



The Association of Housing Advice Services (AHAS)

Response to the consultation Local Decisions: A fairer future for social housing

Who we are

The Association of Housing Advice Services (AHAS) represents the largest number of statutory housing advice, housing options and homelessness services in England.

The organisation has been operating for 23 years. Our members are managers in local authority front line housing advice and options service and therefore can lay claim to being uniquely placed to contribute to and inform the debate. Our members interview and assist all residents who have housing needs or who are facing homelessness. They offer detailed advice on housing options as well as providing advice and casework to private sector residents and interact as a matter of course with a large number of private landlords and agents.

AHAS' response will focus on 3 areas: Allocation, Homelessness discharge and overcrowding, these being their sphere of operations and expertise.

Overall AHAS welcomes the proposals and supports the approach outlined in the paper.

1. Allocations

We endorse the principle that local authorities are best placed to determine the appropriate allocation need of their communities for their housing stock and welcome the flexibilities.

Reasonable preferences (RP) categories: Questions 20 & 21

The inclusion of homelessness as a RP is a deterrent to homeless households working with local authorities to resolve their housing problem. We believe that there is inconsistency between the statutory RP and the proposed amendments to the homelessness legislation. If people's homelessness has been resolved by a private sector tenancy or a private sector leased accommodation (or suitable supported accommodation), or even a non-secure social housing tenancy such as on a regeneration estate then there is little rational to support people who are no longer homeless or in housing need receiving greater priority for social housing than other applicants who could be badly housed. We believe priority for housing allocations should be reserved for people who actually need to move.

In the spirit of localism we suggest that local authorities have the power to select their own categories for allocations which will carry the same weight as the RPs; the selection of these would be for each local authority to determine. These criteria would of course be eligible for legal test through judicial review and would therefore have to be well conceived and delivered.

2. Homelessness Discharge

Question 25

AHAS strongly supports this amendment, and have been campaigning for the change for a long time. Homelessness should be refocused as an emergency safety net and should no longer be a continuing duty for local authorities; in brief it is an event rather than an ongoing process.

However we still have some questions with the proposals and think that the suggested approach will lead to continuing bureaucracy. To overcome this we suggest local authorities are given the power to discharge the duty prior to a full investigation and assessment. Initial contact officers can offer a suitable private sector solution without the need for a formal "Part VII" assessment, the focus being on resolving the situation.

Our experience is that there are still a proportion of applicants, often aided by local solicitors who insist on the bureaucratic assessment even though they are being offered accommodation to alleviate their homelessness. Housing options managers recommend that there should be changes to the intentionality clause as well as the discharge of duty to avoid all these unnecessary processes. If homeless applicants are offered a suitable private sector housing option and they refuse it they should be able to be declared intentionally homeless or "not homeless" prior to a formal "acceptance" of duty. We would also strongly urge that there is a need that the private sector discharge option should be for all "decided" cases currently in the system in temporary accommodation and not just for new homeless households. This would be our preferred option as we believe that the private rented sector provides suitable solutions for accommodating families and there is no reason to have a two tier system for the thousands of applicants currently in temporary accommodation.

This will enable local authorities housing department to start determining the proper allocation of their housing stock without having the historical backlog of applicants who are already well housed and could be found suitable alternative options.

In the alternative we would alert the government that there is likely to be a rush of homelessness applications to cash in on the old rules prior to the enactment of the legislation and we would recommend that this amendment be backdated either to 1 January 2011 or to the first reading to stop this happening. There is a precedent in housing law for the Protection from Eviction Act civil damages HA1988 s.27 effective from June 1988 when it did not receive royal assent until November 1988.

Suitability of private sector tenancies Question 26

We take the view that there is likely to be a conflict and lack of consistency between the wording of this amendment and the HB regulations. It is a matter of fact that for some families remaining in the local area will not be an option. Whilst local authorities will do their utmost to keep households within the locality where it is reasonably practical, councils must have the flexibility to find suitable affordable accommodation outside the district acknowledged openly and publicly as a suitable option for the purpose of discharging the homelessness duty. There is case law to support this in *R (Calgin) v Enfield London Borough Council [2005] EWHC 1716*. Any other option will severely hinder local authorities' efforts to discharge into the private rented sector in high rent areas. This would also have created unintended consequences in terms of the households remaining the responsibilities of the local authorities which would be against the spirit and intentions of the Housing Benefit regulations.

We are concerned that the wording of the legislation will lead to a great deal of litigation around the concept of "suitability" unless the legislation dovetails with the HB regulation and accepts that lack of "affordable" private rented sector in the locality will allow for households to be moved out of the area. We would urge for absolute clarity in the legislation on this issue.

Assured Shorthold lettings initial period Question 27

The industry standard for shorthold tenancies is one year and we would argue that that this should be adopted for the purpose of discharge. It is our experience that, given positive tenant like behaviour, tenancies are long term. Some LA's believe that the average length of a private AST brokered by their housing options teams is not far below that of the average social housing tenancy.

Local authorities are now very experienced and good at supporting tenants regardless of their tenure type.

We would however point out that there must be an exemption for RSLs and local authorities' Private Sector Leasing schemes who never give fixed term tenancies. It is important for this form of housing to be available to help homeless households, so an offer of suitable Housing Association or Council leased accommodation should also discharge duty.

3. Overcrowding

Question 29

We would suggest a number of new powers to assist with overcrowding:

- For social tenants a mandatory ground for possession for under occupation when a suitable alternative (permanent) accommodation has been offered.

- Households not be treated as statutorily overcrowded if they refuse suitable alternative accommodation that would remedy the overcrowding; this should also apply for RP purposes under HA96.
- Local authorities to have flexibility to decide who is overcrowded and how best to assist the households. For example one of the big issues is not natural addition to the family but families joining families and non dependant adult children; in such circumstances local authorities should have the power to decide their own overcrowding priorities.

Question 30

No there is no rationale for HHSRS to be the instrument to determine overcrowding; this does not fit in with the principles of this legislation.

Neil Wightman & Jon Dalton (Joint Chairs)

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