

AGENDA SUPPLEMENT (1)

Meeting: Cabinet
Place: Council Chamber - Council Offices, Monkton Park, Chippenham,
SN15 1ER
Date: Tuesday 18 December 2012
Time: 10.30 am

The Agenda for the above meeting was published on 10 December 2012 the appendices to this report were not attached. They are now attached to this Agenda Supplement.

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This Agenda and all the documents referred to within it are available on the Council's website at www.wiltshire.gov.uk

8 **Tenancy Strategy**_(Pages 1 - 18)

DATE OF PUBLICATION: 17 December 2012

Wiltshire's Tenancy Strategy 2012 - 2016



Wiltshire Council Tenancy Strategy

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Introduction

The Localism Act has introduced a programme of reform which will make changes to the way people access social housing, the types of tenancies that are provided and the way the homelessness duty is discharged.

Wiltshire Council is required to publish a Tenancy Strategy to provide the framework for the future delivery of new affordable homes. It will also set out the broad objectives to be taken into consideration by housing providers when developing their own individual tenancy policies.

This policy has been developed through wide consultation with stakeholders, tenants, officers and members to ensure that social housing across Wiltshire is used as effectively as possible and will provide homes for Wiltshire's residents in housing need who are unable to secure a home for themselves in the private sector.

Local context

Wiltshire Council is committed to providing excellent housing services. One of our key priorities is to ensure that we make best use of existing stock and working with our partners to increase the supply of decent new affordable homes is a top priority.

There are significant challenges that we must face if we are to deliver this aim. Wiltshire is a large rural authority and is part of several housing markets. It is on the face of it an affluent area with high property values; however, we have many residents with wages below the national average and the gap between average house prices and incomes is very significant. Balancing our housing markets to ensure the needs of all residents are met will be a particular challenge. Levels of home ownership are high at about 62.7%, whilst private rented accommodation makes up a further 14.9%, social housing 19.2% and tied/military 3.3%.

Access to the private rented sector for those on low incomes and benefits has become difficult due to changes to housing benefits that came into effect in April 2011.

Looking at innovative ways of delivering and funding affordable housing schemes will be critical. It will also be important to work with other agencies to identify and meet needs and aspirations of residents with specialist requirements.

Affordable housing

Affordable housing now includes social rented, **affordable rented** and intermediate housing, provided to eligible households whose needs are not met by the market. Affordable housing should:

- meet the needs of eligible households including availability at a cost low enough for them to afford, determined with regard to local incomes and local house prices
- include provision for the home to remain at an affordable price for future eligible households or, if these restrictions are lifted, for the subsidy to be recycled for alternative affordable housing provision.

Social rented housing is:

rented housing owned and managed by Local Authorities (LAs) and registered providers of social housing, for which guideline target rents are determined through the national rent regime.

“Social rented housing is let by registered providers of social housing to households who are eligible for social rented housing.”¹

Affordable rented housing is:

rented housing provided by registered providers of social housing that has the same characteristics as social rented housing except that it is outside the national rent regime, but is subject to other rent controls that require it to be offered to eligible households at a rent of up to 80% of local market rent.

“Affordable rented housing is housing that is let by a registered provider and has a rent level higher than that of social housing.”

Intermediate affordable housing is:

housing provided at prices and rents above those of social rent, but below market prices or rents. This can include shared equity products (e.g. HomeBuy), other low cost homes for sale and intermediate rent, but does not include affordable rented housing.

Affordable rent and rented housing

At the time of writing affordable rented homes will be let by registered providers who have entered into a contractual arrangement with the Homes and Communities Agency to deliver affordable homes.

¹ CLG – Planning Policy Statement 3 – Planning for Housing – Affordable housing definition consultation – summary of responses

Affordable rented homes should be made available to tenants at a rent between current social rent levels and up to a maximum of 80% of gross market rent (which will include the service charge for the property, where applicable).

All affordable rent properties should be advertised through the agreed Wiltshire choice based lettings system clearly identifying that the property will be let at an 'affordable rent'.

Registered providers must use a valuation of market rent in accordance with the definition of the International Valuations Standard Committee as adopted by the Royal Institute of Chartered Surveyors to determine the affordable rent and each affordable rent property must be valued individually, taking into account aspects such as its location and size.

Private rented

The table below shows that social rent levels in Wiltshire are consistently below the entire range of rates for affordable rent and the gap between social rent and affordable rent increases with property size.

Size of property	Average Social rent, wkly ²	Average 60% market rent, wkly	Average 70% market rent, wkly	Average 80% market rent, wkly
1 Bed	£68	£69	£80	£91
2 Bed	£79	£91	£107	£122
3 Bed	£89	£111	£129	£148
4 Bed	£99	£177	£207	£236

The table of the average 80% of market rents above provides an indication of the likely average rents that will be charged under the new affordable rent regime. These figures suggest that the introduction of the new affordable rent will lead to an increase of over 50% in the rent for a 4-bedroom house and around £23 per week for a 1-bedroom property.

Property prices

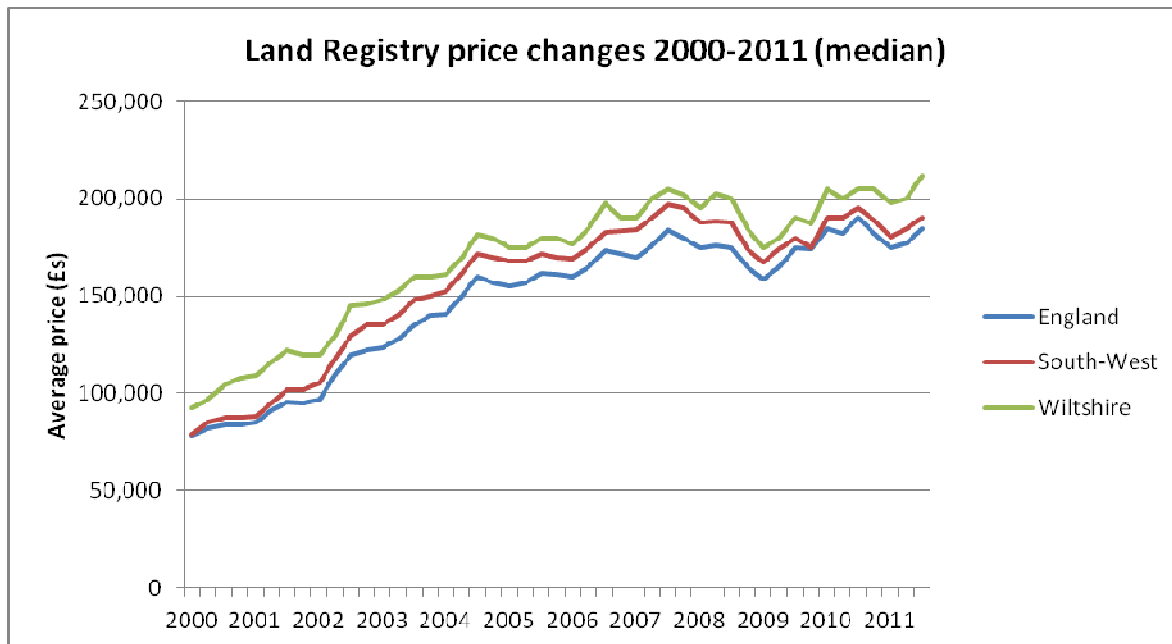
According to data from the Land Registry, the median house price in Wiltshire in Q3 of 2011 was £212,000 compared with the South-West regional average of £190,000 and the English average of £184,995.³

Over the last ten years, the average house price in Wiltshire has risen by 74%. The rise in house prices across England as a whole in this period was 94% and in the South-West was 86%.⁴

² Regulatory and Statistical Return, 2011, 'Guide to Local Rents, Part II.'

³ Department of Communities and Local Government, Land Registry data, live table 582, 'Median house prices by district.'

⁴ Median average house price, Wiltshire, Q3 2001 = £122,000; South-West Q3 2001 = £102,000; England Q3 2001 = £95,500. *Source:* Department of Communities and Local Government, Land Registry data, live table 582, 'Median house prices by district.'



Although we appreciate that all housing providers' bids to the Home and Communities Agency for grants to deliver affordable housing are based on 80% open market rents, we would request that on setting rents, housing providers should be mindful of the potential impact of the government's plans to introduce a universal credit system and benefit cap in April 2013 which will limit the amount of benefit available to families to £500 per week.

Our research has shown that the impact of this cap will create affordability issues for large families living in larger affordable rent homes and also in higher rented areas such as Salisbury. It is likely to affect around 100 households across Wiltshire.

Wiltshire Council would want to try to ensure that affordable rent levels in Wiltshire remain affordable. We would therefore expect housing providers to avoid setting rent levels that risk households being unable to afford their rent.

We will support affordable rents on new developments that are part of the HCA's 4 year development plan of up to a maximum of 80% as long as the actual rent charged is below the housing benefit cap to ensure clients who are eligible for housing benefit will be able to claim the full rental amount.

Tenancies

The Localism Act has created a new type of tenancy called a flexible tenancy. Housing providers will no longer have to let a tenancy for life, but can let it on a fixed term.

“A flexible tenancy is a tenancy that lasts for a fixed term, and which is regularly reviewed.”

The council welcomes the additional local flexibility of fixed term tenancies as they provide an opportunity to address issues such as under-occupation, improve stock turnover, and encourage the best use of Wiltshire's limited affordable housing

stock. We recognise that the minimum term for a flexible tenancy is for a period of 5 years and anything between two and five years will only be considered in exceptional circumstances as this is unlikely to encourage a household to invest in their home and community, and could impact on community cohesion and the sustainability of that community.

In certain circumstances, the granting of a tenancy that exceeds a five year period may be appropriate for some tenants in order to provide an additional degree of stability and security. Households who have dependant school aged children attending a local school, those living in adapted properties and those with support needs that are long term but not lifelong should be considered when deciding on the length of the fixed term.

The council will seek to encourage its tenants to take control of their lives by providing support when it is needed at the time of crisis and will encourage tenants to prepare for independence once their situation has improved. We will look to introduce incentives to make it easier for tenants, who are living in under occupied council properties, to move to smaller and more suitable accommodation. This will release larger properties for households requiring larger accommodation. The council would expect other housing providers in Wiltshire to work in partnership to consider similar incentives and make best use of their stock.

Exclusions

Providers should consider any exclusions from the use of fixed term tenancies that they feel appropriate, as the council would support the continued use of lifetime tenancies for all client groups.

The exclusions that the council would like to see include:

- all forms of temporary accommodation where assured shorthold tenancies, non-secure tenancies and licences are permitted for shorter periods, to support us in carrying out our homelessness duty
- any tenant with a lifelong need for support or who is terminally ill and this would apply to tenants in specialist and supported accommodation, as well as older persons' accommodation such as sheltered or extra care
- a tenant with a spouse or child with a lifelong need for support or who is terminally ill
- any customer of retirement age who is living in a home which is suitable for their needs e.g. 1 bed property not classed as older persons' accommodation or extra care.
- Any customer identified as needing accommodation for witness protection or safeguarding issues.
- secure tenants whose tenancy commenced before 1 April 2012 and who are moving to another council property - already protected in law.

Review criteria

Government reforms require housing providers to formulate policies that will govern the process under which tenancies will either be renewed or terminated at the end of a fixed term. Where a fixed term tenancy is granted the housing provider must review the tenancy six months before it expires. If it is decided, as a result of the tenancy review, that a tenancy will not be renewed, written notice advising the tenant of such should be served. The notice must contain the reasons for the decision and, at the same time, notify the tenant of the right to appeal. We would like housing providers in Wiltshire to consider the following factors when reviewing tenancies at the end of a fixed term:

- The current circumstances of the household and the need for a property of the type and size that they occupy. We would like to see housing providers make use of the new flexibilities to help address issues such as under occupation and to make best use of our limited housing stock.
- The financial capacity of the tenant to be able to secure alternative market accommodation that would be affordable. The affordability matrix provided by Wiltshire Council should be used to assess financial capability.
- The tenant has breached the terms of their tenancy agreement, including but not limited to Anti-Social Behaviour, rent arrears or property management issues.
- The tenant or a member of their household has been convicted of an act of civil disturbance or other criminal activity.
- A property that has had major adaptation work where the tenant no longer needs the adaptation, including but not limiting too, ground floor extensions, level access showers, stair or through floor lifts.
- The tenant has acquired another property.

Wiltshire Council is committed to ensuring that the decision to terminate a fixed term tenancy does not lead to increases in levels of homelessness. All housing providers including Wiltshire Council should work proactively with any tenant who has been served notice to assist them to explore their options for alternative accommodation, which could include home ownership, low cost home ownership or a more suitable affordable rented home, as well as providing advice on renting in the private rented sector and assistance in identifying and securing a suitable property.

It is recognised that the Councils Housing Options team would also have a role to play in assisting providers with providing appropriate advice to tenants and would recommend that a review procedure for Wiltshire is adopted

Succession rights

All new tenancies should include a right to one succession for spouses and partners, but we also support housing providers' flexibility to grant whatever additional succession rights they choose. We would strongly encourage housing providers to include siblings within the succession rights if they have been living with the tenant as their only or main principle home for a period of 12 months.

All successions to a flexible tenancy should only be for the remainder of the life of that tenancy, and should be subject to a full review as set out in the appropriate housing provider's tenancy policy.

Disposals

If a housing provider in Wiltshire would like to sell a social housing property, this would be considered as a disposal. For this purpose social housing is defined as:

- low cost rental accommodation
- low cost home ownership

Wiltshire Council recognises that there may be occasions when it makes sense to dispose of a property that has previously been available for social renting, either because the property is uneconomic to maintain, or it is not of a type or in a location which meets housing need, or where the proceeds of disposal are needed to support the development of more housing

We will support disposals to the open market subject to the agreement of the Homes and Communities Agency, where the provider has completed a full options appraisal and can demonstrate a clear benefit to increasing the overall affordable housing stock provision in Wiltshire.

To help housing providers obtain approval from the Council for the disposal of social housing stock, we intend to create a disposal framework for Wiltshire which will be developed with providers by the end of 2012.

Conversion

A conversion is when a property is converted from a social rented property to an affordable rented property. We recognise that the conversion of existing stock to affordable rent is a crucial element in generating additional financial capacity in order to deliver more affordable housing, but before conversions take place we would encourage housing providers to have researched and understood the potential impact on the supply of affordable housing where specific types of properties may be in short supply or market levels may be very high.

All conversion should be approved and be part of the Homes and Communities Agency's build programme.

Changes to the Homes 4 Wiltshire allocation policy

We currently operate an 'open' housing waiting list, which mean almost anyone is eligible to register for social housing on a local authority waiting list, regardless of whether or not they are in housing need. This was previously required by law but is no longer the case. In Wiltshire our waiting list continues to grow daily and the administration of this service becomes harder with more applications, enquiries and reviews. Once the applications are processed, applicants are placed into 5 bands, Platinum – Bronze, with Platinum being the highest priority and bronze indicating, in the majority of cases, no housing need.

As at June 2012, the numbers of households in each band were:

Platinum	199
Gold +	521
Gold	3,739
Silver	5,366
Bronze	7,928
Total	17,753

The Localism Act has introduced new freedoms which allow us to set the rules determining which categories of applicants qualify to be considered for social housing. However, rules determining which applicants receive priority for social housing would continue to be set centrally via the statutory 'reasonable preference' categories. In some circumstances, the Council is also able to provide for local priorities outside the statutory categories

With only 2,107 lettings made in the last financial year (2011/12), it is clear that social housing cannot provide the housing solution for all households on the housing register. A full review of our Homes 4 Wiltshire Allocations Policy will commence in 2012 which will enable us to take advantage of the new freedoms provided under the Localism Act and improve the way we allocate social housing.

Whilst this strategy does not set out the specific changes that we will make to this policy, we will need to consider:

- the potential to remove our bronze band, which will mean we would only accept applications from the people who have an identified housing need.
- if extra priority should be given to people who have made a positive contribution to the community.
- the potential to introduce local residency criteria,
- a full review of our banding criteria

A full review of our allocations policy will start in September 2012 and is likely to take 12 months.

Tenancy Strategy consultation – summary of responses.

In developing the Tenancy Strategy extensive consultation took place with a number of stakeholders, providers and tenants. During the three month formal consultation process we received responses from Housing Providers, Tenants, Residents, Town and Parish Councils and community partnerships. Most were in agreement with the content and felt the strategy was a good length

Q4. Do you agree with Wiltshire's expectations of registered providers to set affordable rents of up to 80%?

The majority were in support

Comments:

- a) All RSLs responded positively.
- b) Many of the other 'yes' responses noted warnings about affordability, esp. in relation to the benefit cap, e.g. **'I agree that we should support up to 80% as long as this does not compromise affordability when WR Cap comes in.'**
- c) The primary reason for a 'no' response was the potential for rent arrears / benefit trap / increased pressure on Housing Benefit.
- d) Concern was expressed by residents and the WSTP about the increasing distance between both private and affordable rents, and wages in the county.

If you answered No to Question 4 – What should affordable rents be set at?

A couple had suggested 60%, others made no comment.

Q5. Should the council support the introduction of flexible tenancies?

The majority were in support

Comments:

- a) Some of the 'yes' responses were concerned about how flexible tenancies would be implemented, i.e. the review processes (e.g. WSTP)
- b) WSTP presented a long discussion of the pros and cons of flexible tenancies, expressing concern for **'the potential for discrimination [which] is a strong one, and the adoption of flexible tenancies would be a major departure from the original aims and philosophy of social housing'**
- c) The exceptions (TA, vulnerability, secure pre-1/4/2012) were supported
- d) See Greensquare's response reported in qu.9

Q6: Should we include any other exclusions within the strategic tenancy policy?

The majority felt no other exclusions were required

If you answered yes what other exclusions would you like to see included?

Aster: any customer of retirement age who is living in a home which is suitable for their needs e.g. 1 bed property not classed as older persons' accommodation or extra care.

Councillor: need a special circumstances clause, e.g. for witness protection, safeguarding issues.

Q7. Should the council be recommending any other review criteria that would assist households in finding alternative accommodation at the end of a tenancy?

The majority answered No.

If you answered yes what other review criteria would you like to see included?

WSTP: The request for RPs to pay attention to adaptations is too vague; a hand rail is an adaptation. It needs to be more specific around major adaptations. WSTP also note: 'How the financial capacity of a tenant to secure alternative market accommodation is assessed needs to be much clearer, will all providers apply the same matrix? Urgent work needs to be done with the private sector to agree standards, security of tenure etc. Will advice be available to tenants?'

Aster: 'Tenants who have been served notice will need assistance to explore their options for alternative accommodation. This assistance will need to be provided by the registered provider who served the notice as well as the Council's housing options team. The proposed wording confers this responsibility solely on registered providers and we suggest it should be amended to also reflect the Council's role.'

Councillor: 'if we are encouraging people to downsize, if they are still eligible for affordable housing, perhaps we ask that they be given bonus points to enable them to be higher up the transfer list?'

Q8. Should we be recommending more than one right to succeed to a spouse or partner only?

The majority had answered No.

Comments:

- a) 'siblings should be included in the right to succession especially in the case of one parent families, or a carer that is not a spouse'
- b) 'I agree with 1 right to succeed, but I am aware of cases where there was an older child living in the house and no spouse or partner and it was necessary for that child to remain in the property, so I would like to see that we do not prohibit that.'

Q9. Will your organisation's own policies reflect the expectations in our draft strategic tenancy policy?

Minimal response.

If you answered 'no' or 'partially' please explain why?

A2Dominion: answered 'not sure' and commented: **'We are currently in the process of preparing options paper to be considered by Executive Management Team in late April and will be in a better position after this to advice on the detail of our proposed Tenancy Strategy.'**

Greensquare: answered 'no' and commented: **'We are offering lifetime tenancies as a default, and only using short term tenancies if there is a very specific need for them. We are very concerned that fixed terms tenancies will have a negative impact on a community. We think moving people around will be unsettling and not contribute to sustainability. Your policy on page 8 says that you "would offer the tenant an alternative property". I don't think that this is feasible, given the housing need problems in the area. We will also keep flexibility around succession rights.'**

The 'partially' response was a complaint from an unnamed respondent about the assumption that only RSLs provide affordable housing – parish councils, villages should be able to as well.

Q11. If you have any further comments you would like to make about the Strategic tenancy policy 2012-2016

Two comments:

- a) **The method that the council uses to determine future Social housing needs for the area need adjusting. Not including under 25's who live in parent's homes in the calculation is wrong as they should have the same rights to housing as any other adult. Also not including families in rented accomodation who have a combined income of £25k or over is unfair as the individuals could still be below the poverty line.**
- b) **The Bronze category should be removed now to reduce administration time and the Silver category could also be removed, pending a full review, while the annual level of lettings is so low. The banding criteria should be fully reviewed with the aim of reducing the Waiting List to a reasonable length say 5,000.**

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STRATEGIC TENANCY POLICY – AMENDMENTS FOLLOWING CONSULTATION**1 FRONT PAGE**

We have amended the document to be called 'Wiltshire's Tenancy Strategy' as using the term Strategic Tenancy Policy was deemed confusing when as a local authority we are also required to produce a tenancy policy.

2 AFFORDABLE RENTS

We have noted some of the concerns regarding rents being set at 80%, however we need to be aware that the housing providers bids to the Homes and Communities Agency were all based on 80% open market rents so the providers will not be able to afford to charge less than this and would have to apply the 80% charge.

Our SHMA, which is a Strategic Housing Market Assessment (SHMA) is a comprehensive analysis of Wiltshire's housing market. It is a key element of the evidence base for developing the Wiltshire's Local Development Framework. This suggests an affordable rent of 70% as being more affordable to those on the register, but the SHMA was working from the assumption that we wanted to try and limit the requirement for households to be benefit dependant, which is why it has recommended setting affordable rents at 70%.

The difference between a 70% and 80% affordable rent on an average two bed property is £15pm / £65pcm / £780pa (bearing in mind substantial local variation in rental prices)

The SHMA estimates that 11,042 households on the register could not afford 80% rents without benefit (as compared to 9,701 at 70%), therefore the impact of the benefit bill assuming 580 new builds per year, formally let at social rents, now let at affordable rents, is likely to be in the region of £700,000pa. In all cases affordable rents set at 80% would be affordable when claiming housing benefit as it would be below the housing benefit cap. We therefore intend to support rents being set at upto 80%.

We have made the strategy clearer to show that affordable rents are 'up to a maximum of 80% and only on new developments that are part of the HCA's 4 year development plan.

3 AFFORDABLE RENT VALUATIONS

We have removed the final section in paragraph 3, page 5 'and each affordable rent property must be valued individually, taking into account aspects such as its location and size' as the wording indicates that all affordable rented homes should be valued individually. We recognise that this would be too restrictive, create unnecessary cost and would prevent registered providers from using beacon properties to calculate rents or re-using valuations on the same type of property and in the same location which had been recently obtained.

4 TENANCIES

The Council recognises that there are positives and negatives to the introduction of flexible tenancies and would ask that providers consider these when making final decision within their individual tenancy policies.

5 EXCLUSIONS

Providers should consider any exclusions from the use of fixed term tenancies that they feel appropriate, but we have included three additional exclusions that we believe are appropriate:

- any customer of retirement age who is living in a home which is suitable for their needs e.g. 1 bed property not classed as older persons' accommodation or extra care.
- any customer identified as needing accommodation for witness protection or safeguarding issues.
- a tenant with a spouse or child with a lifelong need for support or who is terminally ill

The council has also recognised and supports any provider who has decided not to take up the introduction of flexible tenancies

6 REVIEW CRITERIA

One of the reasons specified for consideration in a review at the end of a fixed term tenancy was an adapted property. It was considered that this was too vague and should be expanded. We have now stated:-

A property that has had major adaptation work where the tenant no longer needs the adaptation, including but not limiting too, ground floor extensions, level access showers, stair or through floor lifts.

The former wording in the review sections suggests that responsibility to explore options for alternative accommodation for tenants who have been served notice lies solely on registered providers and we recognise that the Council's also has a role to play in providing options advice to those tenants who have been asked to leave. A procedure should be adopted between all housing providers and Wiltshire Council to be clear about roles and responsibilities after a tenant has been served notice to leave.

7 SUCCESSION

We recognise the importance of protecting siblings who have been residing with a tenant, maybe as a carer or as their only or main principle home when it comes to succession rights, and we are mindful of the minimum statutory requirement for succession rights. Because of this we have amended the wording as follows:-

We would strongly encourage housing providers to include siblings within their succession rights if they have been living with the tenant as their only or main principle home for a period of 12 months.

8 DISPOSALS

Wiltshire Council recognises that we have not provided enough detail to help providers with requests for support from the authority for the disposal of properties. We are aware that there may be occasions when it makes sense to dispose of a property that has previously been available for social renting, either because the property is uneconomic to maintain, or it is not of a type or in a location which meets housing need, or where the proceeds of disposal are needed to support the development of more housing

9 ALLOCATIONS

Following the introduction of the Localism Act we now have a new guidance for the allocation of social housing that we are required to follow. We are therefore in the process of conducting a full review that will start in Sept 2012 and is likely to take 12 months to complete. During this review we will be considering things such as

Formal amendments made following 3 month consultation

18 July 2012

local connection, consideration of the band – including Bronze and the categories within the bands. Until the review no major changes to the policy will be carried out

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