

Agenda item: 11

One Nottingham Board

Title of Paper: Forward Plan – Housing and Planning Act 2016 Briefing

Date: 9 September 2016

1. Purpose

1.1 This paper provides the Board with a summary of the major changes brought in by the Housing Act 2016. It is simply to enable board members to consider issues ahead of the November meeting.

2. Recommendations

The Board is asked to consider the issues raised for the Housing Act discussion at the November meeting

3. Background

The July Board meeting requested a presentation of the Housing Act 2016 at the September meeting. However, as the Chief Executive of Nottingham City Homes is unable to attend this meeting he has requested that a briefing paper be circulated to the board members in order to familiarise members with the issues and to inform the discussion to take place the November meeting.

4. HOUSING AND PLANNING ACT 2016 BRIEFING

The Housing and Planning Act 2016 received Royal Assent in May 2016 and will have a major impact on social housing tenants, people in housing need and social housing landlords. There are 3 key pieces of primary legislation affecting social housing; the End of Lifetime Tenancies, Pay to Stay and the Sale of Higher Value Homes.

DCLG has not yet issued draft regulations around this legislation. Final regulations are “affirmative” so must be debated in both Houses of Parliament before becoming law by Statutory Instrument.

End of Lifetime Tenancies/ Fixed Term Tenancies

- From a date yet to be confirmed, but expected to be April 2017, new Council tenants must be offered a fixed term tenancy, not a tenancy for life as at present. (This measure will be voluntary for Housing Associations)
- Existing tenants retain their lifetime tenant status, although it is currently not clear what their status would be if they transfer or exchange. Forced moves may retain lifetime tenancies, but voluntary moves may not. This could have an adverse impact on down-sizers affected by the bedroom tax for example.

- Regulations will give guidance on tenancy duration – instances where longer term tenancies can be given; downsizing, domestic violence, until child's 19th birthday for example. Otherwise 5 year fixed term tenancies will be prescribed.
- At the end of the fixed tenancy term, tenants will have a right to a determination and to seek a review. If a determination is not provided in time, a new 5 year tenancy will arise in default.
- Succession rights are being changed with only partners inheriting a lifetime tenancy. Other qualifying family members will be granted a 5 year fixed tenancy only.
- The DCLG suggested that if the tenants' circumstances at review were substantially the same as at first letting, there is an assumption that a new fixed term tenancy will be granted. It was also suggested that Authorities keep it simple; all 5 year fixed to start with, then 10 years at review if there are young children in the household, although this may not be regulated.

Pay to Stay/ High Income Social Tenants

- Council tenant households which earn £31k+ pa (based on adding up the earnings of the two highest earners in the household) will see their rents increase to a market rent. The difference between the council tenant rent level and the market rent level will be handed over to HM Treasury.
- This measure will be voluntary for Housing Associations however and any additional rent collected retained by the HA.
- Draft regulations were due to be issued at the end of July, but still haven't been. This now puts the November issue of final regulations and operation from April 2017 in serious doubt. DCLG advised Local Authorities not to incur significant costs until draft regulations are issued.
- DCLG have assessed that 7% of social tenants nationally are "high income" tenants, owing £31,000 or more. That would mean up to 735 high income tenants in Nottingham, but it is expected that the local number will be below that of the national average.
- Tenants in receipt of Universal Credit or Housing Benefit will be exempt, but it otherwise applies to all tenants, including pensioners.
- Taxable income will need to be assessed, so this does not include Child Benefit or Disability Living Allowance. They are also thinking about excluding Carer's Allowance.
- We will have to review household income of some 10,500 households annually. Market rents will be fixed for a year, with likely regulations providing for an obligation to reassess if the tenants' income drops more than £1,750 per annum (£5 per week on the rent). If income rises above the £31k threshold mid-year, we wait till the annual review.
- Additional income collected through Pay to Stay will be paid to the Treasury, less allowed costs.
- It will be up to Local Authorities to determine what the "market" rent is in their locality.
- The regulations will prescribe "reasonable" costs. The assessment process will have to be funded up front as cost recovery deductions can't be commenced until Q1, 2017/18.

Sale of Higher Value Council Homes

- Devised to fund the manifesto pledge to extend the Right To Buy to housing association tenants. (Councils forced to sell stock, give the money to HM Treasury, who then reimburse Housing Associations who have sold stock at a discount to their tenants)
- Regulations don't appear to be very well developed as yet – even though it has been

“in operation” since April 2016. The first tariff payment will be due this financial year.

- The DCLG is still crunching their way through 16 million property records supplied by LA's. They will consult on the formula to be applied to our turnover rate and the determination proposed for each Local Authority.
- There is no current timetable for consultation, draft or final regulations.
- It is expected that regulations will prescribe a percentage of stock turnover to be deemed “higher value” and the Council will have to pay that sum to the Treasury. It will be up to the Council to sell or retain the properties and pay the equivalent tariff from some other source of funding.
- This legislation has the potential to hit Council housing finance hard and necessitate the sale of social housing stock.

5. Contact Details

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