

Welfare Reform

Implications for Tenancy & Allocations Policies and Strategies



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With consultation on the revised regulatory tenancy standards having closed earlier this month, and the Welfare Reform Bill imminently likely to pass into legislation, here we set out the key welfare reform implications you should consider building into your tenancy & allocations policies to avoid storing up future debts and financial problems for your business and your customers.

Tenancy Strategies and Policies

The Localism Act creates a statutory duty for all local authorities to develop a tenancy strategy - to set out high level objectives for the area which all registered providers will 'have regard to' when setting their own tenancy policies.

The difficulty (but also opportunity - in terms of building in the implications of welfare reform) for many across the sector lies in that the statutory deadline for publication of these strategies is not until the end of December 2012 - with many not yet having a strategy to 'have regard to' - while the new regulatory tenancy standard is expected to be in operation right across the sector from April 2012.

Successful bidders under the Affordable Homes programme were able to start issuing fixed term tenancies immediately, but limited until April 2012 to those properties let on an affordable rent. Others will only be able to offer fixed term tenancies if they have an agreed and published tenancy policy from April 2012, but even if there is no intention of using fixed term tenancies, a tenancy policy will still be required in line with the specific expectations of the tenancy standard - aimed at making the best use of stock, sustaining tenancies, and preventing tenancy fraud.

Key Welfare Reform Implications for Tenancy Strategies and Policies

The key implication, with or without fixed term tenancies, is underoccupation. As our earlier article on [how to survive welfare reform](#) outlined, of the 670,000 tenants across the sector who are likely to be affected by changes in HB eligibility from April 2013, the [DWP estimates](#) the majority of affected householders (530,000 - 78%) are under-occupying their accommodation by just one bedroom, and 400,000 (60%) are single people or couples with no children - only eligible for full HB on 1 bedroom properties, which are in scarce supply.

In terms of making best use of stock and sustaining tenancies, there will be a clear need within your policy or strategy to develop a strategic response towards overcrowding and underoccupation in partnership with others.

Lord Freud in recent debates on the welfare reform bill has suggested two key areas which housing organisations should explore to resolve potential issues of underoccupation. Clarifying and setting out the ability of tenants to take in lodgers being one - if your policy or practice doesn't already contain this, there is scope for review of

that to clarify expectations and requirements. Given that Lord Fred has outlined that the first £20 per week of income would be disregarded, this could be an effective way for some to sustain their tenancy, and tenancy sustainment support could creatively be widened to support tenants in finding and making arrangements with lodgers?

Lord Freud's other suggestion related to reclassifying properties which may have 'box rooms' into smaller properties – for example a 2 bed house or flat with a box room becoming a 1 bed. He has suggested landlords might reconsider *'whether to count that room when deciding on the number of bedrooms that should be written into the tenancy, as well as on the rent associated with it. The designation of property size is another area where there may be flexibility. We are exploring this with social landlords as part of our implementation work.'*

As [Jules Birch](#) has suggested, a mass downsizing on this basis by landlords seems unlikely given the potential effect on rental incomes, property valuations and loan agreements, but there may be scope for some creative thinking in relation to this within policies – particularly in hard to let areas or in cases of vulnerability.

But underoccupation isn't the only implication. As our [latest news on welfare reform article](#) outlined, there are many facets to welfare reform which will see reductions in incomes across the board in areas such as non dependent deductions, incapacity benefit and new conditionality rules on benefits. Although the government has confirmed that the HB Discretionary Housing Payments will be increased significantly this year and next, tenants facing shortfalls in HB and other benefits will be competing with private sector LHA recipients also significantly affected by welfare reform.

Affordability, alongside financial and employment support is a key factor which should be factored into all tenancy policies and strategies – with or without fixed term tenancies or affordable rents.

Allocation & Lettings Policies

The Localism Bill introduced significant changes to Part 6 of the 1996 Housing Act covering allocations and reasonable preference categories in housing registers – including the ability to set local qualifying criteria, removal of the requirement to include transferring existing social housing tenants, and discharging of homelessness duties in the private sector.

The government is consulting until the end of March 2012 on draft ['Allocation of accommodation: guidance for local housing authorities in England'](#) which outlines the key changes and expectations, and is applicable to housing authorities and social landlords - who still have a duty to cooperate with housing authorities in offering accommodation to people with priority under their allocation scheme.

Many authorities have taken advantage of the changes to set more local preference and employment criteria for housing registers. Many more will follow, which will necessitate changes to common housing registers, local or regional choice based lettings schemes, and individual landlord's lettings policies.

Key Welfare Reform Implications for Allocations Policies

There is no point storing up future inability to pay rent and all the associated costs then required in arrears and tenancy management by perpetuating existing allocations policies which allow people to under occupy properties when they may not have the means to pay for it in a year's time.

While consumer's choice to rent larger properties will remain, their economic ability to do so will diminish if they are (or become) reliant on assistance via HB or Universal Credit for their rent, and the default position or 'suitable for' description of properties advertised under choice based lettings schemes should relate to DWP eligibility criteria definitions for HB to be used across the social housing sector from April 2013 – i.e.

- one bedroom being allowed for each person or couple living as part of the household,
- a child aged 15 or under being expected to share with one other child of the same gender; and
- a child age 9 or under being expected to share with one other child aged 9 or under, regardless of gender.

Allocation & Lettings policies and particularly any Local Lettings Policies (which over the past two decades have aimed at creating sustainable local communities and allowing families or individual's room to grow) should be reviewed as soon as possible to reflect this.

At the very least, new or transferring tenants should be given enough information to help them make an informed choice over their future accommodation costs – especially with benefit increases generally being pegged at lower inflationary rates than social housing rents are rising by, and when 'affordable' rent rises will depend on what 'market' rents rise by.

As the government's consultation on allocations guidance also outlines, given the imminent welfare reform 'bedroom tax', authorities and landlords '*may want to consider the importance of giving existing social tenants who are under-occupying their accommodation appropriate priority for a transfer to ...make it easier for tenants to downsize to more suitably sized accommodation, and help authorities to tackle overcrowding in their area*' as well as reviewing '*other provisions in their transfer policy which might make it more difficult for under-occupiers to move, such as a prohibition against tenants transferring where they have accrued minor rent arrears, and the scope for removing or revising these in relation to under-occupiers*'

We know that many landlords already have underoccupancy policies and strategies but that some 670,000 underoccupiers remain across the sector reflects that they have just not been that successful or given enough prominence. Most existing policies or strategies also rarely give priority to assisting those underoccupying by less than two bedrooms, while DWP estimates are that the majority of welfare reform affected householders (530,000 - 78%) are under-occupying their accommodation by just one bedroom.

To complement the creative solutions which may be achieved via tenancy policies and strategies to alleviate the impact of welfare reform, overcrowding by one bedroom should be given greater priority within allocations and transfer schemes – preferably on a local or regional basis in partnership with other providers to maximise its impact.

Creative solutions required

Welfare Reform, Localism and the revised co-regulatory approach are some of the biggest changes and challenges for a generation facing the housing sector, and bring with them significant risks, but plenty of scope for creative solutions.

In such times of uncertainty, when resources are stretched and when you need creative solutions in areas such as tenancy & allocations policies and strategies, PHHS can offer a range of fixed price strategic support to help make the outcomes better for your business, your staff and your customers.

In return you'll get creative, cost effective, quality assured and innovative solutions - based on evidenced research; tailored to suit your unique circumstances; & stress tested to ensure they will be put into practice and deliver better outcomes for you and your customers. And all quality assured by a leading national firm of housing solicitors to guarantee they meet legislative, regulatory and good practice standards.

Details of what we do and what we have done are available [here](#). Call or [email](#) us to discuss how we could help, or come and talk to us at;

- Stand DG22 at the [CIH South East Conference](#) in Brighton between 6th and 8th March, or
- Stand 52 at the [NHF Housing Finance Conference](#) at Warwick University between 21st and 22nd March.