered that overcrowding was primarily a result of a lack of supply of large family homes, and that attention should therefore be focused on making better use of existing stock through tackling under-occupation, and on increasing the supply of larger homes.
- 2.10 It is clear from the responses to the consultation that many authorities and providers believed that tackling overcrowding is a complex issue and that careful consideration needs to be given to the best mechanisms to address it.

Affordable rent

- 2.11 While we did not specifically ask for comments on the new delivery model for affordable housing a number of responses did raise issues in relation to the proposed new system. These included views on setting the affordable rent, allocating homes, the relationship with welfare reform and the need for local authorities to work with housing association partners when developing the tenancy strategy for their area.

Empty homes

- 2.12 The majority of respondents who commented on empty homes welcomed the measures put forward. Inclusion of long-term empty homes within the New Homes Bonus was viewed positively although data issues were raised as a concern.

- 2.13 The announcement of the £100m capital specifically for empty homes was also welcomed. Several respondents said that, in developing this proposal, funding should be made available, not just to housing associations, but to other organisations with experience in the field. Others argued that the funding was insufficient, and that the issue of empty homes in the social sector also needed to be addressed.

Social housing regulation

- 2.14 Although the consultation questions did not refer directly to the Government's proposed reforms to social housing regulation, a number of respondents chose to comment on this. The issues raised included views on the degree of tenant protection and landlord accountability provided by the reforms, the impact of merging social housing regulation and investment functions in the same body and how best to address coasting by landlords. There were also several comments about the enhanced role given to tenant panels and local representatives envisaged in the Government's reforms.

Council housing finance

- 2.15 Fifteen respondents commented on our proposals for reform of council housing finance. Several of these welcomed the reforms while none was opposed to them. Of the specific issues covered in the responses, the most common were concerns about the amount of housing debt that would be left with local authorities after reform. The treatment of receipts from right to buy sales was also raised in a couple of responses.
- 2.16 Sections 3 to 7 of this report provide a detailed summary of the responses to each of the questions raised in the consultation paper.

Section 3: Tenure

- 3.1 Six hundred and fifty-seven respondents addressed the questions relating to tenure reform. Not all of them answered every question. The majority of responses came from local authorities and other social landlords, but other organisations – particularly voluntary and community organisations, tenant and resident groups and housing partnerships – as well as individuals also commented.

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?

- 3.2 Around two-thirds of landlords said that they expected to take advantage of the new flexibilities, with about a further fifth saying they were undecided. The main reason given by those who said that they would not use the new freedoms was that they would either make no difference or would impact negatively on the community.
- 3.3 Enabling better use of stock was the main reason given for using fixed term tenancies, with reducing under-occupation and increasing mobility common ambitions.
- 3.4 Of those landlords who said they would use the new freedoms, the extent to which they suggested they would be used ranged from the very limited - with some areas indicating that they would pilot any changes before considering wider implementation - through to giving fixed terms to all new tenants. Some landlords suggested that they would be more likely to target high demand properties, such as larger homes, to ensure their optimal use.
- 3.5 The main outcome respondents said they would be seeking was creating and sustaining mixed and cohesive communities. A commonly held view among landlords was that they would only use the new flexibilities to the extent that it helped them achieve this aim.

“Clearly the council is restricted in the type of tenancy it grants and would welcome the opportunity to have greater flexibility over tenancy type. A balance needs to be struck between this flexibility and the need to create strong and balanced communities. We are concerned to get this balance exactly right.” (Local authority)

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

- 3.6 A number of housing association respondents suggested an introductory date of April 2011, indicating a degree of confusion as to whether this question also covered affordable rent proposals. Others who specified a date for introducing changes often cited 2012.
- 3.7 Many local authority respondents similarly proposed an introduction date for fixed term tenancies of April 2012. Of those who did suggest a date, virtually all indicated that changes would be introduced within two years of the relevant legislation coming into force.

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?

- 3.8 The overwhelming majority of local authorities said that they would consult widely before publishing their tenancy strategy, with many also stressing the need to conduct an analysis of the local housing market and carry out an impact assessment.
- 3.9 Some respondents underlined the need to adopt a sub-regional approach, to ensure that policies among neighbouring authorities and landlords, who were for example part of a single sub-regional choice based lettings scheme, were consistent.
- 3.10 Many local authorities indicated that they would build on existing work and develop their tenancy strategy in the same way as they had developed their existing housing-related strategies.
- 3.11 Most local authorities did not give an initial estimate of cost. Those who did gave figures ranging from the very minimal to, in a couple of cases, more than £100,000. The median average was around £10,000.

“Given that this is essentially a consideration of the optimal use of housing resources (social and private) to meet a range of diverse housing needs, [we] would see this as an extension of development and annual review of the local authority’s scheme of allocation and its housing market and needs assessment. This approach would ensure that additional costs are kept to a minimum and that existing evidence and consultative arrangements are utilised and adapted where necessary to present a policy on tenancies and that existing review arrangements are also utilised.” (Local authority)

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

- 3.12 All categories of respondent indicated that there should be wide consultation. Housing associations and tenants/tenant groups were invariably included, while much reference was made to neighbouring local authorities, social services, Citizens Advice Bureaux, other local community and voluntary groups and other public bodies.

“Local authorities should be required to consult all relevant stakeholders and partner agencies, but the major influence on policy should be exerted by the representative neighbourhood-based residents groups, representing the people and communities who will have to live daily with the outcomes of those decisions once implemented.” (Tenant association)

- 3.13 As the proposed changes will not affect the rights of existing tenants, many respondents highlighted the need to consult those on the waiting list as the impact on them could be greatest.

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

- 3.14 The vast majority of respondents agreed that the Tenancy Standard should focus on key principles. Those who disagreed felt either that more prescription was needed to safeguard tenants or that there should be no centrally-set standard at all.
- 3.15 The principles highlighted most often were: fairness; transparency/clarity; protection; flexibility; security; and, consistency.

“A national tenancy standard will provide both a safeguard and a framework in which locally determined priorities can be addressed. It is important therefore that the standards should contain the key principles and allow each to determine the detail within that framework.” (Local authority)

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?

- 3.16 The majority of respondents did not believe that the new proposals would restrict their existing flexibilities, with many arguing that they would enhance them.
- 3.17 Many of those who disagreed appear to have done so in the belief that landlords would be required to start using fixed term tenancies, thereby removing their ability to offer lifetime tenancies, or that starter/introductory tenancies would be abolished.
- 3.18 Some housing associations were keen to establish the role that the new tenancy strategy would play and expressed concern that local authorities would look to assert more control over their policies.

“We are concerned that local authority tenancy strategies may fetter our independence and ability to plan our business strategy and capacity.”
(Housing association)

“We would expect our policies to mirror the local authority’s strategy in general terms but there needs to be flexibility for us and other registered providers to apply that strategy so as to meet circumstances at the very local level, reflecting the local market demand, the constraints of the stock available and the need to support neighbourhood sustainability.” (Housing association)

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

- 3.19 Two-thirds of respondents to this question believed that the Government should not seek to prescribe more closely the content of landlords’ tenancy policies. Many argued that to do so would go against its localist agenda and that landlords were best placed to make decisions, in consultation with their tenants, in the best interests of the local community.

“The more prescriptive Government is, the less likely local authorities will be able to respond to local need.” (Local authority)

- 3.20. Most of those who did suggest further prescription did so only in relation to specific areas, rather than advocating greater prescription across the board. Greater safeguards for vulnerable groups were supported by some (though some respondents questioned how successfully we could define centrally the most vulnerable), while others sought more certainty around the reissue of tenancies.

“We suggest that the Direction directs that any revised Tenancy Standard requires registered providers to protect vulnerable ‘consumers’ through ensuring that such flexibility as is available in the choice of rent model, type of tenancy and the terms of any tenancy is consistent with the needs of persons who are vulnerable by reason of age, illness, disability, domestic violence, etc.” (Legal organisation)

- 3.21 The majority of those who wanted closer prescription were local authorities arguing that housing associations should be made to adhere to their tenancy strategies.

“So long as there are measures in place to ensure that landlords introduce policies in accordance with the local authority’s strategic tenancy policy then there should be no need for further prescription.” (Local authority)

“Only [prescribe] so far as ensuring that landlords’ policies are in line with those outlined with the local authority’s strategic tenancy policy.” (Local authority)

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

- 3.22 Although aimed at tenants, this question was also answered by many landlords. The clear answer from all respondents to this question was that tenants should be consulted throughout the process of developing a tenancy policy.
- 3.23 Many landlords said that they would make use of existing and well-established mechanisms to consult with tenants. The importance of ensuring that consultation extended to individual tenants as well as tenant representative groups was emphasised.

“[We would like to see] sufficient time to discuss and consult on policy which would directly impact on tenants, staff being available to respond to questions, workshops/focus groups to fully understand proposals and debate with other tenants. It is fundamental that tenants must be involved in the drawing up of policies.” (Tenant and resident association)

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?

- 3.24 A large majority of respondents expressed the view that two years would rarely or never be enough for a general needs social tenancy. There was a strong and widely shared sense that two years would represent an inadequate period of stability both for individuals or the community and would create unacceptable administration and void costs for landlords.
- 3.25 Many respondents however felt that whilst they did not envisage two year general needs tenancies being used in their area, it was right that discretion was available locally. Some respondents expressed the view that two year tenancies might be appropriate in particular circumstances, for example for young people to help them enter employment.

“We would wish to have the flexibility to define these matters locally in consultation with stakeholders.” (Local authority)

- 3.26 Amongst those respondents who suggested a longer minimum term (including some who did so whilst emphasising their opposition to fixed term tenancies in principle), there was a significant degree of consensus that five years would be appropriate. Five years was seen as providing a reasonable minimum period to allow tenants to get back on their feet, establish some stability and positively contribute to the community.

“New tenants have usually moved into a Council property following years of instability with regard to their housing situation or as a result of a traumatic financial experience. A two year fixed term would be scarcely better than the situation they are leaving behind. We think a five year fixed term would give the tenant a respite period. It would offer them a chance to concentrate on work and family.” (Tenant and resident group)

- 3.27 Few respondents showed any appetite for drawing a distinction between tenancies on social and affordable rents. Where a reason was given the majority said that they didn't think it was necessary or it would be unfair. Where those who favoured a distinction gave a reason, it was often to allow greater flexibility for landlords.
- 3.28 Over two-thirds of respondents who answered the question on whether the minimum fixed term should include any probationary period said that it should. Out of the respondents who answered that it should not, a proportion either stated that they would like it in addition to the minimum term or that they would like the option to decide for themselves.

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?

- 3.29 A majority of respondents were in favour of a longer minimum term being required for some groups. Those in favour were broadly in agreement that a longer minimum term should apply to more vulnerable tenants, for example those in sheltered accommodation or those fleeing domestic violence or other serious crime, but respondents also put forward a range of specific suggestions including those who had specific jobs that were integral to the local community or those caring for somebody in the local area.
- 3.30 Families with children in full time education were also regularly mentioned with some respondents suggesting that it would be appropriate to prescribe that tenancies should run to the date the youngest child left school.

"It was strongly felt that households with dependent children should be offered longer term tenancies, as a family being forced to move home in two years could have a detrimental effect on the children if they are required to change schools." (Local authority)

- 3.31 Those against the prescription of tenancies with a longer minimum term for some groups felt this should be a matter for local discretion. Setting different minimum terms for different groups centrally would increase complexity and could result in some arbitrary distinctions that did not

reflect the relative needs of individual tenants or the needs of the community.

“We would not support the creation of categories of individuals and families who would have an entitlement to a longer fixed term tenancy than the minimum – not least because that implies creating a category or categories of those who would not be so entitled and would thus be further disadvantaged.”
(Church organisation)

- 3.32 The majority of those who responded thought there should be no distinction between tenancies on social and affordable rents in respect of longer minimum terms, though a few respondents favoured this and gave increased flexibility as a reason.

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?

- 3.33 There was general agreement amongst respondents about the importance of ensuring that the elderly and those with a long term illness or disability were properly protected.

“Older people will be unlikely to change their circumstances enough to no longer require rented housing. As a general principle it would seem right to give those with long term illness or disability a social home for life especially where adaptations are needed.” (Housing association)

- 3.34 Opinion however was more divided on whether this should be in the form of a lifetime guarantee of social housing for those groups prescribed centrally or whether it should be left to local discretion.
- 3.35 A number of respondents were concerned that guaranteeing a social home for life to particular groups raised problems around definition and could provide a poor proxy for need and reduce the scope to look at individual circumstances. Some felt that vulnerable people who fell outside centrally defined categories could lose out in consequence.

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

- 3.36 The majority of respondents didn't think it was necessary to specify other types of households to whom landlords would be required to guarantee a lifetime tenancy. Many respondents thought this would restrict landlords' flexibility and cause unnecessary complication.
- 3.37 Respondents who felt that other types of household should receive a central guarantee of a social home for life provided a wide range of suggestions, including, all vulnerable groups (as their needs were likely to be greater), those leaving the armed forces, victims of serious crime and abuse, and tenants choosing to downsize.

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?

- 3.38 An overwhelming majority of respondents agreed that landlords should be required to offer existing secure and assured tenants who moved to another social rent property a further secure or assured tenancy. This was seen as essential to encourage mobility. Respondents were concerned that their efforts to combat under-occupancy could be hampered if tenants were not guaranteed an equivalent tenancy on moving to another landlord.

"If the proposal's aim is to encourage mobility or incentivise tenants to move to appropriate accommodation or improve their life situation it is necessary to protect the tenant's existing security and financial situation." (Housing association)

- 3.39 Many respondents also commented that not guaranteeing existing assured and secure tenants another secure or assured tenancy if they moved could be seen as not protecting existing tenants' security and rights.
- 3.40 Of the respondents who disagreed that landlords should be required to provide another secure or assured tenancy, a number commented that they would normally issue an equivalent tenancy but that this should be a

local decision and based on the tenant's needs and the best use of local stock.

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?

- 3.41 Over two-thirds of respondents agreed that landlords should have the freedom to decide whether new secure or assured tenants should continue to receive another secure or assured tenancy when they moved.
- 3.42 Those in agreement felt that this should be a local decision taking account of the need to ensure the best use of stock and tenants' individual needs and aspirations. Some respondents noted that tenants would still be able to make an informed decision on moving based on the tenancy terms on offer.
- 3.43 Those who disagreed focused on the potential disincentive for tenants to move if they were not guaranteed an equivalent tenancy and perceptions of unfairness if landlords' policies were not uniform.

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?

- 3.44 Almost all those who answered this question agreed that advice and assistance should be provided to tenants prior to the expiry of the fixed term of the tenancy. Many commented that this would be an important safeguard to ensure tenants did not become homeless and prevent disruption to families.

"It will be crucial, in order to minimise the need to go through the eviction process, that the Tenancy Standard requires landlords to provide a very comprehensive advice and assistance service, which offers the tenant options of suitable alternative accommodation and support with the costs and disruption of moving." (Voluntary and community organisation)

- 3.45 A number of respondents were concerned with staff resource and cost implications; others about the quality and level of advice and assistance that would be provided. Some local authority respondents felt that in practice responsibilities would devolve to them; other respondents felt that

landlords should be required to pay for the provision of independent advice.

- 3.46 Some landlords indicated that they favoured buying in good quality advice and assistance and some local authority respondents expressed interest in providing this as an extension of existing housing option services. Other landlords felt that they were the best placed to offer advice and assistance, as they were already well informed about tenants' circumstances and aspirations.

Question 16: As a landlord, what are the factors which you would take into account in deciding whether to renew a tenancy at the end of the fixed term? How often would you expect a tenancy to be renewed?

- 3.47 Respondents' answers to this question focused on similar factors around household circumstances and needs, making good use of the stock, conduct of the tenancy, creating positive work incentives and maintaining stable communities.

"As a landlord and strategic housing authority we consider the conduct of their tenancy but more importantly their continued housing need for the accommodation provided should be the key criterion." (Local authority)

- 3.48 The vulnerability, the ongoing need of the household for social housing and their ability to access suitable alternative accommodation were seen as key factors. Many respondents emphasised the need to ensure that children would not need to move school and the importance of stability where there was a reliance on specific local services.

"The Council would expect to take great care to establish a fair and transparent process that minimised risk of social division and ensured those with limited ability to explain their case for renewal (whether through language or capability) were supported." (Local authority)

- 3.49 The suitability of current accommodation was also seen as a key factor, with under-occupancy or overcrowding likely to be an important consideration for landlords in deciding whether to renew a tenancy on the same property rather than grant one in another social home. The level of demand locally for a particular type of property could also be a factor.

- 3.50 Respondents noted the importance of creating and maintaining strong local communities and mentioned local responsibilities, for example voluntary work or caring for a local resident, as factors they might take into consideration. The conduct of the tenancy, including payment of rent and anti-social behaviour, might equally be considered.
- 3.51 A significant number of respondents indicated that they would take households' financial circumstances into consideration, but there was also a strong recognition of the need to avoid creating perverse incentives. A number of respondents indicated that factors they would consider when deciding whether to renew a tenancy would include efforts to access and stay in work or training, particularly if tenants worked in the local area or provided a valuable service for the community.

Section 4: Allocating social housing

- 4.1 Four hundred and eighty-five respondents commented on the questions on the allocation legislation. Not all of them answered every one of the six questions. The majority of responses came from local authorities and housing associations but other organisations – particularly tenant groups, the voluntary and community sector and legal bodies – as well as individuals also commented.

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?

- 4.2 There were 357 responses to this question, mainly from local authorities, although some housing associations, tenant, legal, voluntary and community organisations and campaign groups, as well as individuals, also commented on the principle of the changes.
- 4.3 Around two-thirds of local authorities welcomed the proposed flexibility, or indicated that they would consider setting restrictive qualification criteria. The remainder of local authorities supported the retention of an open waiting list. The majority of voluntary and community organisations and campaign groups also supported open lists. Opinions were roughly divided among the other groups who responded.
- 4.4 Around three-quarters of local authorities who were considering a restricted list indicated that, subject to their own local consultation, they would place a strong focus on those in housing need. Most indicated that this would be linked to some form of local residency criteria. Other qualification criteria that many local authorities said they would consider were: financial circumstances; tenancy history; and supporting those in low paid employment locally.
- 4.5 Some respondents expressed concern that closed lists might lead to “cherry picking” of applicants, and that marginalised groups would be excluded. Others felt that the risk of residualisation would increase in some areas.
- 4.6 Where a local residency connection was being considered, some authorities mentioned that exceptions might be made to help maintain sustainable communities and to meet specific local priorities.

“We will take the opportunity to give more weighting to local people and to only accept other applicants if they are moving to the area for work and/or to give or receive support from relatives.” (Local authority)

- 4.7 In considering financial circumstances, authorities were mindful of the need to take account of the affordability of accommodation locally, whether in the private rented sector or owner-occupation, and some felt that applicants should not automatically be ruled out of joining waiting lists on the basis of their financial resources.
- 4.8 Authorities considering closed waiting lists felt that it would bring a much stronger focus on housing need which in turn would mean that waiting lists would become a more reliable indicator of housing need. Other authorities, though, believed that open waiting lists were useful in gauging the level of demand (not just need) locally, and that this assisted housing providers with their planning and marketing strategies, either for social renting or low cost home ownership schemes.
- 4.9 Many also felt that closed lists would adversely impact on authorities’ objectives to maintain mixed, sustainable communities; although others felt that closed lists could be used to support such measures, for instance by giving some priority to economically active households or those who could demonstrate a positive contribution to their community.
- 4.10 A substantial number of authorities commented on the benefits of closed waiting lists in terms of giving applicants a more realistic picture of their chances of accessing social housing and identifying those whose needs could be met in the private rented sector. However, a roughly equal number felt that the same objective could be achieved with an open list through the adoption of choice based lettings. The latter group believed that choice based lettings had the effect of filtering out people who had a low need for social housing and also delivered a realistic idea of people’s housing options, with associated support and advice to hand.
- 4.11 Many who commented thought that running an open list - in parallel with choice based lettings - provided an opportunity to market low cost home ownership schemes or to support people into the private rented sector. If the waiting list was restricted to those in reasonable preference categories then it was felt that the effectiveness of such an approach would be diminished.
- 4.12 Some local authorities and housing associations were also concerned that, if one or two local authorities in a region or sub-region chose to restrict their waiting lists, this would have the effect of swelling the waiting

lists of neighbouring authorities with open lists. They felt that closed lists might undermine partnership working.

- 4.13 A number of authorities and associations also commented that restricting waiting lists to those in housing need might, in some areas, cause problems for allocating hard to let properties, as these often went to applicants in less pressing housing need.
- 4.14 A few respondents commented that those who were disqualified should be notified in writing and/or that this should be accompanied by a right of review.
- 4.15 Transparency and fairness, and close consultation with tenants, residents and stakeholder groups, were seen as crucial to inform any change of approach. Several local authorities and legal groups commented that it would be important to conduct an equality impact assessment locally.

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

- 4.16 Two hundred and seventy-two responses were received on this question. The majority were from local authorities and housing associations, but several tenant groups, legal practitioners and local councillors also commented.
- 4.17 Among local authorities, opinion was roughly split between those who considered that there would be some administrative savings in moving to a closed waiting list, and those who thought costs might be neutral or could increase.
- 4.18 It was thought that the main savings would come from a reduction in the number of applications which would need processing, and a reduction in the size of the waiting list which in turn would save in staff time needed to review and manage the list.
- 4.19 Several local authorities who had already moved towards focusing their waiting list solely on those in housing need highlighted some of the benefits:

“Benefits are a better service to those with housing problems who are given realistic and honest advice about their housing options and an ability to help those most in need far quicker. We have found that end-to-end waiting times have reduced dramatically from an approximate average of 800 days to 70. The number helped has doubled from approximately 500 to approaching 1000 a year. The number going on the list has dropped by 90 per cent and savings have been in the order of 15 per cent so far. Savings have already been made from the fact that we no longer use application forms. Further reductions can be made from stopping the advertising and bidding process which in the newly designed service may have no purpose.” (Local authority)

- 4.20 In areas where a housing options service wasn't particularly well established, it was thought that savings in staff time from reduced application and waiting list management would need to be redeployed to provide an enhanced housing advice service. Around a quarter of local authority respondents also expressed concerns that any savings in this area might be offset by an increase in challenges and reviews of decisions about qualification for the waiting list.
- 4.21 In addition, a number of local authorities and housing associations who commented felt that, where the list was restricted to those in need, there could be increased costs arising from the need to devote more resources to allocating hard to let properties.
- 4.22 Many local authorities in areas where choice based lettings was established felt that administrative costs might increase, as applicants would need to be considered against qualification criteria at the application stage, which would involve an additional layer of processing and scrutiny.

“The introduction of a choice based letting scheme has reduced the workload regarding allocating properties and provides greater quality of information regarding housing need. Therefore, restricting the housing register does not necessarily link to reduced administration costs for the local authority and may possibly add additional costs around gathering housing needs information. The balance between placing restrictions on the waiting list, providing advice which serves the best interests of people applying for social housing and also having a sound evidence base of housing need in the area needs further exploration.” (Local authority)

- 4.23 A few respondents suggested that a closed list might be more beneficial in London and the South East, where demand is highest. In areas of lower demand, it was thought that it might add to the practical difficulties of letting properties in particular areas or certain property types.

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

- 4.24 There were 223 responses to this question, from tenant and resident groups and individual tenants as well as from local authorities and housing associations, who acknowledged the importance of consulting with tenants through a variety of means. Some local authorities and housing associations incorporated the views of tenant forums into their response.
- 4.25 All tenant groups and individuals who responded had clear expectations of being closely involved in developing any new policy, whether individually or through tenant and resident panels. Many welcomed the opportunity to give some additional weight to applicants with a local connection. Some were mindful of the need to exercise caution in adopting restrictions which might exclude vulnerable groups.
- 4.26 Local authorities and housing associations who commented were aware of the need to consult closely on any changes with tenants, residents and potential applicants (as well as other stakeholders). Specific areas for consultation would be the extent of any residency or local connection criteria and the scope of checks on financial circumstances, as well as procedures for reviewing decisions.
- 4.27 Tenant groups also indicated that their continuing input was essential, once a new approach had been established:

"[Tenants should be involved] in the consultation process and in monitoring and feedback" (Tenant federation)

- 4.28 Local authorities and representative groups were also aware that some groups were more effective at lobbying than others, and that a thorough appraisal of local needs and circumstances, with input from local scrutiny panels and local councillors, would be required.
- 4.29 Some representative groups and tenants noted the need for strong accountability on the part of local authorities, to accompany the greater flexibilities open to them. Some also pointed out that local authorities would need to be mindful of their equality duties and diversity objectives in setting qualification criteria, and that they should take care that consultation includes representatives of equality and specific interest groups.

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?

- 4.30 Three hundred and sixty-nine respondents commented on retaining and clarifying the current reasonable preference categories. Respondents were predominantly local authorities and housing associations, with legal, voluntary and community organisations, campaign and tenant groups and individuals also expressing views.
- 4.31 The vast majority were in favour of the retention of the existing reasonable preference categories, as these were seen to capture those in greatest housing need, protect the most vulnerable, and supported local authorities in undertaking their statutory duties.

“The current reasonable preference categories are tried and tested and fit for purpose.” (Housing association)

- 4.32 A small number of respondents, including several local authorities and housing associations, thought that the reasonable preference categories should be replaced with a set of general principles or left to local decision. Some commented that local connection and time spent on the waiting list should be given greater emphasis alongside reasonable preference, while others took the opposite view.
- 4.33 A few individual respondents considered that teenage parents should not be given priority. One local authority expressed some concern that adult children living with their parents in adequately-sized accommodation are not deemed to be in a reasonable preference category, even though they do not have a home of their own.
- 4.34 Over a third of the 82 respondents who suggested that some degree of clarification was necessary to the reasonable preference categories, commented that one or both of the homelessness categories could be restricted or amended in some way. These were mostly local authorities, voluntary and community organisations, tenant groups and a few housing associations. Conversely, a small number of local authorities and voluntary and community groups commented that the homelessness categories should be preserved. Several noted that the changes to allow local authorities to discharge the main homelessness duty in the private rented sector, without the agreement of the person owed the duty, could have a considerable impact. Some tenant groups felt that any priority for homeless households should be restricted to local residents, not those

coming from outside the area. Some concerns were also expressed about including those who are intentionally homeless, particularly among tenant groups, although local authorities who commented felt that there was adequate scope to prioritise appropriately.

- 4.35 There were a number of other areas where it was thought that some clarification of particular terms would be helpful:

Overcrowding, unsatisfactory and insanitary conditions

- A number of local authorities and housing associations considered that some clarification and updating of these categories was necessary; for example it was felt that ‘overcrowding’ should reflect the Housing Health and Safety Rating System.

Hardship grounds

- A few considered that the definition of ‘hardship’ (or ‘welfare’) needed to be clarified to explicitly include those who are unable to afford other tenure types as a result of unemployment or low income. Others commented that it could be adjusted to reflect prevailing socio-economic circumstances, although it was recognised that this might be more a matter for local authorities to take into account when exercising their flexibility to address local priorities.

A few also commented that the hardship category should be supplemented by “or danger” to make more explicit the needs of those escaping domestic violence; or needed to be widened to include the need to *remain* in an area to avoid hardship.

Medical and welfare grounds

- Some representative groups urged that the needs of those with learning disabilities should be given priority on a par with physical disabilities. [In fact, the legislation does not distinguish between the types of disabilities.]

- 4.36 A few respondents asked for the Government to provide guidance on the proportions of allocations which should be given to those who have reasonable preference, and on prioritising between those with reasonable preference, suggesting that the guidance should advise that those with ‘cumulative’ need be given greater priority.

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?

- 4.37 Three hundred and thirty-two responses were received on this question. These were mainly from local authorities and housing associations, with legal practitioners, tenant groups and campaign groups also expressing views.
- 4.38 The vast majority of local authorities who commented thought that there was no need to expand the existing reasonable preference categories, as authorities already had flexibility to address specific local priorities and needs. Some commented that any centrally-imposed expansion would be inconsistent with the localism agenda.

“... our current allocations policy is sufficiently flexible to respond to any other situations that arise.” (Local authority)

“... expanding categories would appear to run counter to the notion of localism and developing local solutions relating to local circumstances.” (Housing association)

- 4.39 Where additional categories were suggested, under-occupation was the most frequently mentioned, although many authorities commented that their allocation scheme already specifically addressed this issue.
- 4.40 After that, the most popular suggestions were a work-related category - with the aim of helping those in low income employment - and 'affordability' - for households struggling to rent privately - although it was suggested that the existing welfare category might cover such cases.
- 4.41 Individuals, legal and voluntary and community groups put forward the following as possible additional categories: street homelessness; those leaving supported accommodation; a 16 or 17 year old with a housing need within the meaning of sections 17 and 20 of the Children Act 1989; ex-offenders; key workers; ex-Service personnel; carers; older people; and people who contribute to the social capital of an area.

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?

- 4.42 There were 336 responses on this question, mainly from local authorities and housing associations.

- 4.43 There were mixed opinions about this proposal. Some thought that it could bring benefits in terms of making better use of stock and increasing tenant satisfaction; some that it would bring no added value; while others thought it would make systems more complicated and less transparent.
- 4.44 Some local authorities, tenant groups and many housing associations welcomed the change which they saw as helping deal with a range of situations commonly raised by tenants – but not accorded priority under the law – such as wanting to move closer to family and friends; to take up employment opportunities; or to resolve neighbourhood disputes arising from different lifestyles. Many thought that it would assist in facilitating chain lettings to tackle under-occupation and free up family-sized homes to ease overcrowding; others, that it would bring about a better fit between tenants and the properties they live in (e.g. helping disabled tenants into accessible properties, families into homes with gardens). One respondent thought that it might help reduce anti-social behaviour. Some also thought it might help reduce management costs and voids.

“This will be a welcome improvement. At present there are only extremely limited opportunities for transfer applicants, eg. for people seeking a move for reasons of disability. The proposal will help us retain customers who might otherwise move out of our stock and will also help us match tenants’ needs more effectively with the stock available. It will help us resolve some neighbourhood issues which may arise from a clash of lifestyles. ... Complex chain moves demand a lot of staff time and we may incur extra void property costs.” (Housing association)

- 4.45 Many local authorities and some housing associations who responded felt that the changes would make little difference in practice. For some this was because they considered that their existing allocation system supported transfers appropriately, complemented by local lettings policies as necessary. For others it was because they felt the opportunities for increasing the number of transfers were minimal (e.g. tenants often wanted to move into houses which were in short supply). It was felt that the proposed national home swap scheme would further assist existing tenants to move, and so measures to remove tenants from the allocation rules were considered by some to provide no added value.
- 4.46 However, others expressed concerns about the changes, often centring around fears that waiting list applicants in housing need would have to wait longer or would only have access to the less desirable properties; and that the existing tenants of smaller landlords would have less opportunities to move than the tenants of larger ones. A particular concern was expressed in relation to local authorities that had transferred their stock, if housing associations gave priority to their own tenants. The potential increase in voids and associated costs, as well as a possible increase in

'churn', were other worries. Not all agreed with the suggestion in the consultation paper that including transferring tenants within the allocation legislation had led to their receiving fewer offers – rather it was felt that this was because of the increase in demand for social housing and decisions based on need.

- 4.47 These different views were, to a great extent, attributable to how the proposal was interpreted. Many took it to mean that it would be necessary to set up a separate system to deal with transferring tenants. While some thought this would increase opportunities for tenants, others thought it would add to administrative burdens and costs, and would make procedures more complex and less transparent for tenants and applicants.

“...although this has potential to facilitate better use of stock, the detailed, practical application needs careful thought as there might be unforeseen consequences.” (Local authority)

- 4.48 It was noted that strong local partnerships were needed in order to maximise the benefits, in terms of making best use of stock and meeting tenants' aspirations. Some also commented on the need for transparency and equity in any new procedures. One authority indicated that it would want to undertake an equality impact assessment locally, before deciding on the merits of any changes. A number of authorities commented that they would wish to give more consideration to the practicalities of the proposals, taking account of how well their local systems were managing transfers currently.

Section 5: Mobility

- 5.1 Over 350 respondents commented on the proposal to improve mobility within the social sector by enhancing the service offered by existing web-based mutual exchange providers and regulating landlords to subscribe to a good web-based home swap service which enables tenants to see details of potential swap partners across providers operating as part of the scheme. Of these responses almost 300 were from landlords (either local authorities or housing associations) and a further 25 tenant or resident associations also responded on behalf of their members. In addition some landlords offered views on behalf of their tenants. Other responses were received from members of the public, voluntary and community organisations, campaign groups and an MP.

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

- 5.2 In responding to this question, many landlords indicated that they did subscribe to a mutual exchange service.
- 5.3 Thirty-two local authority landlords who did not currently subscribe to a mutual exchange service indicated cost was the reason for this, or value for money in terms of not many moves being achieved compared to the subscription cost. Four of these authorities felt that it was fairer for individual tenants, being those who will benefit, to pay a small subscription charge. Fifteen housing associations also cited cost as a reason for not subscribing, particularly for smaller organisations with low levels of stock where they felt subscription offered poor value for money, if few tenants were to benefit from a move. Two of these landlords also felt it was fairer for an individual to subscribe themselves.

“A landlord may consider this an unnecessary expense if there is little demand for cross boundary moves. However the costs of national mutual exchange services can potentially be recouped very quickly by reducing the need for transfers, thereby reducing void rent loss and repair costs. Therefore we strongly support the development of a national network.” (Arms length management organisation)

- 5.4 Thirteen landlords (11 local authorities and two housing associations) commented that there is an additional cost to mutual exchange (in addition to the subscription charge) of administering exchanges, in particular around carrying out gas and electricity safety checks and in some cases

void repairs. Two landlords estimated these costs to range from £300 to £400 or £500 to £1,000 (with repairs).

- 5.5 Seventeen local authorities, eight housing associations and one arms-length management organisation did not subscribe to a service, either because they were already running a local in-house scheme linked to choice based lettings (offering moves within a local authority or partner housing association's stock within the sub-region) and/or because they perceived there was low or no demand for moves outside their area. Some of these respondents also indicated subscription cost as a reason.

"We welcome the Government's proposal to require national mutual exchange services to share data, since this will enable a tenant registered with one service to access the pools of potential exchangers registered with other services." (Local authority)

- 5.6 A further nine landlords did not subscribe (four local authorities, four housing associations and one almshouse charity) because they felt that, where restrictions are placed on their stock through section 106 agreements which require tenants to have a local connection, this restricted their ability to agree mutual exchanges; or, in the case of the almshouse charity, because their residents had no statutory right to assign their tenancy (although they would like this reconsidered if tenants would qualify as beneficiaries of the charity).
- 5.7 Five landlords, including two arms-length management organisations, did not subscribe to a service as they felt that mutual exchange restricted their control and use of stock, as they might house people who are not in need or with no connection to the area.
- 5.8 Two tenant associations responded to this question: one saying it should be mandatory for landlords to subscribe to a service, which should be free to users; and one saying there should be no subscription so that homes can be kept for local people.

"We welcome the proposal for a scheme that all landlords must be part of."
(Tenant association)

- 5.9 Some respondents gave more than one of the above reasons. For example, they were concerned about the cost of subscribing to a scheme itself and also the costs of administering mutual exchanges. In addition, those landlords who did already subscribe indicated they felt others might not do, due to cost, particularly if they were small housing associations.

- 5.10 A large majority of respondents, as landlords, indicated they do already subscribe to a scheme and felt there was no good reason why others should not do the same.

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?

- 5.11 Twenty-two tenant and resident organisations or individuals responded directly to this question. In addition, some landlords had also sought the views of tenant groups but many offered views on behalf of their tenants based on previous feedback of the service they already provided, or their tenants would like provided.
- 5.12 The majority of respondents across all types of organisation noted the fact that large numbers of social tenants did not have access to the internet, particularly those who were older or more vulnerable, and suggested that other mediums would be required to ensure access for all tenants.
- 5.13 Fifty-seven local authority landlords and 26 housing association landlords suggested a range of support that they either already offered, could offer or would like others to offer, including: hard copy brochures; newsletters; telephone helplines; IT access points in public places such as libraries and council offices; face to face support; or access through Digi-TV.

“A brochure with properties that are available is needed as not everyone has access to a computer: local newspaper inserts, utilise housing providers customer outlets, Digi TV. A helpline for tenants is needed.” (Tenant association)

- 5.14 Sixteen tenant and resident groups also acknowledged their tenants would either require support with accessing IT or additional mediums, again citing many of the above alternatives. Seven other respondents would also support this approach.
- 5.15 In particular it was felt that a more personal service should be offered to elderly or vulnerable tenants, with 18 landlords and one tenant organisation suggesting practical support throughout the move process, including, help with viewing properties, arranging removals, disconnection and reconnection of utilities.

- 5.16 In terms of additional services, 31 respondents (landlords and tenant associations) said they would find it helpful to have local information on health services, schools, shops, and leisure and transport facilities available in an area. Ten local authority and five housing association landlords and one tenant association also felt that links to training and employment opportunities would be useful.

“Removal companies, address and telephone numbers of county and local councils, utilities numbers, local support groups, information concerning the neighbourhood, employment opportunities, availability of schools, medical centres.” (Housing association)

- 5.17 In addition a small number of respondents also asked for clarity around how the proposals for new flexible tenancies, or affordable rent tenancies, would fit into mutual exchange and whether any tenants would lose security by undertaking mutual exchange in the future.

“We think tenants are happy with this new service but will want to know whether a move will lessen their housing security.” (Local authority)

Section 6: Homelessness

- 6.1 Three hundred and ninety-nine respondents commented on the three questions dealing with proposed changes to the homelessness legislation. Some answered all three questions while others touched on some aspects only. The majority came from local authorities and housing organisations (86 per cent) but a number of individuals and the voluntary and community sector also commented.

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

- 6.2 There were 257 responses to this question, mainly from local authorities (190), although some housing organisations (including housing associations) and individuals also commented on the proposals.
- 6.3 More than three-quarters of local authorities (78 per cent) said that they welcomed the proposed new flexibility and would use it. A small proportion (6 per cent) thought that they would not. Twenty-seven per cent of housing organisations felt the proposed new flexibility was a positive move, with 6 per cent disagreeing and the rest (67 per cent) either not expressing a clear view or not answering the question.
- 6.4 Local authorities welcomed the proposed new flexibility for a number of reasons. Many felt that the power would reduce the pressures on waiting lists and temporary accommodation. Others felt that it added to the suite of options already available to them. They said they would use this option for those for whom the private rented sector was most appropriate but would still continue to use the social rented sector. It was also felt that it would help increase people's mobility and, for some local authorities, help make it easier to find accommodation for larger families.

"It should create more flexibility for local authorities to be able to realistically support a household to move on to good quality, settled accommodation in the private rented sector." (Local authority)

- 6.5 In welcoming the proposed flexibility local authorities raised a number of general concerns about the impact of the policy and its implementation. A significant number believed that forthcoming changes to the Local Housing Allowance, announced at Budget 2010, and in the Spending Review and other benefit reforms would restrict use of the new flexibility.

- They felt that the Local Housing Allowance changes would restrict the number of affordable properties available in the private rented sector and that it would be more difficult to encourage private landlords to let their properties to those owed the main homelessness duty. This view was echoed by other housing organisations and individuals.
- 6.6 In fact, in the vast majority of areas, people will see a reduction of £15 per week or less in the Local Housing Allowance. We expect that some people will be able to make up the shortfall themselves and other tenants will be able to renegotiate rents with their landlords.
- 6.7 In some of the more expensive areas in the country there may be less affordable property available so some tenants may need to move to find cheaper accommodation. Even so, nearly a third of properties will still be affordable to Housing Benefit customers in London. Government is making £190m of additional funding available to help local authorities to provide support where it is needed.
- 6.8 Concerns were also raised about the standard and suitability of some private rented sector accommodation by a number of local authorities. They felt that some form of protection should be put in place to ensure that the properties were of good enough quality to meet the needs of their clients.
- 6.9 Local authorities proposed a number of ways to deal with the issue of the standard of private rented sector accommodation. A number cited landlord accreditation schemes as a positive way forward; some authorities explained that they had established these and had, over time, developed strong relationships with their local private rented sector/landlords. Others highlighted the benefit that rent guarantee or bond schemes could add. Some wished to go further and suggested stronger regulation of the private rented sector but at the same time recognised that enforcement would place a burden on local authorities.
- 6.10 The other main issue commented on was the ability of local authorities to end the duty with an offer of accommodation outside their local authority boundary (more generally known as “out of borough” placements). Views on this were divided, with a small number of local authorities expressing concerns that other local authorities would discharge the duty with an offer of accommodation in their area, decreasing the pool of properties available to them and increasing the burden on their support budgets. Conversely a number of authorities wanted to make out of borough placements easier. This was partly in response to the anticipated effects of Local Housing Allowance reforms and a recognition that in some places only a small private rented sector market existed.

- 6.11 Other individuals and organisations responding to this question were less likely to be in agreement. The voluntary and community sector in particular disagreed with the proposed flexibility. They argued that accommodation in the private rented sector was not always appropriate for homeless households. They felt that there was a danger that vulnerable households would be placed in inappropriate accommodation; that the most vulnerable might not be able to advocate for themselves; that their support needs might not be met; and that in the case of women fleeing domestic violence they might be preyed upon by unscrupulous landlords. They felt that better safeguards were needed to ensure that the most vulnerable received any support they required.

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?

- 6.12 There were 258 responses to this question; the majority came from local authorities (82 per cent).
- 6.13 A third (34 per cent) of local authorities felt that there would be sufficient private rented sector housing available in their area. Eleven per cent felt that there would not be enough. The rest (55 per cent) were unable to say with certainty or chose not to comment.
- 6.14 Changes in Local Housing Allowance were cited as the main reason for this uncertainty. As with the previous question a significant number of local authorities felt this would impact on the availability of suitable and affordable accommodation. Some local authorities thought that this would necessitate out of borough placements and others considered that it would make it harder to encourage landlords to work with them to house those owed the main homelessness duty.
- 6.15 A number of local authorities expressed concerns that they would receive a significant number of placements from other boroughs. They felt this could lead to a situation where a local authority's ability to secure private rented sector accommodation in their own borough would be hampered. They also expressed a concern that this type of activity could place a burden on their support budget. In addition, a number of local authorities expressed concerns that benefit reforms would mean it was difficult to source private rented sector accommodation for single homeless people under the age of 35.

- 6.16 As with the previous question the issue of suitability featured. Local authorities, other housing organisations and individuals all felt this was important. The measures which they believed should be put in place to ensure good quality accommodation were the same as those set out in answer to question 25 (landlord accreditation, rent guarantees and so on). A number of respondents felt that a potentially smaller pool of properties would mean these safeguards were even more important.

“... we will continue to work closely with private landlords to not only secure access to properties for [our] clients but to engage landlords in accreditation so as to drive up standards in private rented sector and also access to improvement grants to landlords, which will ultimately benefit the tenants.”
(Local authority)

- 6.17 Local authorities highlighted the necessity to forge strong links with private landlords. Many had done this already and had been able to accommodate significant numbers of households this way. This relationship building was thought especially important as it was felt that changes to Local Housing Allowance could make it more difficult to secure tenancies in a smaller private rented sector.
- 6.18 The views of individuals and other organisations mirrored those expressed by local authorities and housing organisations.

Question 27: 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?

- 6.19 There were 361 respondents to this question. About a third thought that 12 months was the right length, a third thought it should either be longer or shorter and a third did not express an opinion.
- 6.20 Of the local authorities who responded to this question half thought 12 months was sufficient and about a quarter took the opposite view.
- 6.21 Of the local authorities who felt 12 months was not the right period 72 per cent felt that the period should be longer (normally 24 months) and 23 per cent felt it should be shorter (usually six months). The other 5 per cent stated that 12 months was not the right period but offered no further clarification.

- 6.22 In suggesting a longer period some local authorities said that they had already been able to secure a 24 month assured shorthold tenancy in the private rented sector for homeless households. They said by developing a good working relationship with landlords and offering them and the tenants appropriate support they were able to regularly secure longer term tenancy agreements. Others said that while they would prefer a longer assured shorthold tenancy they recognised that negotiating one with a landlord could be difficult.
- 6.23 However many local authorities recognised that 12 months struck the right balance between the needs of the applicant and the realistic possibility of persuading a landlord to offer a longer tenancy.

“We would consider 12 months the right period as a minimum fixed term, achieving longer periods may be difficult in the private rented sector.”
(Housing association)

- 6.24 Responses by the voluntary and community sector generally felt a longer term was more suitable. They considered that 12 months would not offer sufficient stability and that it was not appropriate to define the minimum length in terms of what the private rented sector would be prepared to offer. They felt that the starting point should be defined by what the minimum appropriate period to meet the needs of homeless households is.

“In the last five years agencies have put effort into finding and developing relationships with private landlords and have had considerable success. It has particularly worked where voluntary sector agencies have set up schemes, engaged landlords and given them a rent guarantee in return for decent quality properties.” (Voluntary and community organisation)

Section 7: Overcrowding

- 7.1 Four hundred and six respondents commented on the consultation questions on overcrowding. Fifty-two per cent were from local authorities, 33 per cent from housing associations, 9 per cent from other interested groups and 6 per cent from individuals.

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

- 7.2 There were 343 responses to this question. These were mainly from local authorities and housing associations but responses were also received from tenant groups, professional bodies, voluntary and community organisations, and individuals.
- 7.3 The majority of respondents indicated that tackling under-occupation was the key to reducing overcrowding and this could be done through allocation policies and incentives. A small number of local authorities argued that they should be given the power to re-house under-occupiers in more suitably sized accommodation. Tenants responding observed the need for sensitivity around the circumstances of under-occupiers.

“Initiatives which encourage under-occupiers to move into suitable-sized homes are critical in increasing the supply of family-sized homes to help relieve overcrowding.” (Housing association)

- 7.4 The majority of respondents who mentioned existing powers believed that those powers were sufficient. A small number of these respondents considered that enforcement should be focused on landlords who cause overcrowding at commencement of the tenancy; landlords from any sector should not be held responsible if tenants extended their family size whilst in occupation thus creating an overcrowding situation or making one worse.
- 7.5 The overwhelming majority of respondents considered there were sufficient powers within the various pieces of legislation to deal with overcrowding where a private landlord was deliberately causing a property to be overcrowded. However, they considered that overcrowding in the social sector, primarily through families ‘growing’ or ‘converging’, needed to be dealt with in ways other than enforcement - for example, a small number of respondents suggested this could be done through allocation policies.

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?

- 7.6 Two hundred and forty-nine responses were received to this question. Most of these came from local authorities and housing associations. We also received views from a range of professional and advocacy groups, tenant forums and individuals.
- 7.7 The overwhelming majority of respondents said that Part 10 of the Housing Act 1985 was no longer fit for purpose, commenting that it failed to reflect what was acceptable for modern living standards and that it needed to be reviewed.
- 7.8 A significant number of respondents answering this question stated that the enforcement powers attached to the current statutory overcrowding standards were rarely used today. A small number of authorities claimed that the framework was obsolete and needed repealing. This was not, however, a universal view.
- 7.9 A small number of local authorities and housing associations put forward the view that allocation policies and making better use of stock were more effective tools for tackling overcrowding than were the provisions in the 1985 Act.

“For the purposes of allocations, most local authorities have aligned their allocations policies to the bedroom standard rather than the provisions set out in the 1985 Housing Act. However, this does not alter the fact that the current system legally allows local authorities to refuse to award priority to a family clearly suffering from chronically overcrowded housing as they are not overcrowded under the terms of the 1935 definition used in the 1985 Housing Act.” (Local authority)

- 7.10 A significant number suggested that there needed to be more clarity and consistency around the various definitions of overcrowding and the use of the Housing Health and Safety Rating System and the statutory standards. A small number of local authorities and housing associations felt that it would be beneficial to have one standard for measuring and addressing overcrowding. The ‘bedroom standard’ was suggested as a suitable standard by most of these respondents.

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

- 7.11 Two hundred and fifty-five responses were received to this question. The majority of responses came from local authorities, with a smaller number of housing associations and professional bodies.
- 7.12 Two-thirds of local authorities and housing associations agreed that the Housing Health and Safety Rating System provided the foundation to tackle overcrowding across all tenures, although many attached caveats. A little over a quarter of respondents did not agree. A small number of respondents were unclear or undecided.
- 7.13 Those who supported the Housing Health and Safety Rating System gave the following reasons: it was effective in identifying specific health and safety issues in individual circumstances; it allowed local authorities some flexibility in enforcement; it was tenure neutral; and, it was 'progressive'.

“Local authorities have a wide array of possible enforcement methods under the HHSRS including service of an improvement notice, prohibiting use of the property, serving a hazard awareness notice or taking emergency remedial action. This allows local authorities the flexibility to act in a variety of ways to deal with overcrowding where enforcement action is necessary.” (Voluntary and community organisation)

- 7.14 Those respondents who did not think the Housing Health and Safety Rating System provided a foundation for measures to tackle overcrowding cited the following reasons, in order of frequency: the framework was too complex; it was subjective and therefore produced inconsistent results; and, it required specialist/trained officers to carry out inspections and was therefore resource intensive.
- 7.15 Those respondents who did not come down clearly on one side or the other commented on the complexity of the Housing Health and Safety Rating System framework and the need for further guidance. A small number of respondents expressed the view that it was a good starting point for further reviewing the issue of overcrowding.

Section 8: Next steps

- 8.1 This section explains how the Government is taking forward the changes to tenure, housing allocations and the homelessness duty which were set out in the consultation paper, and how we propose to tackle overcrowding and under-occupation. It also sets out our plans for introduction of a national home swap scheme.

Tenure

- 8.2 As we set out in *Local decisions*, the Localism Bill includes provisions to deliver our proposals for tenure reform in England. It places a duty on local housing authorities to prepare and publish a tenancy strategy and the consultation requirements around those strategies. It creates for local authority landlords a new flexible tenancy, with similar rights to a secure tenancy and with a minimum fixed term of two years. It sets out the protections available to tenants around the use and termination of flexible tenancies.
- 8.3 Provisions in the Localism Bill ensure that existing secure and assured tenants will retain their security, including in most cases when they exchange their property with a tenant with a fixed term tenancy. It provides new secure and assured tenants with an automatic right of one succession to a partner or spouse and gives freedom to landlords to grant further succession rights as they think appropriate. It provides additional rights in respect of notice requirements prior to seeking possession and rights to acquire for some housing association tenants, and extends landlords' repairing obligations to tenancies with a fixed term of seven years or more.
- 8.4 Provisions in the Localism Bill also enable the Secretary of State to direct the Regulator of Social Housing on the content of a Direction on tenure.
- 8.5 In the light of responses to the *Local decisions* consultation, we are setting out the broad policy aims which we would expect a Direction to the Regulator of Social Housing on the content of the tenure element of the Tenancy Standard to deliver.
- 8.6 We have carefully considered the right balance between central prescription and flexibility in local decision making. We think, for example, that two-year tenancies should be an available option for landlords, though we would expect, and responses to the consultation suggest, the vast majority of tenancies to be provided on longer terms, particularly for vulnerable households or those with children.

- 8.7 Setting out our policy aims for a Direction on tenure is part of an ongoing process. The Tenant Services Authority is currently consulting on revisions to the Tenancy Standard in order to enable private registered providers to participate in the affordable rent model from 1 April this year. The wider freedoms we are proposing to give all social landlords on tenancies will be delivered, subject to Parliamentary approval, through a direction to the Regulator which will build on these changes. We anticipate that these further revisions to the Tenancy Standard will be brought into effect from 1 April 2012.
- 8.8 We intend to consult on a draft Direction on the content of the tenure element of the Tenancy Standard later this year, alongside draft directions on mobility, and on tenant involvement and empowerment.
- 8.9 We propose that the draft Direction on tenure should broadly include the following elements.

Policy aims

- 8.10 Our overarching policy aim is ensure that social landlords grant tenancies which are compatible with the purpose of the housing, the needs of individual households, the sustainability of the community and the efficient use of their housing stock.
- 8.11 How social landlords meet those broad objectives will be determined locally, but it will be essential that it is done in a transparent way, and as a matter of policy we would expect social landlords to publish and maintain a clear and accessible tenancy policy which contains at least the following elements:
- The kinds of tenancies they will grant.
 - Where they grant tenancies for a fixed term, the lengths of those terms.
 - The broad circumstances in which they will grant a tenancy of a particular kind.
 - How a tenant or prospective tenant may appeal or complain against the length of the term, including a decision by them not to grant a secure or assured tenancy.
 - The broad circumstances in which tenancies may or may not be reissued at the end of a fixed term in the same or a different property.
 - How a tenant may appeal or complain against a notification by them that they do not propose to grant another tenancy on the expiry of the fixed term of the existing tenancy.

- Provisions to take account of the needs of those who are vulnerable, for example by reason of age, disability or illness, and households with children.
- The advice and assistance, including on finding suitable alternative accommodation, that will be available to tenants where a decision that a further tenancy will not be issued is made.
- The circumstances in which they will grant discretionary succession rights.

8.12 We would expect tenancy policies to reflect the diversity of local housing needs and markets and the priorities of tenants and residents, but as a matter of national policy, we intend to require that social landlords:

- Grant general needs tenancies with a minimum fixed term of at least two years¹, excluding any probationary tenancy period.
- Grant probationary tenancies, where they choose to do so, in a way that is transparent and fair. The probationary period may be for up to 12 months, and, subject to the landlord providing reasons and an opportunity for review, extended for a further six months.
- Protect the security and rights of those who were social housing tenants at 31 March 2012² by granting them a tenancy with no less security where they choose to move to another social rent home (this requirement does not apply where a tenant chooses to move to an affordable rent home).
- Ensure, where tenants are decanted, they are granted a tenancy with no less security in their new settled home.

Allocations

8.13 Provisions in the Localism Bill will give local authorities a new power to determine which categories of persons *qualify* to join their waiting list, while the rules that determine which persons from abroad are *eligible* for social housing will continue to be set centrally.

8.14 Certain safeguards are attached. There is a reserve power for the Secretary of State to prescribe that certain people are or are not qualifying persons, or that certain criteria cannot be taken into account in setting qualification rules. In addition, applicants will have a right to be notified in writing of a decision that they do not qualify and a right to review that decision.

¹ Excluding periodic assured and secure tenancies

² Or whatever date a revised Tenancy Standard comes into effect and provisions in the Localism Bill on flexible tenancies are commenced.

- 8.15 A further provision in the Bill will take all social tenants seeking a transfer out of the statutory allocations framework, unless they have reasonable preference. Council and housing association tenants whom the local authority is satisfied should have reasonable preference – such as overcrowded families and disabled people who need to move to accessible housing – will remain within the allocation rules. This will ensure they continue to get the priority to which they are currently entitled.
- 8.16 A number of respondents have expressed concern that this will necessitate landlords setting up a separate system to handle transfer requests. This is certainly not the intention of the provision, nor do we believe this will be necessary. Rather this is an additional flexibility, which will enable local authorities and housing associations to work together to move tenants who want rather than need to move, with less risk of challenge from those on the waiting list in housing need.
- 8.17 Local authorities and other landlords may choose to operate a separate transfer list. Alternatively, they may decide to continue to operate a single system covering all applicants, but one which, for example, rewards tenants with a good track record, or gives a degree of priority to tenants who want to move for work. Finally, landlords may decide to make no change at all to the way in which they treat transferring tenants, if they believe this best meets the needs of their local area.
- 8.18 In light of the clear response to consultation, the Government does not propose to make any changes to the existing reasonable preference categories at the current time.

Mobility

- 8.19 In view of the comments received in response to this consultation, the Government will press ahead with proposals to introduce a national home swap scheme which will make it easier for tenants to see possible exchange partners and will increase tenants' choice and control over where they live.
- 8.20 We want to build on what has already been achieved and increase opportunities for tenants to move through mutual exchange. We want all landlords to provide their tenants with access to good web-based home swap services, which include the provision of automated matching, and ensure that appropriate support is provided for those tenants that do not have internet access.
- 8.21 We also want to ensure that tenants are confident that they can easily see details of as many potential swap partners as possible. While it is true

that most moves are local, so that the majority of tenants seeking a swap partner would probably find one through registering with a single system, the current arrangements make it more difficult for tenants seeking a longer-distance move, or even a shorter move across a boundary between different local areas.

- 8.22 We also wish to ensure that there is continued competition in the market for home swap services, to ensure choice for landlords and tenants and encourage innovation in the development of new and improved services.
- 8.23 To achieve these aims we have included powers in the Localism Bill to allow the Secretary of State to direct the Regulator of Social Housing to set a standard relating to the provision of services to support mutual exchange. It is expected that a formal consultation on the Direction will be held in the summer.

Draft Direction

- 8.24 We propose – on an indicative basis - that the draft Direction on mobility should have the following requirements:
- Social landlords must subscribe to an internet based mutual exchange service with the following characteristics:
 - i) any tenant is able to register an interest in seeking a mutual exchange through the mutual exchange service and enter property details in relation to their current tenancy without payment of a fee
 - ii) a tenant who has registered such an interest may search for properties, the tenants of which must also have registered an interest in arranging a mutual exchange, which match a set of desired property details entered by the tenant
 - iii) matches which are shown as the result of a search only include those properties which fulfil the required property details and which are currently occupied by a tenant whose required property details match those of the tenant carrying out the search
 - Social landlords must subscribe to either:
 - i) an internet based mutual exchange service which shares the property details of tenants who have registered an interest in a mutual exchange with other mutual exchange services or

- ii) as many mutual exchange services as necessary to provide tenants with access to as many properties as possible, the tenants of which have registered an interest in arranging a mutual exchange
- Social landlords must take reasonable steps to bring the availability of access to a mutual exchange service to the attention of the tenants and in doing so advise tenants fully of any statutory and/or contractual rights that they have to enter into a mutual exchange.
- Social landlords must provide appropriate support to tenants who do not have access to the internet in their own home.

Implementation of the national scheme

- 8.25 We have been actively working with the existing providers of mutual exchange services for many months and have also consulted with landlord and tenant representatives.
- 8.26 The main industry providers have worked together to explore different implementation options and have recommended adopting a web-matching approach as the way forward. This will allow social tenants to easily search for mutual exchange matches across a number of different services. It is proposed that a mutual exchange service, used by a tenant, will automatically send a query to all other participating mutual exchange services. The tenant will then receive a number of reciprocal matches from the main provider and a clickable link to other mutual exchange services for further matches. If the tenant follows this link they will be able to view further property information about each match and then choose whether to register with the second service to see full contact details.
- 8.27 A service level agreement will be developed by the industry, with support from the Chartered Institute of Housing, and will establish a framework within which information will be shared amongst providers. The service level agreement will include the minimum information that providers must record (including property type, number of bedrooms, central point of desired geographical area and radius to be considered, address and postcode details of current property, and longitude and latitude of the postcode centre); it will also set out technical requirements and the minimum data sharing and security provisions which signatories must follow.
- 8.28 In order to ensure that new providers can enter the market, the service level agreement will be published. Signatories to the service level agreement will commit to sharing information with new suppliers who meet the terms of the agreement.

- 8.29 We would expect to achieve a smooth transition to a national scheme and welcome the commitment of the four major providers to begin voluntary data sharing in the summer of 2011.

Future direction – payment by results

- 8.30 We also believe that further progress in increasing mobility could be achieved by the introduction of a payment by results business model for the sector, whereby social landlords reward providers for each successful mutual exchange move that takes place rather than paying an upfront subscription fee. We believe this model could have considerable benefits: it could further increase levels of mobility in the sector by encouraging landlords and providers to work harder to enable and encourage tenants to move.
- 8.31 We also recognise that increasing levels of mobility could bring wider indirect benefits, for example improved health, reduced reliance on state supplied social care, improvement in children's educational attainment and the opportunity to take up employment. There may be potential to obtain payment to support improved mobility; the challenge will be to make stronger links between the support for moving and the people and organisations which save money. It may be possible to achieve this by a combination of different regulation and different services offered by providers. However, there are risks and obstacles to a payment by results approach and this is an area that would benefit from further investigation.
- 8.32 In order to clarify barriers and identify appropriate solutions we intend to fund a series of vanguard projects to trial different systems, including the provision of services for tenants who do not have access to the internet. We will announce further details in the spring.

Homelessness

- 8.33 Provisions in the Localism Bill will give local authorities a new power to fully discharge the main homelessness duty with offers of accommodation in the private rented sector, without requiring the agreement of the person owed the duty.
- 8.34 Certain safeguards are attached to ensure that homeless people receive secure accommodation that meets their needs. The homelessness legislation requires that accommodation must be suitable for the applicant. In considering 'suitability' authorities must, by law, consider whether a specific property is suitable for the applicant and their household's individual needs. This includes considering whether the accommodation is affordable for the applicant, its size, its condition, its accessibility and

- also its location. In relation to affordability, the local authority must by law consider the applicant's financial resources and the total costs of the accommodation in determining whether the specific accommodation is suitable. The existing statutory requirement (s.208 of the Housing Act 1996), that local authorities must secure accommodation within their own borough so far as reasonably practical, will also continue to apply.
- 8.35 Local authorities are already free to establish accreditation schemes setting minimum standards for privately rented accommodation in their areas. Many authorities already do so. Setting up an accreditation scheme takes resources. The Government believes that it is more appropriate for local authorities to make a decision on whether or not to set up a scheme than for government to impose one centrally. Local authorities already have extensive powers through the Housing Act 2004 to act to protect private sector tenants where their accommodation falls below a certain standard (set through the Housing Health and Safety Rating System).
- 8.36 Local authorities will still be able to end the homelessness duty with an offer of social housing, where they decide this is appropriate or there is no accommodation available in the private rented sector suitable for the applicant.
- 8.37 A number of additional protections have been introduced where the local authority decide to end its homelessness duty with an offer of accommodation in the private rented sector, without the agreement of the person owed the duty. The accommodation must be for a fixed term of 12 months. While a number of consultation respondents dissented, the majority felt that 12 months was the right period to provide as a minimum fixed term tenancy where the duty is ended with an offer of an assured shorthold tenancy.
- 8.38 Accompanying this is a reserve power for the Secretary of State to make regulations to vary the minimum fixed term period required for private rented sector offers if it is felt that the current 12 month period is not sufficient (but it cannot be below 12 months).
- 8.39 The homelessness duty will recur if the applicant becomes homeless again within two years, through no fault of their own (and still eligible for assistance), regardless of whether they still have priority need.
- 8.40 In light of responses to the consultation, the Government does not propose to make any changes to the provisions, and safeguards, in the Localism Bill which will give local authorities a new power to fully discharge the main homelessness duty with offers of accommodation in

the private rented sector, without requiring the agreement of the person owed the duty.

Overcrowding and under-occupation

- 8.41 We believe that our reforms to tenure, allocations and homelessness will go a long way to help local authorities and landlords to tackle overcrowding. The changes which we are introducing through the Localism Bill will contribute to the better use of our social housing stock and contribute to the reduction of overcrowding.
- 8.42 In January 2011, we announced an additional £13m to assist the 50 authorities with most social housing to tackle under-occupation. At the same time we announced the intention to establish a new national team, based at the Chartered Institute of Housing, available to offer support to councils looking to help tenants downsize.
- 8.43 We will continue work with local authorities, landlords and interested parties to assess the effectiveness of the reforms set out in this paper and to consider the need for new practical approaches to tackling overcrowding.

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