

## Summary of consultation questions

Question 1: As a landlord, do you anticipate making changes in light of the new tenancy flexibilities being proposed? If so, how would you expect to use these flexibilities? What sort of outcomes would you hope to achieve?

(We are being asked here for our views as a landlord-we are not a landlord)

Although Maidstone Borough Council no longer retains its own housing stock there are a number of questions posed for landlords in the consultation questionnaire that we as a strategic housing authority would like to comment on.

Generally the council welcomes the proposals to review how social housing is provided and the terms on which it is made available.

Thought needs to be given to ensure that social housing estates remain balanced communities. If the expectation is for social landlords and Registered Providers not to renew tenancies when the tenant reaches a certain income level the policy could unintentionally become an incentive for the tenant to remain unemployed.

It is unclear from the consultation document how affordable-rented accommodation will be allocated. It would appear this type of tenure will fall within the definition for Part VI Housing Act 1996. It follows the property must be allocated in accordance with the allocation scheme, which are largely needs based. This could result in the letting of affordable rented property to those households reliant on full housing benefit which will have the consequence of pushing up the benefit bill for housing.

Taken together with the proposed changes to access to the housing list for those who are able to resolve their housing elsewhere there appears to be a fundamental flaw in the proposition that these proposals will provide greater access to social housing, either affordable rent or other.

It would appear this can only be resolved by amending Part VI Housing Act 1996 but care should be taken not to exclude completely affordable-rent from the allocation process, particularly as this proposal relates to existing housing stock as well as new build.

We are concerned that the designation of existing accommodation could disproportionately affect the availability of the most desirable accommodation, family-sized houses and rural housing. It is therefore important the new duty to provide a strategic policy on tenure covers these aspects at a local level and is enforceable.

The government's current impetus to review tenure should include all forms of tenure. The Law Commission published a consultation paper number 162 titled Renting Homes: Status and Security, which contained a number of proposals that would help rationalise the spectrum of tenure currently available and help make the private rented sector more attractive, for both landlord and tenant.

Further consideration as to how the additional rent achieved from affordable-rented accommodation will be reinvested. This needs to be achieved on an equitable basis, so the additional investment generated in an area meets a housing need locally. This could include

**arrangements between adjoining local authorities where the Registered Provider has accommodation in a number of areas.**

Question 2: When, as a landlord, might you begin to introduce changes?  
(Again- this is aimed at us as a landlord)

**As the government intends to legislate to place a duty on local authorities to publish a strategic tenancy policy it makes sense that landlords do not introduce changes until such time as the policy has been adopted.**

**Registered Providers will need the prior agreement of local authorities if the accommodation is covered by an existing deed in pursuance of an s106 agreement in which the tenure was stipulated or is within a rural exceptions site.**

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?

**MBC welcomes the opportunity to develop a local strategy for tenure. We recognise the value of such a document in progressing mixed/balanced communities. The policy will inform our planning and economic developments plans. As such we will develop the new policy in consultation with local Registered Providers and other stakeholders, including services users and private developers. The consultation will run via existing stakeholder meetings and via MBC's website.**

**Costs will be inevitably incurred due to officer time dedicated to consultation, producing a new policy document and amending existing printed literature.**

**Liaison through existing sub-regional groups such as the West Kent Local Investment Partnership and Kent Housing Group will take place to consider how consultation and implementation might be achieved across sub-regional basis in order to reduce costs and provide a level of consistency particularly for those landlords who have stock in more than one local authority area.**

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

**It is unclear how or who will ensure that RP policies on tenure reflects the statutory local authority policy on tenure. The current general duty to cooperate is not considered adequate for this purpose. There seems little point in local authorities incurring expense and officer time in producing a document that will not be implemented by Registered Providers.**

**In addition to those statutory agencies listed, consultation should include Social Services Children's and Adult services; Probation & Youth Offender Services; and the Commissioning Body for the Supporting People programme. We will consult with our local advocacy services such as the CAB and Shelter; and local voluntary organisations will include those we currently consult and who provide services to homeless persons, special needs groups etc. We have begun consulting with other housing providers such as our private sector landlords.**

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

**Much time and expense has been expended with the standards that were negotiated by the TSA. MBC suggests that another prolonged period of consultation is not required to determine the key**

**principles, which must be founded on financial stability, tenancy conditions, repairs, management service and tenant participation.**

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?

**MBC is concerned that only affordable housing to be let on flexible tenure will attract affordable housing grant will have a negative impact on local authorities ability to meet housing need.**

**It is unclear as to whether the government is seeking to include supported housing in the new tenancy regime. MBC suggests that supported accommodation is excluded from these proposals.**

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

**See 4 above**

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

**Not applicable**

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?

[We note elsewhere in the consultation the proposed ability to discharge the full homelessness duty into the private rented sector on a one year minimum-term. There is no does not appear to be compelling a compelling reason why there should be a difference in length between social, and affordable or private tenures, tenures. Two years appears to be a reasonable minimum period for general needs housing with the caveat for households with dependant children as noted in Question 10 below. However, this does not address the issue that providing housing via the private rented sector will continue to be seen as a lesser option by applicants if the minimum period of the tenancy is for a shorter term.](#)

**Yes – fixed term tenancies should continue to have a probationary period of at least 6 months.**

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?

**The fixed-term tenancies for families with children should continue until the youngest child reaches the age of 16 years old or reflect the homelessness priority needs definition for families with children; otherwise a revolving door situation could evolve with families periodically requiring assistance through the homelessness legislation. This could become expensive to administer and be a waste of resources.**

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?

**Accommodation designated for older people or persons with a long-term disability or degenerative ailment should be longer or left unlimited. General needs housing should remain flexible so that if an older person under-occupies a family home later in life there is a greater incentive to move to more suitable accommodation.**

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

**Flexibility should be given to local housing authorities in conjunction with registered Providers in their area to cover this point at a local level through the new strategic tenure policy.**

Question 13: Do you agree that we should require landlords to offer existing secure and assured tenants who move to another social rent property a lifetime tenancy in their new home?

**Some flexibility should be allowed.**

**In order to encourage movement for older people down-sizing to smaller accommodation it would be a disincentive to offer the new tenancy on lesser terms.**

**However, for general needs housing the new tenancy should be fixed-term. For example, this will enable a family to move to relieve overcrowding and the need for the larger property could be reviewed when the family has reduced as the children become adults and move elsewhere. The arrangement should provide a guarantee the tenant would be housed to smaller accommodation by the landlord.**

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?

**See above – flexibility should be incorporated, however, if discretion is permitted it should be a condition on the landlord to provide clear and impartial advice to the tenant explaining the implications of commencing a new tenancy on revised terms and conditions before the tenant enters into the new agreement. ~~and the use of such discretion is~~ should be agreed with the local housing authority as part of the statutory duty to produce a tenure strategy.**

**We are concerned that tenants who are required to move as part of decanting or a major works programme should not be penalised when they are required to move by their landlord. In such circumstances tenancies offered on terms of less than lifetime tenure should only apply with the tenant's consent.**

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 end of the tenancy?

**Yes or have the ability to enter in to arrangements ~~fre-for~~ this service to be provided, either through an agency such as CAB or local authority housing advice service for an agreed sum on terms governed by a service level agreement or similar.**

**In areas where the social housing stock has been transferred the landlord is unlikely to have such services readily available within its organisation. Similarly for those landlords who hold stock**

across a number of local authority areas. Rather than create a new industry which duplicates skills and resources elsewhere there should be the mechanism to allow the landlord to provide the advice through another organisation.

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

Again this is asking us as a landlord

**The criteria should reflect the new tenure strategy for that local authority area.**

**There seems little point in ending tenancies for those persons who would be owed a full housing duty.**

**Landlords will need to ensure that communities remain balanced and not apply blanket policies that result in a further polarisation of social housing estates that only contain those who are in not in work or are unable to work.**

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?

**We will review our allocation scheme to identify those characteristics of applicants who are least likely to be successful in obtaining social housing. A view will then be taken as to whether ~~such~~ restricting such applicants ~~are allowed~~ access to the housing list provides adequate benefits to justify the imposition.**

**We are concerned the proposals could lead to inequalities between neighbouring authorities, where some authorities retain open lists whilst others impose limitations as to who can apply. We remain a uneasy that restrictive residential qualifications could stifle the ability of economically active applicants to move with their employment or training.**

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

**Whilst there is an opportunity to reduce wasted time in processing applications that are unlikely to receive an offer, there will remain a need to assess applications in the first instance. There is also likely to be an increase in the number of reviews requested by applicants who receive a negative response and enquiries from councillors and MPs.**

**Taken together with the possibility of an increase for advice and possible duty arising from tenants becoming homeless at the end of fixed-term tenancies we are concerned that the package of measures proposed are likely to increase need for resources.**

**Consequently As a minimum, whilst there could be some savings from postage and administration but this is unlikely to be sufficient to make significant savings e.g. from staff reduction.**

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

**Not applicable**

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?

**Greater flexibility should be granted to local housing authorities to determine which groups should receive a preference. This would enable true localism to feature in how a valuable resource should be allocated.**

**Merely tinkering with the current categories is unlikely to have a meaningful impact.**

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?

**See above**

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?

**The paragraphs relating to transferring tenants and Section 7 on overcrowding is misleading as it assumes that transfer cases are directly competing with housing list cases for accommodation. In the case of Kent Homechoice, CBL partnership, a transfer lead approach is taken and transfers are given a quota of vacant stock.**

**Therefore the proposals will have no impact in our local area.**

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

**On the broader issue of mutual exchanges it would be useful to have a national standard that covers both local authority and Registered Providers in terms of permitting and refusing mutual exchanges. The present situation is confused in that Schedule 3 Housing Act 1985 applies to secure tenancies and Registered Providers can apply the grounds for refusal or not as they deem fit.**

**This leads to inconsistency in approach and confusion for applicants moving between landlords. The Localism Bill is an opportunity to review the grounds for refusal and apply this across all social landlords.**

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

**Not applicable**

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

**The ability to end the full housing duty into the private rented sector is welcome and will be put in to practice.**

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?

**Yes; discussion has begun through our Private Landlords Forum to brief landlords on the proposed changes. The use of the private rented market has grown significantly in the past four years and this amendment will help formalise arrangements.**

**However, the private rented market is buoyant in our area and we are concerned the proposed benefit changes will:**

- **Prove to be a disincentive to landlords assisting households on low incomes**
- **Lead to an exportation of homeless households from London housing authorities to cheaper rented accommodation in Kent**

Question 27: Do you consider that 12 months is the right period to provide as a minimum fixed term where the homelessness duty is ended with an offer of an assured shorthold tenancy? If you consider the period should be longer, do you consider that private landlords would be prepared to provide fixed term assured shorthold tenancies for that longer period to new tenants?

**It is unclear why the minimum period should be 12 months and not 6 months?**

**Most private landlords let property for an initial 6 month fixed-term and then will renew – this is no different from the use of introductory tenancies by social housing landlords. Some mortgage companies require that tenancies are 6 month ASTs as part of the loan agreement which will further reduce the availability of this option if the 12 month minimum is required.**

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

**Care needs to be exercised so as not to introduce a statutory framework that tackles the symptom of overcrowding without providing a solution. There is little point in making a requirement to deal with overcrowding if there is an inadequate supply of family-sized housing to meet the need.**

**There is conflicting messages in the various proposals coming from government.**

- **The proposal to only fund new build homes that are to be let at affordable rents and on fixed-terms will not meet an existing need for social housing tenants**
- **The reduction in housing benefit for larger accommodation and percentile point further reduces the ability to resolve overcrowding through the private rented sector**

**As previously stated transferring tenants do not compete with housing list applicants in our area; and policies already exist to encourage down-sizing. Without further clarification the statement in paragraph 7.7 is unachievable.**

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?

**The room and space standards set out in the Housing Act 1985 are dated and represent the extreme end of overcrowding. The consequent action is quite punitive and not always the best way of resolving the issue.**

**A new definition would be welcome as the statutory definition does not sit well with the requirements of the HHSRS. However, as stated above any change is with the caveat that we have the ability to resolve the problem.**

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

As above; if a property falls foul of the HHSRS and determined a Category 1 hazard the option is to serve a prohibition order. ~~This has the undesirable consequence of making as this makes the the family effectively homeless). Alternatively -or~~ an improvement notice could be served on the landlord, which could result in requiring the landlord to extend or convert the property.

However, (which this approach raises questions as to funding) and has implications for obtaining the necessary planning consents. Therefore we would encourage a graduated response that allows a degree of flexibility to enable officers to negotiate a resolution that does not start with the household becoming homeless.

In addition there is a requirement to pay compensation to the occupier under the HHSRS when a prohibition order is enforced and this could result in more costs for a local authority if it is required to tackle overcrowding in this way.