

Briefing

Memorandum to the ODPM select committee.

Inquiry into the role and effectiveness of the housing corporation

From the Shelter policy library

February 2004

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Shelter

Shelter is a national campaigning charity that every year works with over 100,000 people. Shelter has two aims. One is to prevent and alleviate homelessness by providing information, expert advice and advocacy for people with housing problems. Our second aim is to campaign for lasting improvements to housing-related legislation, policy and practice.

In 2003, Shelter advised over 5,000 housing association tenants experiencing housing problems. We therefore welcome the opportunity to submit evidence to this inquiry. Our evidence focuses on the effectiveness of the Housing Corporation's regulation of housing association management practice and its investment priorities.

We have also published research into issues relevant to this inquiry. This shows that social landlords' practice in managing rent arrears relies too heavily on taking possession actions - often resulting in homelessness - that might otherwise be avoided if alternative approaches to addressing the problem were taken (House keeping, 2003).¹ We have also conducted research into the impact of stock transfer on homelessness. This found that in some areas where stock transfer has taken place, problems can arise where the transfer housing association's allocations policies frustrate the local authority's attempts to discharge their statutory duties to assist people who are homeless (Out of Stock, 2001).²

The effectiveness of the Housing Corporation's role in ensuring housing associations are providing high quality housing and catering for diverse housing needs.

On the basis of our research and our experience as a provider of advice to people in housing need, there are three key areas where housing association practice can be poor and it is essential that the Housing Corporation exercises more effective regulation:

- lettings policy, particularly in relation to applicants nominated by local authorities as being in priority housing need;
- management of tenancies and the need to pursue all other avenues before seeking possession;
- balancing business case decisions on management issues with the needs and circumstances of individual residents and potential residents.

The Housing Corporation's new regulatory code and guidance, which was introduced in April 2002, sets out the fundamental obligations of housing associations. The code and guidance introduced some welcome expectations in relation to management practice. However, we are concerned that those arrangements currently in place to monitor compliance with those expectations are inadequate and that in the areas outlined above, enforcement action to remedy non-compliance is rarely taken. In our view, although the

system for monitoring and enforcing compliance may be well suited to addressing issues of financial viability and governance, it is less effective for 'soft' management objectives such as those that relate to lettings policy, tenancy sustainment and other management issues.

Rent arrears

For example, under section 3.5c of the regulatory guidance, housing associations are expected to only seek possession action as a last resort. However our experience is that in many cases possession action is initiated too early and insufficient steps are taken to ascertain the reasons for a tenant getting into rent arrears. This can include making use of the mandatory grounds for possession in cases of rent arrears,³ where the court has no discretion other than to grant possession if more than eight weeks of arrears are owed.

The financial cost to local authorities of evicting tenants for rent arrears is high. At the very least, there will be the costs of unrecoverable arrears, court costs, housing management time, maintenance, void and re-let costs of eviction common to all social landlords. In addition, tenancy failures also result in greater demands upon other local authority services. If a household that is made homeless is in priority need, they are likely to be accommodated under the homelessness legislation and placed in temporary accommodation.

The number of social landlord possession actions doubled between 1994 and 2001 and now stands at around 150,000 per annum. However, outright possession is granted in only around 30,000 cases, suggesting that many of them could be dealt with more effectively without recourse to the courts. Shelter has proposed arrears resolution services would work with landlords and tenants to stabilise arrears by resolving benefits issues, implementing a repayment plan, providing debt counselling and advising tenants on their rights and responsibilities. Social landlords should offer tenants with rent arrears these kind of services before embarking on possession action. We would like to see the Corporation champion a more preventative approach that focuses more on resolving rent arrears problems than possession action.

Citizens Advice has recently called for the ODPM and Housing Corporation to draw up a statement of practice on preventing and recovering rent arrears for all social landlords. Compliance with the statement of practice would be a key part of inspections by the Audit Commission/Housing Corporation. Such a statement is routine among other lenders, including mortgage lenders. Shelter strongly supports this proposal.

Case study

A single parent with 3 young children contacted Shelter because her landlord, a local housing association, was taking a possession action on a number of grounds associated with non-payment of rent, including ground 8. She was claiming housing benefit but there had been problems with her claim which had not been paid. She had also been struggling to overcome a drug problem.

Shelter contacted the association and confirmed that a possession order had been granted and a bailiff's warrant had been issued. We negotiated an agreement that the association would drop the mandatory ground 8 action and suspend any further action for three months. We also attended a court hearing at which the warrant was suspended and contacted other agencies to ensure that she was given enough support to be able to keep to the terms agreed with the association.

Lettings

Shelter has also been concerned about the impact of social landlords policies on lettings, which can exclude people from access to social housing for a number of reasons including previous rent arrears, anti-social behaviour and previous convictions. The consequence of these policies can be that people in significant housing need are unable to access affordable housing. Recent measures in the Homelessness Act 2002 have tightened up the legislation that applies to local authorities.

However, in spite of the new Regulatory Code and guidance introduced by the Corporation, we are aware of inconsistencies in practice by housing associations. This includes cases where clients have been accepted as being homeless and in priority need by the local authority, but the duty cannot be discharged because they are excluded by the housing associations in the area. The Housing Corporation has commissioned its own research into these issues which suggests that, on the whole, the number of people excluded by housing associations is small.⁴ However, it also found that there was an absence of reliable record keeping on this issue which makes it difficult to draw firm conclusions about the scale of the problem.

Vulnerable households deemed too risky to house

In our housing aid centres, we advise some very vulnerable people deemed 'too risky to house' being passed from agency to agency without receiving housing or support. This is an area where local authorities and housing associations are failing people in the greatest need. Housing associations often raise concerns about the lack of information provided to them by local authorities, the lack of a support package and an alleged lack of

communication between the council's nomination section and other departments, especially social services. The absence of appropriate support is a common reason for the failure of a nomination from a local authority to a housing association. The lack of effective joint working leaves some very needy people at risk of street homelessness or in inappropriate temporary accommodation for long periods.

A number of associations have little regard to these aspects of the regulatory expectations that the Housing Corporation places on them. Indeed, we are concerned that the regulatory approach of the Housing Corporation is geared too far towards 'hard' management objectives such as the reduction of rent arrears, and does not adequately address softer management objectives such as the provision of debt counselling as a preventative tool in rent arrears management or inclusive letting policies. This can have the effect that some aspects of management practice are seen as more imperative than others. Housing association management of rent arrears is measured using a performance indicator for current tenant arrears, which can have the effect of encouraging housing associations to evict tenants with arrears in order to get their arrears off the rent account rather than identifying the reasons for tenants getting into arrears and reaching sustainable agreement to repay the arrears.

Over the last ten years, many associations have adopted stricter arrears regimes in response to the more competitive financial environment in which they have to operate.⁵ In our experience, many associations take a blanket approach to lettings and evictions based on minimising perceived risks to their rental income. Clearly, associations have to balance their social and business interests. But research by Shelter, Citizens Advice, the Audit Commission and the Department of Constitutional Affairs (DCA) suggests that a 'one size fits all' approach is neither cost-effective nor fair.⁶ As housing associations become the majority provider of social housing, pressures through new development and stock transfer, tensions can only increase. It is imperative that the Housing Corporation's regulatory approach acts as a counterweight to these pressures and ensure that housing associations fulfil their function of providing affordable housing for those in greatest need.

The Housing Corporation is currently looking at additional regulatory requirements in these areas. However, even with these additional requirements we would remain concerned about how compliance with these provisions would be assured.

The regulation and accountability of housing associations inevitably leads to questions about their legal status. Although associations are largely taking over the social landlord functions of local authorities, in law they are private bodies. This issue has been considered by the Joint Committee on Human Rights which has been looking at the meaning of the term 'public authority' within the Human Rights Act 1998. It is our view that although housing associations are private bodies, their housing management functions are of a public nature and should be subject to human rights protection.

Houses in multiple occupation

The introduction of the Housing Bill into Parliament raises a further issue about the scope of the Housing Corporation's regulations. The Bill will require specified larger houses in multiple occupation (HMOs) in the private sector to be licensed. This is in recognition of the particular health and safety risks in such dwellings and additional requirements to manage them effectively. HMOs owned or managed by housing associations are exempt from the definition of an HMO contained in the Bill and therefore the mandatory licensing scheme. While we do not believe that housing association HMOs should be required to be licensed, specific regulatory requirements need to be introduced to ensure they are maintained to the same standard as HMOs in the private sector.

The Housing Corporation's investment priorities, its balance of funding for social housing to rent, shared ownership and low cost housing for sale and its policy towards diversification.

The shortage of affordable housing - which is most acute in London, many parts of southern England, high demand hotspots and rural areas - has reached crisis point. This is reflected in record numbers of nearly 95,000 homeless households living in temporary accommodation and high levels of overcrowding.

Despite the growing housing crisis for those in most acute need, recent debate has largely focussed on the difficulties faced by key workers in accessing affordable accommodation in high demand areas. In response to this, larger portions of public subsidy than ever before have been directed towards meeting intermediate housing shortfalls.

Whilst we support efforts to improve the intermediate market and welcome the move away from indirect subsidy through the Starter Homes Initiative for this group, we are concerned by the limited scope of key worker definitions and the extent to which public subsidy is being re-directed away from meeting the more acute housing needs of homeless households.

Increasing the supply of affordable housing

Our submission to the Communities Plan welcomed the £5 billion package to increase the supply of affordable housing which largely focused on three priority regions: London, the South East and the East of England. However, we raised concern about the extent to which resources prioritised the needs of key workers and intermediate housing. £1 billion has been outlined by the ODPM for allocation and delivery for this group over the next two years to be focused on London and the South East. We also note that, following intervention by ODPM, the investment strategies of the new London, Eastern and South Eastern Regional Housing Boards were revised in favour of an increased proportion of funding for key worker accommodation.

Distribution of investment

We believe the housing needs of homeless households and other low income households, including essential workers - such as administrators, porters and cleaners - should not be overshadowed by the emphasis currently being placed by government on meeting intermediate housing requirements for particular 'key workers' such as teachers, police and nurses.

Shelter is also concerned that policies introduced to address the housing needs of key workers are reducing the share of resources going to people with the most urgent housing needs. For example, in 2001/2, 77 per cent of the Housing Corporation-funded homes built in London were for social renting. However, in the current year only 54 per cent of the homes funded by the Housing Corporation will be socially rented, because of a significant shift to providing more low cost homeownership and rented housing for key workers. Whilst key worker housing will increase by over 200 per cent compared to last year, the output of social rented housing will only increase by 40 per cent.

Housing Corporation Investment in London

Numbers of units

Year	2001/2	2002/3	2003/4
Social housing for rent	5,198 (77%)	5,019 (72%)	7,100 (53%)
Low cost home ownership	1,541 (23%)	1,970 (28%)	4,735 (35%)
Intermediate rent	0	0	1,538 (12%)
Total	6,739	6,989	13,373

Figures for 2003/4 include 6,617 homes funded through the Challenge Fund.

Resources (£m)

Year	2001/2	2002/3	2003/4
Social housing for rent	431.0 (87%)	456.3 (84%)	626.99 (71%)
Low cost home ownership	61.7 (13%)	89.5 (16%)	198.91 (22%)
Intermediate rent	0	0	57.86 (7%)
Total	492.7	545.8	883.76

Figures for 2003/4 include £300m of additional resources allocated through the Challenge Fund.

Key worker versus other housing needs

There is no definitive research that identifies the relative types of housing needed overall or which type of affordable housing is required for different groups of people. However, the following points are relevant in this context:

- The requirement for affordable housing for rent, as demonstrated by homeless households in temporary accommodation & social sector tenants in overcrowded conditions, combines housing and financial need. There is no comparable data that looks at the housing needs of specified 'key worker' groups;
- As the overall balance between housing demand and supply improves, households who can afford to access the 'intermediate' market will increasingly be able to meet their own housing requirements in the open market. By contrast households on the lowest incomes will continue to need subsidised housing;
- In London, for example, many households who are categorised 'key workers' with 'intermediate' housing needs, may require housing at social housing rates but are unable to access it due to the shortages in social housing provision. This includes, for example, households that are living on the income of a nurse or police officer at the start of their career;⁷
- Research is required to determine the underlying causes of recruitment shortfalls in the public sector.

Shelter is concerned that the investment priorities set out by the ODPM in the Sustainable Communities Plan and being delivered by the Housing Corporation are dedicating disproportionate resources to intermediate housing needs. These decisions have been taken without a robust assessment of the relative needs of different groups and without any assessment of where resources for housing investment will have the greatest impact.

End Notes:

- 1 Neuburger, J. (2003) House keeping: preventing homelessness through tackling rent arrears in social housing, London: Shelter
- 2 Bennett, J. (2003) Out of Stock: stock transfer, homelessness and access to housing, London: Shelter
- 3 Ground 8, Part 1 of Schedule 2 to the Housing Act 1988
- 4 Pawson, H. & Mullins, D. (2003) Changing places: housing association policies and practice on nominations and lettings Bristol: The Policy Press
- 5 Ford, J. & Seavers, J. (1998) Housing associations and rent arrears, York/Coventry: JRF/CIH
- 6 Kempson, E. & Dominy, N. (2003) Can't Pay or Won't Pay - A review of creditor and debtor approaches to the non-payment of bills, London: Lord Chancellor's Department/HMSO
Audit Commission/Housing Corporation (2003) Housing association rent income, London: Audit Commission/Housing Corporation, Neuburger, J. (2003) House Keeping: Preventing homelessness through tackling rent arrears in social housing, London: Shelter, Phelps, L & Carter, M. (2003) Possession action: the last resort? London: Citizens Advice
- 7 See recent work by Keep London Working at the Peabody Trust, London