



AGENDA ITEM: 10

SUMMARY

Report for:	Housing and Community Overview & Scrutiny Committee
Date of meeting:	8 June 2016
PART:	1
If Part II, reason:	

Title of report:	Update on the Housing and Planning Bill 2015/2016 from the perspective of a social landlord
Contact:	Margaret Griffiths, Portfolio Holder for Housing Lindsey Walsh / Andy Vincent Responsible Officers
Purpose of report:	To update the Committee on the potential impact that the Housing and Planning Bill 2015/2016 will have on tenancy conditions operated by Dacorum Borough Council.
Recommendations	1. That the report be noted
Corporate objectives:	Affordable Housing
Implications:	<u>Financial</u>
'Value For Money Implications'	<p>There will be a new accounting challenge to manage 'pay to stay'; these costs would include market rent valuations, data collection and storage, system changes, staffing costs and costs to deal. There will also be extra costs, yet to be calculated according to the Government's impact assessment, linked to the sharing of information between landlords and HM Revenue & Customs.</p> <p>If pay to stay does trigger tenants to apply for the Right to Buy then this could contribute to loss of council stock. This will result in a negative financial impact on the HRA due to the loss of rental income.</p> <p>Another financial impact that the Housing Bill will have on the Council will be the costs of a complete review of its tenancy</p>

	<p>conditions in order to make the necessary adjustments to comply with the new legislation.</p> <p><u>Value for Money</u></p> <p>The implementation of the Housing and Planning Bill will require the development of procedures in a number of area for the Housing Service – for example to implement the ‘pay to stay’ regime. Value for Money principles will drive these new procedure areas to ensure they are cost effective.</p>
Risk Implications	<p>The risks associated with the implementation of the housing elements of the Housing and Planning Bill are incorporated within the housing operational risk register. This was reviewed for 2016/17</p>
Equalities Implications	<p>It is not possible to complete an Equality Impact Assessment until further details are known about how specific elements of the legislation will affect different communities.</p> <p>Once full details of how the legislation will be implemented are known an Equality Impact Assessment will be undertaken.</p>
Health And Safety Implications	<p>None</p>
Consultees:	<p>Cllr Margaret Griffiths – Portfolio Holder for Housing</p> <p>Mark Gaynor – Director of Housing and Regeneration</p> <p>Elliott Brooks – Assistant Director of Housing</p> <p>Andy Vincent – Group Manager – Tenants and Leaseholders</p> <p>The Tenant and Leaseholder Committee are discussing many of the proposals contained within the Housing and Planning Bill at a meeting with our two local MPs on 15th July.</p>
Background papers:	<p>Dacorum Borough Council’s Strategic Tenancy Policy which sets out how the council will deal with the introduction of Flexible Tenancies.</p>
Historical background <i>(please give a brief background to this report to enable it to be considered in the right context).</i>	<p>The Housing and Planning Act 2016 brings a number of changes to tenancy conditions for existing tenants and will also require ‘higher’ earning tenants to pay a higher rent than those who are on lower incomes</p> <p>Previous legislation such as the Localism Act 2011 changed a number of conditions for new tenants and gave Local Authorities the freedom to introduce ‘Flexible Tenancies’ (fixed term tenancies, usually for a period of 5 years) for new tenants which Dacorum Borough Council has adopted. It also altered the right of succession limiting it only to spouses or civil partners for any tenancies that were commenced after the Act came into force.</p>

<p>Glossary of acronyms and any other abbreviations used in this report:</p>	<p>Secure Tenancy – this has traditionally been the type of tenancy issued to all new council tenants since 1980. This gave the tenant the ability to live in that property for life provided other tenant conditions were not breached (such as non-payment of rent). Another notable condition of a secure tenancy is the ability for a family member to succeed to the tenant (take on the tenancy, provided other conditions are met) upon the death of the existing tenant.</p> <p>Flexible Tenancy – this type of tenancy was introduced from April 2012. Dacorum Borough Council stipulated within its Strategic Tenancy Policy that it would be taking part in the Flexible Tenancy regime. Flexible Tenancies are fixed term tenancies issued to new tenants from April 2012 generally of 5 years in duration.</p>

1.0 Introduction

- 1.1 The Housing and Planning Bill 2016, received its first reading on 13th October 2015. This has now completed its passage through both the House of Commons and the House of Lords and received Royal Assent, becoming the Housing and Planning Act 2016 on the 12th May 2016.

At this stage some details regarding the implementation of the Act are not known as it has been written to be supplemented by secondary legislation and to give the Secretary of State the ability to enhance the Act through regulation.

- 1.2 The sections below provide brief detail on the parts of the Act that directly affect Social Housing tenants.

2.0 'Pay to Stay'

- 2.1 A discretionary scheme was initiated following a consultation exercise in 2012. The Coalition Government gave social landlords in England the discretion to charge market or near market rents to tenants with an income of £60,000 or more a year. It was argued that high income families should not be paying social rents (typically half the market rent) when they could afford to pay more. The scheme was known as 'pay to stay.' It is unclear how many social landlords have implemented 'pay to stay'.

Respondents to the consultation exercise raised concerns over:

- Administration - social landlords do not gather information or monitor tenants' incomes;
- Affordability – affected tenants could face substantial rent increases;
- The potential work disincentive effect; and
- Residualisation of the housing stock as higher earners are incentivised to move out.

2.2 Compulsory 'pay to stay' & lower income thresholds

As part of the Summer Budget 2015 the Chancellor announced that the discretionary 'pay to stay' scheme would be made compulsory (in England) and that new, lower, income thresholds would be introduced. These thresholds are £40,000 in London and £31,000 elsewhere. Local authorities will be expected to repay the additional rental income to the Exchequer 'contributing to deficit reduction' while housing associations will be able to use the additional income to reinvest in new housing. Following the declaration by the Office of National Statistics (ONS) at the end of 2015 that housing associations are public sector bodies, the Government announced that pay to stay would be discretionary for these landlords.

- 2.3 Measures to introduce a mandatory pay to stay scheme for local authorities have been included in the Housing and Planning Act. A consultation exercise, Pay to Stay: fairer rents in social housing, was conducted between 9 October and 20 November 2015, the results of which were published on 8 March 2016: Pay to Stay: fairer rents in social housing - consultation response. The Government has confirmed that a taper will be applied above the minimum income thresholds and that households in receipt of Housing Benefit will be exempt from paying higher rents. The Government's aim is to implement the mandatory pay to stay scheme from April 2017.
- 3.0 Secure tenancies - phasing out of tenancies for life; Schedule 7 changes the law about secure tenancies, introductory tenancies and demoted tenancies to phase out tenancies for life. The new Act refers to the new tenancy as 'New English Secure Tenancy' and the Secure tenancies as we have known them are referred to as 'Old-Style English Secure Tenancies'. Flexible Tenancies as we know them, will cease to be offered the day on which paragraph 4 of Schedule 7 to the Housing and Planning Act 2016 comes fully into force.
- 3.1 During the committee stage in the House of Commons, the Government amended the Act to prevent local authorities in England from offering secure tenancies for life in most circumstances. Instead, local authorities would only be able to offer fixed-term tenancies of between two and ten years. * I believe that they can offer longer tenancies where there is a child aged under 9 in the house*
- 3.2 Clause 113 and schedule 7 of the Act will amend the Housing Act 1985 and the Housing Act 1996 with the intention of phasing out secure tenancies, which establish that a secure tenant can live in a property for life.
- 3.3 Lifetime tenancies would remain for existing tenants, continuing for new properties if the tenant was required by the landlord to move. Those tenants that request to move would not retain their lifetime secure tenancy. Regulations would establish other circumstances where lifetime tenancies might be still be granted. These Regulations are unknown at the present time.
- 4.0 Succession to secure tenancies and related tenancies;
- 4.1 Within the current statutory framework there can only be one statutory succession to a council or housing association tenancy in England.

- 4.2 The Localism Act 2011 amended the succession rights of people living with secure council tenants in England where the tenancy was created after 1 April 2012. In these cases, a statutory right to succeed is limited to the spouse/partner of the deceased tenant. This has always been the case in regard to succession to an assured housing association tenancy.
- 4.3 For secure tenancies created before 1 April 2012, the right to succeed could be claimed by a member of the deceased tenant's family, subject to certain eligibility criteria.
- 4.4 Succession and under-occupation

Even though a member of the deceased tenant's family could have a statutory right to succeed to a secure council tenancy, if they were under-occupying the property the landlord could seek repossession on the grounds that "suitable alternative accommodation" has been offered. There have been a number of legal challenges concerning attempts to regain possession of under-occupied properties in these circumstances.

- 4.5 The Housing and Planning Act 2016

The Housing and Planning Act 2016, has restricted the right to succeed to a secure tenancy to spouses and civil partners and those who live together irrespective of when the tenancy was entered into. When introducing the new provisions in Public Bill Committee, the Government saw no justification for retaining an inconsistent approach to pre and post 2012 tenancies in terms of succession rights.