

**Agenda Item: 3.****One Nottingham Board****Title of Paper:** **Housing and Planning Act 2016 – Update Briefing****Date:** **Friday 11 November 2016****1. Purpose**

- 1.1 This paper provides a briefing and update on the implications of the Housing and Planning Act 2016 on social housing in Nottingham.

**2. Recommendations**

- 2.1 The One Nottingham Board is asked to note the briefing paper, and comment on the implications of the Housing and Planning Act 2016 for Nottingham.

**3. Background**

- 3.1 This paper has come out of the One Nottingham Board request in response to Andrew Redfern's update on the Supported Housing Sector, for a briefing and discussion on the implications of the Housing and Planning Act 2016. It has been prepared by Nottingham City Homes, and sets out some of the key implications of the new legislation on social housing, as well as some of the ongoing issues from welfare benefit reform.

**4. Contribution to Nottingham Plan**

- 4.1 The Housing and Planning Act 2016 will have implications for the Fairness aspects of the Nottingham Plan and may have an impact on the cohesiveness of communities. Changes to rent payments and the impact of welfare reform may increase rent arrears and poverty levels in the city.

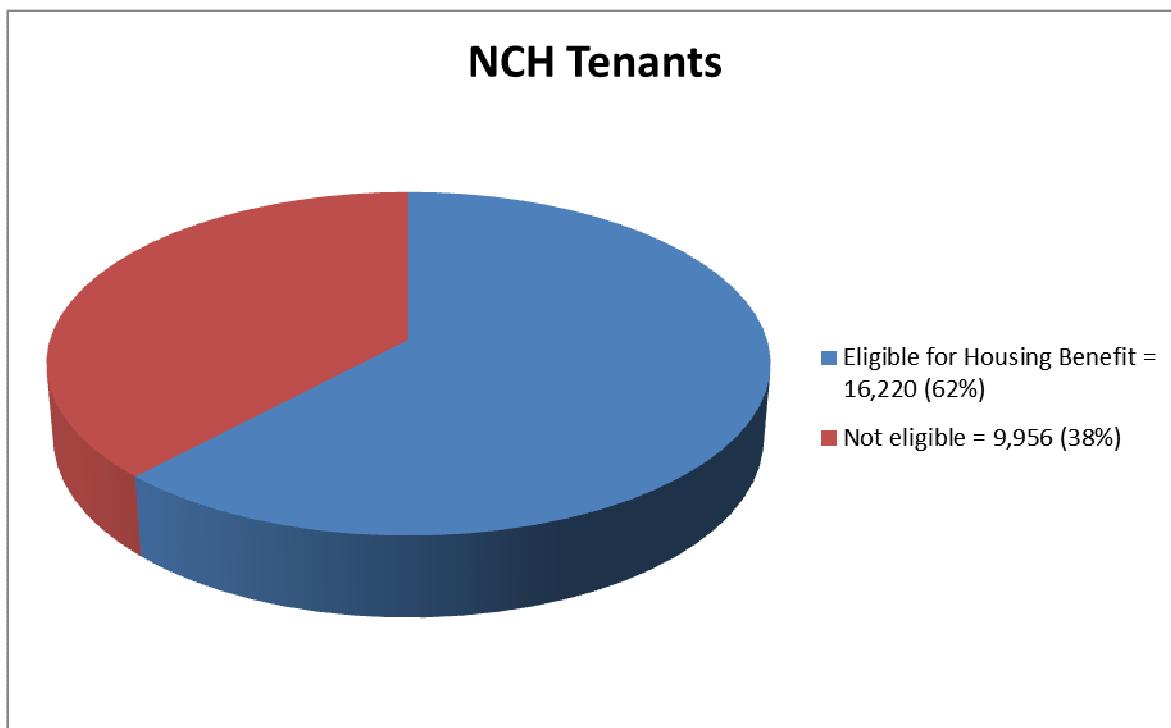
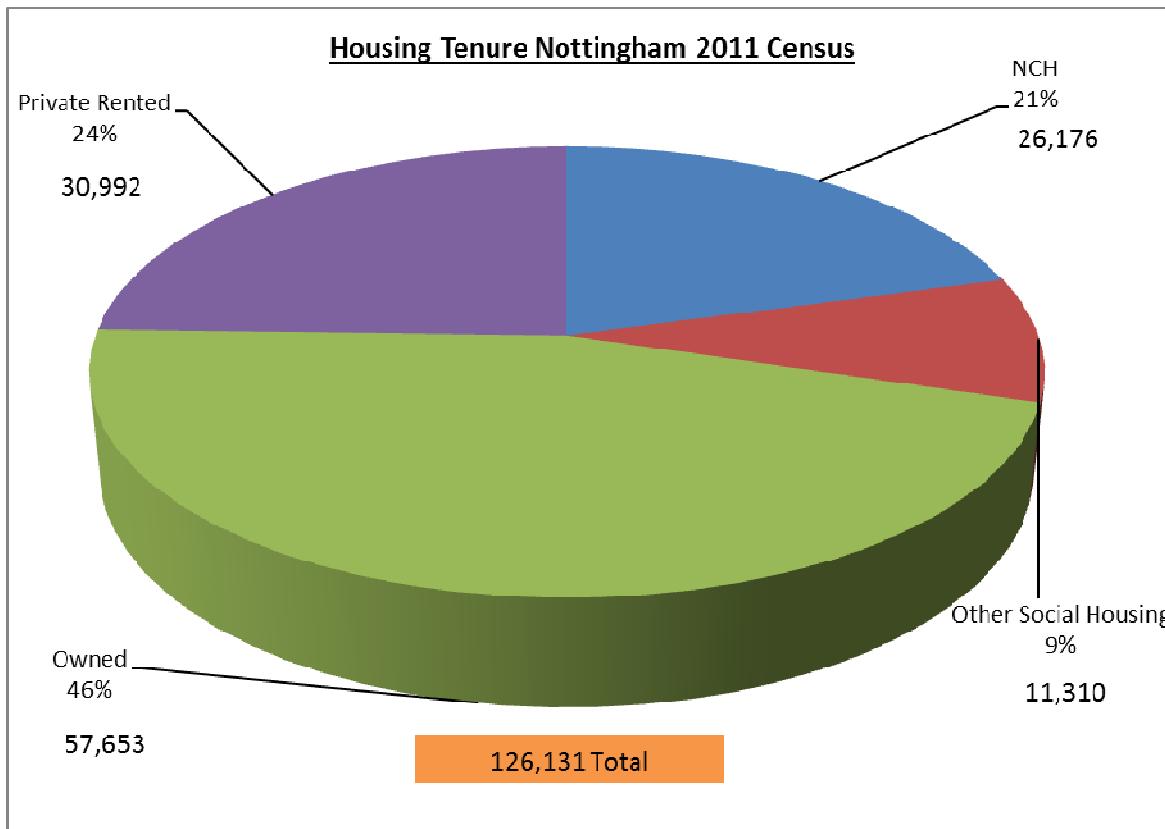
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## ONE NOTTINGHAM BOARD - NOVEMBER 2016 - BRIEFING



# **HOUSING AND PLANNING ACT 2016 - UPDATE BRIEFING**

The Housing and Planning Act 2016 will have a major impact on social housing and Council tenants in particular. There are three key changes affecting Council housing; the End of Lifetime Tenancies, Pay to Stay and the Sale of Higher Value Homes.

The Government has still not issued draft regulations to support this legislation. Final regulations are “affirmative” so must be debated in both Houses of Parliament before becoming law.

## **A. 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 of between 2 and 10 years, not as currently a tenancy for life.
- Existing tenants retain their lifetime tenant status, although it is currently not clear whether this will be the case if they transfer or exchange. Forced moves may retain lifetime tenancies, but voluntary moves may not, having an adverse impact on down-sizers for example.
- Regulations will give guidance on tenancy duration – instances where longer term tenancies can be given; downsizing, domestic violence, until child's 19<sup>th</sup> birthday for example. Otherwise 5 year fixed term tenancies will probably be the standard.
- 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.
- There are obvious concerns that these provisions will be to the detriment of sustainable communities, but they could also assist in the allocation of an increasingly precious resource.
- These measures will be discretionary for Housing Associations to choose whether to apply.

## **B. Pay to Stay**

- Council tenants and their partners with a combined taxable income in excess of £31,000 per annum will have to pay more rent. Tenants will pay an extra 15p in rent for every £ over £31,000 until the assessed market rent for the property is reached. For example, a household with £35,000 annual income will have to pay £50 per month more rent.
- Tenants in receipt of Universal Credit or Housing Benefit will be exempt, but it otherwise applies to all tenants, including pensioners.
- Taxable income does not include Child Benefit or Disability Living Allowance and may not include Carer's Allowance.
- We don't have data on tenants earning over £31,000. DCLG have assessed that 7% of social tenants nationally are “high income” tenants, earning £31,000 or more. 9,500 tenants not on Housing Benefit would need to have their income assessed to find them.
- An initial assessment of our likely costs of assessing the taxable income of 9,500 tenancies not on HB, is around £250,000.
- The regulations will prescribe “reasonable” costs, but no further details have been released.
- It will be up to Local Authorities to determine their own “market” rents and potentially exempt some properties where the market rent will not be higher than the social rent.
- The DCLG regulations have been delayed putting a planned April 2017 implementation in serious doubt. Local Authorities have been advised not to incur significant costs until draft regulations are issued. It will be in operation from some point in 2017/18.
- We will have to review income annually. Market rents will be fixed for a year, with regulations providing for an obligation to reassess if the tenants' income drops more than a suggested

£1,750 per annum (£5 per week on the rent). If income rises above the £31k threshold mid-year, no increases are to be applied until the annual review.

- Additional income collected through Pay to Stay for Council tenants, less allowed costs, will be paid to the Treasury to reduce the national debt.
- This measure will be discretionary for Housing Associations and they will be allowed to keep any additional rent they raise from it.

### **C. Sale of Higher Value Homes**

- Devised to fund the manifesto pledge to extend Right to Buy to housing association tenants.
- Councils will be forced to sell some of their higher value properties when tenants leave and/or pay an equivalent tariff to the Treasury.
- Regulations don't appear to be well developed as yet even though it has been "in operation" since April 2016.
- The DCLG will consult on the formula and determination proposed for each Local Authority, based on the assessed turnover rate.
- This legislation has the potential to hit Councils hard and necessitate the large-scale sale of stock to pay the Higher Value Homes tariff.

## **IMPACT OF WELFARE REFORM**

### **D. Universal Credit**

- Universal Credit has started to replace a range of benefits and tax credits for people of working age and is a single monthly payment that includes any help with housing costs, meaning claimants are responsible for paying their own rent.
- Currently UC claims can only be made by single new claimants who are fit for work. We have no confirmation on when the full service will be rolled out in Nottingham but we have been told this will not be prior to April 2017. The full rollout of UC has now been extended to 2022.
- 243 tenants have made a claim for UC since February 2016.
- Average UC claimant rent arrears £580 compared to £293 average current rent arrears.
- We have a Rent Support Officer in post, dedicated to working closely with the local Job Centre Plus to identify our tenants at the point they claim Universal Credit, ensure proof of rent is immediately provided, and provide additional support where required.

### **E. Benefit Cap**

- From November 2016, the maximum amount an out of work family can claim in benefits is reducing from £23,000 to £20,000 per year - £384 per week. This will mean that 2 parent families with 2 children or more or single parent families with 3 children or more could receive less income.
- 71 tenants currently affected by existing benefit cap of £23,000.
- 283 tenants identified to be affected by the reduced Benefit Cap.
- Cap ranging from £0.42 per week to £274 per week. 100 tenants have a cap of more than £90 per week.
- 107 of the tenants impacted by the reducing Benefit Cap are already in rent arrears

- All affected tenants received a letter from the DWP in June to inform them that they will be affected by the cap. An article on the Benefit Cap was included in the July edition of NCH News.
- The Rents team have visited all affected tenants to hand deliver our Benefit Cap leaflet, take details on how rent will be paid and promote employability and Tenant Academy Support.

#### **F. Bedroom Tax**

- Housing benefit is reduced for people of working age who are judged to have more bedrooms than necessary; this is currently affecting 2863 of our tenants.
- We have helped 457 tenants to downsize since the implementation of the Bedroom Tax.
- 208 properties have had bedrooms re-designated following measurements being carried out.
- 56% of accounts have paid in full, 44% are making partial payments and less than 1% are not paying.
- Over 700 accounts are receiving payments of Discretionary Housing Payment (25% of cases).
- The Eviction Prevention Protocol, established in 2013, has helped to ensure that to date no tenant has been evicted because of the bedroom tax.

#### **G. Local Housing Allowance Cap on HB**

- Tenancies that commenced after March 2016 will have their housing benefit cut from April 2018 if their rent is higher than the Local Housing Allowance (LHA) level. This will be a particular problem for single people under 35 years of age because their LHA level is very low and could also affect people living in high rises and older people living in sheltered housing.
- Since April we have let properties to 112 tenants who will be affected from April 2018 if they are in receipt of HB or the housing element of UC
- All prospective tenants are informed about the LHA cap on HB and if it will affect them. We are keeping a record of those affected to enable us to target support
- General feedback is that people believe they will be working by April 2018 and so will not be affected. We are promoting the employability support we offer

#### **H. Rent Reduction**

- An additional measure to reduce the welfare bill was a compulsory rent reduction of 1% a year for four years applied to all social housing tenancies. This has a cumulative impact and means that the resources available to manage and maintain NCH properties will be 14% lower than planned following implementation of these reductions.

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