



Security of Tenure in Social Housing: An International Review

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Key Points

This international review investigated tenure arrangements in six countries with contrasting ‘models’ of social housing, wherein various means have been deployed to either limit security of tenure for social tenants (e.g. fixed-term tenancies) or to recoup ‘misdirected subsidies’ (via rents scaled to income or supplementary rents for tenants above specified income ceilings).

Key findings about arrangements in the six countries studied were as follows:

- Less than 1% of fixed-term social tenancies in Australia (New South Wales) reviewed thus far have been terminated, but critics argue that these fixed-term arrangements, together with the scaling of rents to incomes, severely blunt tenants’ work incentives
- Supplementary rents in social housing have been discontinued in most parts of Germany because of the high administrative burden of implementing them and concerns about undermining ‘social mix’
- Supplementary rents are implemented effectively and with low administrative costs in social housing in Hong Kong, in large part because of a cultural tolerance of high levels of surveillance by the state
- In the US and Canada, rents scaled to incomes incentivise better-off tenants to leave social housing without the need to evict them - these small ‘ambulance service’ social rented sectors are highly residualised and stigmatised
- Where social landlords have a wider ‘affordability’ function and a high degree of discretion over allocations they tend to exclude the poorest and most vulnerable households – necessitating special arrangements for this group, such as the ‘secondary housing market’ in Sweden which offers vastly inferior tenancy terms to those found in mainstream social housing

Two broader points to note:

- Where rented housing accommodates large numbers of households and a broad range of incomes – as in Germany and Hong Kong – the political ‘clout’ of tenants means that their rights tend to be strong, including with respect to security of tenure
- In all social housing systems there is an inescapable trade-off between ‘misdirected subsidy’ (i.e. accommodating some higher income/less needy groups) and ‘residualisation’ (a concentration of the poorest and most needy in the sector) – supplementary rents are unlikely to resolve this dilemma to any substantial extent.

Acronyms

DCLG	Department for Communities and Local Government
HKHA	Hong Kong Housing Authority
LIHTC	Low-Income Housing Tax Credit
MHC	Municipal Housing Company
NSW	New South Wales
PRS	Private Rented Sector
SHM	Secondary Housing Market
SRS	Social Rented Sector

Chapter 1: Introduction

Background

'Security of tenure' can be defined as legal arrangements which offer tenants indefinite tenure of their housing, subject to proven breaches of their lease agreement that provide grounds for termination action by the landlord. Security of tenure has been:

...considered an essential element of social housing in England since its introduction in 1980 as one of the recommendations of the 1977 review of housing policy that attracted bi-partisan support. (Bradshaw et al, 2009, p.24).

However, such 'lifetime tenancies' have increasingly been questioned in the UK over the past few years (Fitzpatrick & Stephens, 2009), with these arguments generally been made in terms of:

- (i). The worklessness agenda and the contention that living in social housing somehow traps people in welfare dependency.
- (ii). Equity and efficiency concerns which stress that, since social housing is a welfare service, it should be targeted on the most needy households and, hence, a mechanism is needed to eject those whose circumstances improve.
- (iii). Contentions linked with the asset-based welfare concept which stress the need to encourage better-off social renters to recognise their own self-interest in taking up homeownership to acquire and grow household wealth.
- (iv). The specific case of secure tenancies gained via homelessness, on the basis that a homelessness safety net exists to make emergency provision for households who may be experiencing a crisis of a temporary nature.
- (v). Pragmatic financial arguments that, with limited public subsidy for social housing, a framework to increase the rents payable by tenants in reasonable/improved economic circumstances, enables funding to be recycled to help more people in need (this is a variant on ii, but does not necessarily involve ejecting people, merely changing the terms of their tenancy).

In their consultation paper published in November 2010 (Department for Communities and Local Government, 2010), the Coalition Government proposed introducing new 'flexibilities' for social landlords in England to offer fixed-term renewable tenancies to new social tenants, with a minimum term of two years, if they wished to do so. The Localism Bill published in December 2010, and currently making its way through the UK Parliament, contains the required legal amendments to implement these proposals. The Coalition Government's justification for its proposed reforms to security of tenure in social housing is couched mainly in terms of argument

(ii), although this has also been linked with the wider theme of 'localism' which calls into question all national standards and legal obligations.

One can question the extent to which there is 'a problem' in terms of 'better off' households 'clogging up' social housing. According to government figures (Family Spending 2009) almost 90 per cent of tenants are in the lower half of the national income distribution. Nevertheless, this still leaves 12 per cent in decile six or above. Almost a third of council tenants are in decile four or above. Some 'better off' council tenants may be able to afford the costs of private housing, although the scale of deposits currently required by mortgage lenders would probably rule out (non-Right to Buy) home ownership except for a tiny minority.

Notwithstanding these considerations, the equity arguments in favour of tenancy duration linked with need must be interrogated seriously. As the Scottish Government has recently pointed out, the typical private tenant spends nearly 30 per cent of income on housing costs, while such costs account for more than half of household income in a sixth of cases. In light of this, there are those who may reasonably take the view that the blanket protection of security for all social renters is 'unfair' to these households because it reduces the prospects of their benefiting from the lower rents and better standards available in the social rented sector.

However, these arguments need to be weighed against the possible disadvantages of removing security of tenure in social housing. These include the potential harm arising from diminished social diversity and increased turnover within the social rented sector, as economically active households are progressively excluded from it, and the potential disincentive effects for economic advancement presented by the threat that this will lead to eviction. The costs and bureaucratic burdens associated with periodic review of tenancies may also prove to be very substantial.

There are also important social justice concerns posed by these reforms. If significantly greater security of tenure cannot be introduced into the private rented sector for economic reasons (Ball, 2010), removal of such security in the social sector may represent a serious diminution in the welfare those low-income households who cannot access home ownership, who would therefore find themselves without any prospect of ever acquiring 'secure occupation' (Hulse *et al*, forthcoming). This pertains to complex but critical concerns regarding the potential social and psychological harm associated with the removal of a key source of security and stability in the lives of low income households. A diverse body of literature on home ownership contends that owning a home enables people to have security and stability through control of their own living

circumstances, which translates into a range of positive outcomes for health and well being (Hiscock *et al*, 2001). The key concepts used to explain this relationship are psycho-social, and include the idea of ‘ontological security’, which refers to ‘*a deep psychological need for a sense of security and constancy*’ in life (Hulse *et al*, forthcoming, p.25), and links with ideas about the ‘meaning of home’ (Mallet, 2004) and individuals’ fundamental need for a sense of control over their living circumstances.

The implication is that a lack of security, stability and control in the housing arena is associated with negative outcomes for health and well-being. Empirical data on these issues is extremely limited in the UK, although there is some indicative evidence that security of tenure is especially important to poorer households (Strachan & Donohoe, 2009), and to families with children (Fitzpatrick, 2008). Moreover, it has been suggested that, for the most vulnerable tenants, whose lives may otherwise be in a state of flux, the security represented by their housing can be an especially valuable ‘good’ (Robinson, 2008).

One can also draw parallels with weaknesses in current debates about the lack of security of tenure for most private sector tenants in the UK. Ball (2010) and others have implied that as, in practice, most private tenancies end on the initiative of the tenant rather than their landlord, the difficulties created for tenants by their lack of legal security are exaggerated. As we see it, however, this conflates a crucial distinction between the ‘de facto’ (in fact) and the ‘de jure’ (in law) position: even if landlords relatively seldom use their legal power to end tenancies without grounds (de facto), the fact that they have these powers in law (de jure) may be a source of considerable stress and uncertainty for tenants who are aware that their landlord has arbitrary power over whether or not they can remain living in their home. This may undermine an individual’s sense of control of their own life and living circumstances, which in turn can have serious implications for both psychological and physical well-being (see above). On the other hand, it may be that many tenants are in fact relatively relaxed about these legal arrangements so long as these powers are not often exercised in practice, or there are alternative private tenancies readily available in the local housing market. That these matters remain uncertain only highlights the relatively weak evidence base which currently exists to underpin policy-making in this area.

Research Aims and Methods

There are thus a wide range of policy questions posed by these planned reforms to security of tenure in social housing, and this is an area in which international comparisons are likely to be instructive. While fixed-term tenancies in social housing appear unusual internationally

(Fitzpatrick & Stephens, 2007), with two states in Australia (New South Wales and Queensland) the key examples cited, variations on this theme do exist, such as the scaling of rents to income (US and Canada, and also Australia) or supplementary rent increases when income exceeds a certain threshold (Germany and Hong Kong) (Hulse *et al*, forthcoming). There are also examples where security is limited in sub-sectors within social housing used to accommodate marginalised groups (e.g. Sweden) (Fitzpatrick & Stephens, 2008).

We therefore carried out a series of targeted, in-depth telephone interviews with well-placed key informants in a range of countries in order to explore:

- the general scope, scale and purpose of social housing in the relevant country;
- the legal, policy and financial arrangements which limit security for social tenants (and how these compare to the arrangements pertaining to private tenants in the relevant country);
- how these arrangements are implemented in practice;
- the advantages and disadvantages associated with these arrangements, how they have been modified over time, and the views of different stakeholders on their fairness and practicability;
- any plans for relevant legal or policy changes.

We conducted these key informant interviews in the following countries: US, Canada, Australia, Hong Kong¹, Germany and Sweden. This spread of countries allowed us to explore a varied range of models for limiting security of tenure for social tenants, and to assess their relative pros and cons. The interviews were mainly conducted by telephone, although the Australian fieldwork was undertaken via face-to-face meetings. Typically interviews lasted 1- 1.5 hours. We also reviewed relevant literature (in English) provided by the international interviewees. All comments and material presented in this report is derived from these key informant interviews unless explicitly referenced to another source.

¹ Hong Kong is not in fact a country, but rather a 'Special Administrative Region' of the People's Republic of China. However, for the sake of linguistic simplicity it is referred to alongside the other five case studies as a 'country' for the remainder of this report.

Structure of Report

Chapter 2 of this report sets the context for this international review by describing the social rented sector (SRS) in each of the selected countries, making comparisons where relevant with the private rented sector (PRS) in these countries. Chapter 3 presents our findings on the main research questions with respect to security of tenure in these countries. Chapter 4 draws together our main conclusions and implications for the current policy debate in England. In Appendix 1 we present the topic guide used in the key informant interviews, and in Appendix 2 we provide an overview ‘profile’ of each country².

² Please note that, as arrangements differ so much between states/provinces in Canada and Australia, the country profiles in these cases take Ontario and New South Wales respectively as key reference points.

Chapter 2: Social Rented Housing in Six Countries

Introduction

This chapter describes the SRS in all six countries in order to contextualize the consideration of their security of tenure arrangements presented in Chapter 3.

Size, Trends and Ownership

As Table 2.1 indicates, the size of the SRS varied hugely across the six countries studied, from around 5% or less of all housing stock in the US, Canada, Australia and Germany, to 16% of stock in Sweden³, and social housing accommodates 29% of the population in Hong Kong. As a proportion of overall housing provision (and, in some instances, in absolute terms) the SRS is in long-term decline in all of the countries studied, with exception of Hong Kong where it is broadly stable.

Ownership of social housing is very diverse across these six countries (see Table 2.1). There is usually some combination of municipal or other state ownership (with Municipal Housing Companies (MHC) which are wholly or mainly owned by local authorities an especially common model in Europe), with some private not-for-profit involvement. Another point to note is the massive scale of the Hong Kong Housing Authority (HKHA), which owns 711,500 units in total.

Table 2.1: Size, Trends and Ownership in Social Rented Housing

Country	Size	Trend	Ownership
Australia	5% of stock	Long term decline but numerical net growth post-2007	Mainly owned and managed by state government (88%); remainder is state-owned housing managed by community housing

³ There is no 'social housing' in Sweden, i.e. nothing let at below market rents and allocated according to need/other administrative criteria. But municipal housing companies (MHC) own 16% of all housing stock in Sweden and form a 'public housing sector'. We refer to this as 'social housing' with respect to Sweden for the remainder of the report.

			providers
Canada	5% of stock	Long term decline – very little new construction since 1994	Sector split between municipal housing and private non-profit housing. Also small co-operative sector
Germany	5% of stock	Decline	The SRS is about subsidy not ownership – comprises housing to which ‘social obligations’ apply only until the public subsidy used to develop it is repaid. Recipients of these subsidies include MHC, regional government, other public bodies, insurance companies, churches etc.
Hong Kong	29% of population	Stable	HKHA owns 90% of social housing; one housing association owns the other 10%.
Sweden	16% of stock	Decline	MHC own almost all public housing, except for a very small number of public landlords that are foundations
US	3-4% of stock	Decline (in public housing). Continuing modest additions to stock in Low-Income Housing Tax Credit (LIHTC) funded sector	Three main types of providers: public housing, privately owned federally-subsidised housing, and Low-Income Housing Tax Credit (LIHTC) funded housing

Readers should note the specific arrangements in Germany whereby social housing is defined not by ownership but by receipt of subsidy (available to a wide range of bodies), with

concomitant time-limited ‘social obligations’ to let to households below a specified income ceiling, and at below market rents, until such time as the subsidy is repaid. As such obligations expire, this housing ‘passes out’ of the SRS into other tenure forms, and the overall scale of the sector has declined as a result.

Similarly, in the US, only public housing is ‘permanent affordable housing’. Landlords of homes built under the other two forms of funding - privately owned federally-subsidised housing, and Low-Income Housing Tax Credit (LIHTC) funded housing - cease to be bound by obligations to let on affordable terms after a specified period (sometimes as little as 15 years). Several hundred thousand privately owned homes developed via federal subsidies from the 1960s to the 1980s have now reverted to market terms.

Demand, Eligibility and Allocations

In most cases, demand for social housing was reported as strong, though sometimes less so with respect to remote or outlying areas (e.g. in Sweden and Hong Kong) or in economically depressed regions (e.g. in US). These high levels of demand generally remained the case even where the SRS equated with stigmatized neighbourhoods, e.g. in Australia and US. The exception to this general picture of excess demand was Germany, where the housing market is generally very slack and only in some ‘boom’ towns in western Germany is there any housing pressure, including with respect to the SRS.

Table 2.2: Demand, Eligibility and Allocations

Country	Demand	Eligibility	Allocations
Australia	High or very high	Income threshold to target provision on poorest	Increasingly targeted towards ‘low income households with complex needs’ and homeless people
Canada	High or very high	Income test such that, median market rents account for more than 30% of an applicant total income	Date order system overlaid with centrally prescribed priority groups – unaffordability of current housing, poor living conditions and overcrowding

Germany	Variable – high pressure only in some ‘boom’ cities in western Germany	Based on a generous income ceiling – approx 40% of population below ceiling	Generally at discretion of landlord – some municipalities have nomination contracts but in a weak position to enforce
Hong Kong	High demand – especially in central urban areas	Based on an a) income ceiling; b) asset ceiling; and c) residency requirement	Highest priority to elderly people; lowest priority to single people under 35. No account taken of health issues or housing need
Sweden	High demand – especially in major cities	Largely left up to MHC (subject to anti-discrimination laws)	Largely at discretion of MHC. Will assess ability to pay rent for any specific flat, and often exclude anyone deemed ‘risky’
US	High or very high (though demand for LIHTC may be lower in some ‘rust belt’ areas)	Income threshold for public housing targets extremely poor households (30% of area median family income)	Largely on date order basis

Eligibility for social housing is narrowly drawn in the US, Canada and Australia in order to target it on the poorest households. This tight eligibility framework means that allocations criteria (which decide which households amongst all those who are eligible are actually rehoused) are relatively less important than in contexts where less filtering takes place via eligibility criteria (Fitzpatrick & Stephens, 2007). Thus in the US – where eligibility is exceptionally narrowly prescribed - allocations are mainly based on date order, though in Canada (where eligibility is not quite so tightly constrained) a predominantly date order system is overlaid with centrally prescribed priority groups. In Australia, allocations are increasingly targeted towards low income households with ‘complex needs’, and post-2007 there has been a particular priority placed on the role of the SRS in relieving homelessness.

In Germany eligibility is based on a (high) income ceiling (around 40% of the population are eligible⁴), whereas in Sweden questions of eligibility are mainly left in the hands of MHC. In both cases, social landlords have a large (and growing) degree of discretion over allocations. While some German municipalities have nomination contracts with social housing providers, whereby the provider agrees to accommodate a certain percentage of high priority groups, these agreements are not always honoured and municipalities are in an ever-weaker position to enforce them. Traditionally, German social housing had a strong focus on providing housing for 'respectable' but lower paid people e.g. teachers, policemen, etc., but in recent years the rhetoric has shifted towards meeting 'need'. This is because politicians are increasingly anxious to ensure that subsidies are appropriately targeted, particularly in a context where there is no overall housing shortage and most households do not have an affordability problem. Social housing providers have, however, strongly resisted a needs-based allocation system, usually deploying the 'social mix' argument – the need for '*healthy, stable neighbourhoods*' and the avoidance of '*overburdened neighbourhoods*', even though spatial segregation is in fact very low in Germany as compared with elsewhere.

While in Sweden up to the 1990s, municipalities largely determined allocations based on need and waiting time, allocations have now been largely deregulated because of fears about a) residualisation of MHC stock (if allocations closely tied to need), and b) economic reasons (to maximise rental income streams). Many MHCs use this wide discretion to exclude almost all potential tenants deemed 'risky'. There are effectively *minimum* (never maximum) income criteria operated by many MHCs in that they will assess a households' ability to pay the rent for any particular flat before allocation.

The exclusion from mainstream MHC property of many vulnerable and low income groups, has prompted the establishment of a 'secondary housing market' (SHM) in Sweden. This comprises around 12,700 flats across the country leased by social services authorities - mainly from MHC - to sub-lease to various 'risky' groups – e.g. homeless people, those with substance misuse or mental health problems, etc. The SHM is attractive to landlords as it minimises their risk: the social services authorities take on the responsibility for paying the full rent, repairs costs, and also for dealing with any behavioural issues. In addition, 'troublesome' sub-tenants can be evicted at very short notice (see Chapter 3). Allocations in the SHM are at the discretion of social services authorities and aimed at those who:

⁴ This was the percentage of the German population that was eligible for social housing when this ceiling was last changed (raised). There may be a slightly lower proportion of the population under the ceiling now because of subsequent wage increases (though these increases have been modest in recent years for the majority).

- a) have urgent housing needs and are excluded from MHC and other mainstream housing;
- b) have support needs of various kinds; but
- c) are nonetheless deemed capable of independent and orderly living.

However, access even to the SHM can be difficult for some households: often the landlord has a contractual veto over any particular sub-lease, and social services authorities can be disinclined to help those with bad records/reputations (though they will usually try to arrange some type of temporary housing or shelter for them).

In Hong Kong, eligibility for social housing is based on:

- a) an income ceiling;
- b) an asset ceiling; and
- c) a residency requirement – half of household members must have lived in Hong Kong for 7 years.

In allocations, the highest priority is given to elderly people (this is partly a cultural disposition but is also linked to the absence of state pension provisions), and lowest priority is given to single people under 35 (especially if they are already living with their parents or others in public housing). Families with children have an ‘ordinary’ priority. No account is taken of health issues or housing condition in HKHA allocations.

Tenant Profiles: Comparison with PRS

This is clearly related to the targeting processes described above. Thus in Canada, US and Australia, tenants are generally drawn from the poorest and most disadvantaged sections of society, and social housing in these countries is notably stigmatised⁵. In the Australian case, the PRS also contains a large number of low income tenants (some of whom are in situations of extreme unaffordability), but tends to be more diverse overall. In Canada, the difference

⁵ Though this is less true of LIHTC housing in the US.

between the SRS and PRS is not extreme as both rental sectors are subject to a degree of residualisation. In the US, LIHTC-funded social housing and the PRS are likewise not substantially different – both tend to house the ‘working’ rather than the ‘workless’ poor - but US public housing contains predominantly very low income households.

In Hong Kong, by way of contrast, the much larger SRS has a tenant profile that is widely distributed across the income spectrum, with only the very most affluent groups not found in HKHA stock (though this high degree of mix is not the outcome of a deliberate policy intention). Little or no stigma attaches to being a social tenant in Hong Kong. In Germany and Sweden, likewise, social housing has a diverse income profile, which is not very different to that of the PRS (though the household mean income is still somewhat lower than for other tenures in Sweden at least). In Germany, there is some concentration of immigrants, single parents and unemployed people in social housing, but this is of only very modest proportions. For reasons explained later, a very large proportion of German social tenants are above the (generous) income ceiling noted above. The freedom that social housing providers have to select their tenants also means that, even in the context of ample housing supply in most parts of Germany, those perceived to be ‘high risk’ tenants - such as homeless people, poor households, those with support needs - often have very limited access to housing. This problem is also acute in Sweden, and has led to the establishment of the SHM as described above.

Rent Levels: Comparison with PRS

One key grouping again here is the US, Canada and Australia, in all of which SRS rents are related to household income, meaning that amounts charged to tenants are generally far below market rents. In Canada, for example, both PRS and SRS rents are nominally set by the market, but the actual amounts charged in the SRS are scaled to tenant income – social landlords set their charges at 30% of the tenant’s gross household income (minus specified adjustments). The position is similar for public housing in the US. However, the extent of the difference between social and market rents varies a lot, from the very substantial discounts typical in expensive housing markets such as New York City, to instances in some post-industrial areas where LIHTC-scheme rents may be little different from market rents.

In Hong Kong, too, SRS rents are far below market rents (only about 25% of those in the PRS). But rents are fixed rather than varying according to income, though there is a supplementary rents regime in place to recoup some subsidy from high income households in the SRS (see Chapter 4). In Sweden, MHC and private rents are 'co-ordinated' to be very similar, and SHM tenants pay the same rent as everyone else. In Germany social rents are a bit lower than market rents but, other than in very high value areas like Munich, the difference is not usually very great. Interestingly, research in Germany has shown that, even when housing passes out of social housing (as subsidy is repaid), much the same people occupy it and rents rise only modestly because of a) limitations on rent increases in the PRS (cannot rise above a local 'normal' rent; and increases cannot exceed 20% of the original rent in a 3 period), and b) the fact that this housing tends to be towards lower end of the market.

The Dominant 'Role' of the SRS

Stephens (2008) suggested a helpful typology of the 'dominant roles' of the SRS in the developed world, which we apply here to our six countries by way of summing up their key characteristics:

- 'safety net' - social housing forms a relatively broad, and permanent, 'safety net' for a large proportion of low income households. This has been the predominant role of SRS in England and the wider UK in recent decades.
- 'ambulance service' – the SRS is small, and is restricted to the very poorest groups and those with additional vulnerabilities and social support needs. There is at least some expectation that households will move on to market housing once the 'emergency' is over. The United States, Canada and Australia fit this model.
- 'wider affordability' – the SRS is intended to broaden the affordable housing options for a relatively wide range of the population, and so accommodates many better-off households as well as those on low incomes. This model fits Sweden and Hong Kong, and also Germany though in this last case the now relatively small scale of the sector limits its impact in this respect.

One way of interpreting current policy plans in England is as an attempt to shift the SRS away from a permanent 'safety net' role to being more of a short-term, highly targeted 'ambulance service'.

Conclusions

The SRS varies hugely across these six countries, and the size, nature and dominant role of the sector has to be taken into account when considering the arrangements made for tenure security within it, and their potential relevance to current policy debates in England.

Chapter 3: Security of Tenure

Introduction

This chapter considers the central research questions about security of tenure arrangements in these six countries. We begin by reviewing the general tenure arrangements for tenants in both the social and private sectors in these countries, before exploring the evidence on a range of specific devices used to limit tenure security and/or to recoup 'misdirected subsidy' in the SRS in these countries. These specific arrangements include:

- fixed-term tenancies;
- rents scaled to income;
- supplementary rents; and
- sub-sectors with lesser security.

General Tenure Arrangements

A key point to note at the outset is that in some countries – Germany, Sweden, US and Canada - tenure arrangements are, at least in principle, very similar in the social and private rented sectors. However, what is offered (equally) to social and private tenants varies substantially across these countries:

- in Germany and Sweden⁶ almost all tenants are given indefinite 'lifetime' tenancies;
- in Canada, tenure terms are determined by lease agreements, and landlords have no obligation to offer leases of any specified length. In Ontario, for example, fixed-term tenancies of 12 months are typically granted at the outset, and are subsequently renewed on a month to month basis;

⁶ It should be noted that, in Sweden, while 'full' tenants have very strong legal protections, sub-tenants in the SHM have no security of tenure (see below).

- in the US, again an individual's tenure terms are determined by their lease agreement - 1-2 years is a common initial lease duration, with an expectation that this will be renewed providing that the terms of the tenancy are honoured.

While the precise parameters of tenants' rights vary between states/provinces in both the US and Canada, in general they cannot be evicted without cause. Exceptions to this do exist, however, such as when the property changes hands and a new owner is going to engage in substantial renovation, or if the landlord wishes to occupy the dwelling for themselves or an immediate family member. This latter circumstance would clearly never arise with a social landlord, but may well do with a private landlord, meaning that there is, in practice, a distinction to be drawn between the security of tenure available to social and private tenants. It is also important to note that the initial fixed terms in these US and Canadian tenancies are not provided for in order to protect the tenant, but rather to ensure that the landlord has the benefit of a guaranteed income over this period.

In Australia has there historically been a substantial distinction drawn between the social and private rental sectors, with open-ended tenancies traditional in the SRS (but see discussion of fixed-term tenancy regime below), and a 'flexible' style of tenure in the PRS (with lease durations typically of 6-12 months).

Likewise, in Hong Kong social tenants have always received indefinite lifetime tenancies, but private tenancy arrangements are governed by the market. There is therefore no minimum required period for private tenancies, as this is a matter for agreement between landlord and tenant. Tenancies are normally granted for a two year period, renewable subject to mutual agreement between the landlord and tenant. The first year of the tenancy is usually non-revocable (other than in cases of breach); but in the second year, the tenancy can usually be terminated with one month's notice given by either side. The rent level is nonetheless fixed for the whole tenancy period. At the end of the tenancy period, landlords can decline to renew the tenancy, regardless of whether they are recovering the property for their own use. This amendment was introduced in 2003 to facilitate property investment at a time when the property market and the general economy was in prolonged depression.

We also asked about eviction processes in both the PRS and SRS in our six countries. In most countries a court order (or a formal decision by some other external enforcement authority) was almost always required for eviction from either rented tenure. There were also specific periods of notice and other procedural requirements that had to be fulfilled for a lawful eviction.

Evictions actually enacted were typically triggered by rent arrears, and less commonly by various forms of anti-social behaviour (it is usually more difficult to evict on nuisance grounds because evidential requirements are not as easily met). In Germany in particular it was noted that eviction processes can be lengthy and costly for landlords, so tenants have a high degree of protection.

In some cases there were also some specific arrangements with respect to evictions from social housing. In the US, for example, public housing tenants have been made subject to specific summary eviction rules if convicted on drugs offences (even of a minor nature). In some countries, evictions from social housing can also be related to increases in income or fraudulent reporting of income (see below). In the Swedish case, 'full' social and private tenants have exactly the same level of security, but sub-tenants in the SHM can be evicted very easily (see below).

Hong Kong stood out from the other cases studied in that not only is eviction '*always very difficult*' – eviction scandals will reach the papers – it is also very unusual, especially for rent arrears. This is because housing allowances meet the full rent for those on very low incomes, and for everyone else the rent tends to be very affordable and people are generally conscientious about paying it. On the other hand, there is a 'marking system' for bad behaviour operated by HKHA housing managers and if you are marked down enough you will be evicted. Evictions do not require a court order, although there is an appeal process, heard by a panel of 'community leaders'.

Fixed-Term Tenancies

Here we consider in detail the fixed-term tenancy regime introduced by the New South Wales (NSW) State Government in Australia 2005 as this is the measure which most closely resembles the Coalition proposals for England (some other Australian jurisdictions, e.g. Queensland, have also moved to similar fixed-term tenancy regimes in recent years).

The fixed-term regime

Under the NSW framework, as it was originally presented, '*the length of time a tenant can stay in public housing will be matched to their need for public housing*' The argument for this move

was couched mainly in terms of facilitating the most effective use of scarce resources. Under this regime, in place from October 2006, new tenants entering public housing may be offered a tenancy for 2 years, 5 years or 10 years. Designation of tenancy duration reflects application of the following principles:

- 10-year tenancy – applicants who have ‘ongoing housing and support needs that are unlikely to decline over the next five years’
- 5-year tenancy – applicants with housing and support needs judged likely to persist at some level over the next five years
- 2-year tenancy – applicants with transitional support needs which will probably decline over the next two years or cases where there is some prospect that their financial circumstances will improve within five years.

Procedural guidance developed to give effect to these principles contains detailed checklists of ‘support needs’ indicators linked with the specified tenancy terms. For example, a 5-year term must be given in the case of an applicant household containing a child aged under 10 or where the household includes anyone in receipt of one among a specified range of welfare benefits or participating in a transition to work programme (among other things).

Decision making on length of tenancy to be granted is informed by judgements on the urgency, severity and tractability of an applicant’s needs. For example, single childless adults aged 30-45 tend to be offered 2-year terms while pensioners and others seen as having little or no capacity for improving their circumstances are liable to be granted 10-year terms. The process is highly automated and draws on applicant responses to detailed questions on the housing registration form, although this information is subject to refreshment at the point of offer.

New tenancies granted since 2006 have broken down approximately as follows:

- 2-year duration – 25%
- 5-year duration – 50%
- 10-year duration – 20%
- Other – 5%

Tenancy review processes

At the end of its designated term a tenancy is reviewed to determine whether the tenant remains ‘eligible for public housing’. If the tenant is considered to have become ineligible as a result of change in circumstances (e.g. significantly increased income or property ownership), notice will be given. If the tenant remains eligible the tenancy may be renewed on a 2-year, 5-year or 10-year basis.

Criteria for tenancy renewal are similar to those used to determine the length of tenancy to be offered at the outset. However, the continuing eligibility income threshold set in 2005 (and subsequently index-linked) equated to 85% of the median household income for NSW. Since this figure is approximately 67% higher than the income threshold for entry to public housing, there is considerable scope for a tenant to improve their financial circumstances before they would be deemed ineligible on income grounds.

Tenancy review provisions are specified in detail in the 2005 legislation. The review process is triggered nine months before the end of the lease term with the tenant being requested to complete a pro forma on their current circumstances. Analysis of responses determines (a) whether the tenant remains eligible for public housing, and (b) if so, the appropriate length of tenancy extension that may be offered. The review process is highly automated in that, only where there is a judgement of 'ineligibility', is this likely to involve an actual meeting. The process is therefore highly reliant on the pro forma data provided by the tenant.

A review meeting with a 'potentially ineligible' tenant will be held approximately six months before lease termination. This will go over the pro forma information on income and other vulnerability/need indicators. Consideration will be given to whether the tenant might qualify for an exemption. This is the only point at which the state of the local housing market might be taken into account in the process – i.e. desisting from eviction where the tenant has a valid reason for needing to live in a very high demand area in which private housing would be unaffordable. The benchmark to be used here is specified in policy guidelines as where the market rent would absorb more than 50% of the tenant's household income.

An administrative decision to bring tenancy to an end must be endorsed by the Consumer Trading and Tenancy Tribunal but this may consider only whether the statutory procedures have been adhered to.

Assistance that Housing NSW can offer tenants found 'ineligible'

Where a tenancy is brought to an end following a finding of 'ineligibility' the tenant may be entitled to assistance in securing a private tenancy. This may take the form of a landlord reference ('Statement of Satisfactory Tenancy') and/or a Rentstart Move payment – up to 75% of the bond for a private tenancy.

Tenancy review outcomes

As at March 2011 tenancy reviews have involved only tenancies originally granted on 2-year terms. The vast majority have resulted in a decision of 'continuing eligibility'. Figures provided to the Tenants' Union of NSW in 2008 showed that, of 3,514 reviews of 2-year tenancies undertaken in the 10 month period to May 2008, only 28 (or 0.8%) resulted in an 'ineligible' determination. While it is possible that the incidence of 'ineligible' tenancy review decisions

could have subsequently increased, the Tenants Union reports that it has never been approached by a tenant seeking assistance in such circumstances.

Assessment

Critics argue that the fixed-term tenancies regime only compounds the effect of income-related rents (see below) in undermining the motivation for a tenant to improve his or her economic circumstances. At the same time, while the highly automated tenancy review procedures set up by Housing NSW limit the staff workload implications, the system – by the same token – places considerable reliance on voluntary disclosure of information on the tenant’s part, albeit that tenants are required to provide evidence to verify the stated income. Tenants are reminded, in the standard covering letter sent with the tenancy review pro forma, that provision of false information could result in a substantial fine. Nevertheless, there may be a question about whether the resources to police this system are sufficient to effectively deter fraud on the part of any tenant aware that retention of their tenancy could require the under-statement of income and/or overstatement of support needs.

The Tenants Union contention is that the ‘disincentive’ impacts of fixed-term tenancies could have had a counterproductive impact outweighing any ‘gains’ resulting from freeing up public housing stock through the ejection of tenants having improved their financial circumstances. Given that less than 1% of tenancy reviews have resulted in evictions:

...had the loss of eligibility policy not been implemented....a greater number of tenants might have found work, increased their incomes, become sufficiently secure in their employment and moved out of public housing on their own volition. (Tenants Union of NSW, 2008 p12).

In response to continuing controversy around the system Housing NSW is likely to consider the appropriateness of retaining the 2-year tenancy category. More broadly, however, there is a provider view that specific tenancy duration categories and detailed rules on designation are highly desirable in any fixed-term tenancy regime because these make for consistent decision making and limit grounds for challenge on the grounds of unfair discrimination.

Rents Scaled to Income

Traditionally, public housing rents in Australia have been scaled as a specified proportion of household income such that improvement in a tenant’s economic circumstances triggers an increased rental charge. By relating rents to incomes the system creates very high effective marginal tax rates – in some cases exceeding 100%. Consequently, notwithstanding the impact

of ‘tenancy duration linked to need’ (see above), the incentive for a tenant to improve their financial circumstances is severely blunted or entirely removed.

In Canada, rents are also scaled to income and tenants are supposed to report changes in income so that if earnings increase so does the rent (although there is no rigorous policing on reporting of changes in circumstances). Where the rent charged rises, subsidy is reduced commensurately. Irrespective of whether a tenant reports changes in their income, there is an annual review procedure which – if it reveals an increased income – will lead to an increased rental charge. If earnings have risen to the point where the (nominal) market rent equates to less than 30% of the gross income, the charge is capped at the market level. While there is a provision allowing social landlords to evict a tenant whose income has risen to this level (as they are no longer considered ‘eligible’ for social housing), in practice this power is little used. Given that there are disadvantages to living in social housing it would be expected that tenants acting as rational consumers would look to move to the private sector if their rent rises to the market level. This is seen as achieving the result of restricting occupancy of social rented housing to low income households such that there is no need to actively eject tenants in these circumstances. In fact, many social landlords are concerned to limit the extent to which ‘increased income’ tenants depart the tenure. Hence, maximum rents tend to be set ‘on the soft side of market levels’.

In the US, likewise, public housing rents are also strictly income-related – set at 30% of tenant household income until a tenant’s income rises above the level at which this proportion would exceed the relevant market rent. Typically, income/rent reviews are undertaken on an annual or bi-annual basis, and focus on whether the tenant is liable for an increase in rent rather than on their eligibility to remain in social housing (as was historically the case). Nonetheless, as in Canada, such a tenant might well be incentivised to seek market housing, simply as a rational consumer judging that there would be more choice and better value for money in the private market.

Supplementary Rents

In Germany, there have also been arrangements for rents to be varied, or supplemented, depending on tenants’ income since 1981. These arrangements have historically varied a great deal across Germany, but broadly two approaches have been taken:

1. A fixed rent is charged to all tenants at the outset, but a supplementary charge is made to those whose income rises above the eligibility threshold, with income reviewed every two years or so (this has tended to be the situation in older housing).
2. At the beginning of the tenancy, a rent scaled to income is fixed; this is then reviewed every two years or so (applied in newer housing).

The rationale for these measures is nicely explained by Kirchner (2005), in a way that echoes current debates in England:

Although access to publicly subsidised rental housing is linked to the observance of income limits, contracts cannot be cancelled if a household's income subsequently exceeds the limit. The resulting non-entitled occupancy is associated with two problems. Households not any longer needy are subsidised by the low social rents, and furthermore social dwellings are removed from its special purpose, while many needy households can find no appropriate housing on the free market. In order to restrict this misdirected subsidisation and provide incentives for moving into privately financed housing, 1981 saw the passing of the Act for the Reduction of Misdirected Housing Subsidisation.

While these supplementary charges played an important role in the 1990s in regions like Hamburg, North Rhine Westphalia and Bavaria, current (as yet unpublished) research in Germany has shown that scaled rents are now very rare across Germany, and supplementary rents (called 'compensation payments') have been discontinued in almost all regions. They have been discontinued for two main reasons:

- a) concerns about social mix – large parts of the social housing stock in Germany have long since been exempted from compensation payments on grounds of social mix, despite the fact that residualisation is in fact very mild by UK standards;
- b) the bureaucratic costs of implementation – these were found to be very substantial as self-reported income estimates are unreliable and investigation is costly.

Again, Kirchner (2005) has made some interesting remarks pertaining to the social mix point in particular:

With the growing discussion on signs of segregation in the social housing sector, the problem of non-entitled occupancy has receded into the background. These non-entitled tenants are in many cases even seen as a stabilising element in the social structure, which must not be put at risk by this charge...

In Hong Kong, given the broad spectrum of income groups in social housing, and the massive 'discount' associated with social rents, 'over-subsidisation' has also been a major concern. As Chiu (2010) explains, the direct subsidy approach implemented via the HKHA:

...may lead to problems of over-subsidisation and hence poor efficiency and inequity in the use of housing resources. This is because it is politically sensitive and socially undesirable

to evict 'undeserving' sitting tenants whose household income has improved over time...[another problem]..is because of the increasing political significance of public housing tenants as an easily organised population sector. Thus politicians tend not to support proposals which undermine the existing benefits of public housing tenants in order to please their electorates. (p.310)

The political 'clout' of these tenants means that the measures introduced in 1986 to counter this over-subsidisation, were very '*lenient*', and were carefully consulted upon over a two year period. The arrangements are as follows:

- once a household has been in public rental housing for 10 years, a review of their income is undertaken every two years;
- if their household income is double the income ceiling for entry to social housing, they have to pay 1.5 times the social rent;
- if their income is three times the income ceiling, they pay twice the social rent and also have to leave within one year.
- if they fail to declare their income, it is assumed that their income is three times the ceiling.

Unlike in Germany, supplementary rents continue to be routinely implemented in Hong Kong. Hong Kong is a 'surveillance society' and people do not find anything strange about regular income and rent reviews (especially as they happen only after a 10 year tenancy) – they view them as a normal and fair obligation. Likewise, housing officers perceive the reviews as a routine part of their job and not overly onerous or time consuming. It is difficult to conceal your income unless you are self-employed. Not all statements of income are investigated, but spot-checks are carried out and tenants dishonestly understating income may be prosecuted for fraud. However, the numbers actually affected by these ceilings are in fact quite small, with those required to leave their accommodation (because their income is three times the ceiling or because they fail to declare their income) a very small group indeed.

Notably, work disincentives were not identified as a major concern associated with supplementary rents in either Germany or Hong Kong, probably reflecting the relatively mixed nature of the SRS in these countries. One specific consequence noted in Hong Kong was that the income reviews seem to incentivise adult children on good salaries to move out of the parental home, so that their parents can continue to enjoy the subsidy. This is contrary to the public policy preference for multi-generational living in Hong Kong and so is viewed as a problem.

Sub-Sectors with Lesser Security

As noted in Chapter 2, in Sweden the SHM operates as a highly residualised sub-sector for excluded groups, whereby social services sub-lease (ordinary) flats with a much inferior legal security than in mainstream housing (see Fitzpatrick & Stephens, 2007 for a description of somewhat similar arrangements in France). The rationale for the reduced security in this sub-sector is that, given that these households are excluded from mainstream housing, the only way of providing accommodation for them is on this highly conditional and controlled basis. Thus, the conceptual basis for this limitation of tenure is very different from the other arrangements discussed above, which are essentially intended as means of limiting 'misdirected subsidy'.

As there is no specific legislation for this sort of institutional sub-leasing, for legal purposes SHM lets are treated as though they were a private individual sub-leasing their own rented property to another household, and possibly requiring it back at short notice, thus the very weak protection given to these sub-tenants. Not only can households in the SHM be evicted on the usual grounds (rent arrears, nuisance, criminal activities etc.) at very short notice, they will also be subject to a personalised contract with the relevant social services department which will specify a range of additional tenancy conditions, e.g. that they must not take drugs/alcohol, smoke, have pets, have overnight guests, must accept social work access, etc. Often, the MHC or other landlord will be involved in stipulating these additional contractual conditions (to avert any risks they perceive with particular households).

These sub-tenants have no security of tenure, and while there is a minimum notice period, this is dependent on the overall length of the sub-lease, and can be as little as one day. There is no legal requirement to give grounds for eviction in these cases, but normally the breach of the tenancy agreement and/or additional conditions is specified in the notice to quit as the reason for termination. There is no appeals system – termination is entirely at the discretion of social services officers. Certainly to end the sub-lease no court order is required, but it may be that a decision of the Swedish Enforcement Authority should be obtained for physical eviction if someone refuses to leave (people normally just leave when they receive the notice).

This means that there is no formal recording of evictions from the SHM, but it does appear that these sub-leases are very frequently terminated by the social services authorities. Certainly, the incidence of sub-tenant households acquiring full tenancy rights after a given period (as is the

aim, at least in theory) is very low – recent research has suggested only one in ten of these sub-tenancies convert to a full tenancy, which is the explicit aim, across Sweden.

The very insecure position of SHM sub-tenants has been heavily critiqued by Swedish researchers and homelessness organizations as part of a wider analysis of the widespread failure of the ‘staircase of transition’ model to deliver positive results on the reintegration of homeless people (Sahlin, 2005). But, while at local level social workers are often critical of the SHM too, the model commands support amongst local authorities and MHC who ‘for obvious reasons prefer the staircase to more regular forms of tenure’. (Sahlin, 2005, p.126).

Differing National Perspectives on the Planned English Reforms

We asked all of our interviewees how the proposed reforms to security of tenure in England – i.e. to introduce local discretion to offer two year fixed-term renewable tenancies – would be received in their countries.

Again, there was the sort of split in opinion that you might expect from the discussions above. It was in those countries with ‘ambulance service’ SRS – Australia, US and Canada – that the UK proposals were thought to be least controversial. In fact, with respect to the US in particular it would be our current system of ‘lifetime tenancies’ that would be viewed as extraordinary:

People would scratch their heads and wonder about what is this ‘right to a tenancy’? They would see the oddity as being in the way the (UK’s) system works now rather than in what is being proposed. (US key informant).

However, even in Canada, there may be eyebrows raised at the severe nature of the proposed ‘sanction’ for improved circumstances:

We wouldn’t think the new regime as a big deal, although we would question the ‘cliff effect’ of a change in circumstances pushing a tenant across an eligibility threshold where they will be simply evicted rather than just making them pay a higher rent. (Canada key informant)

As you would expect, in those countries where the SRS plays a 'wider affordability' function, and security of tenure is strong in both the PRS and SRS, the Coalition proposals would be highly controversial:

Would create an outcry – people would be completely puzzled and wouldn't understand why tenancies were only for 2 years. (Germany key informant)

Similarly in Sweden, the idea that a tenant could be forced to leave at the end of a fixed-term tenancy against their will would be considered '*brutal*'. One key concern would be the instability wreaked on neighbourhoods if people were forced to move after a period of as little as two years.

In Hong Kong, the key informant remarked that '*It simply wouldn't get through; there would be very strong resistance*'. A ten year fixed-term, renewable tenancy would probably meet less resistance, as this would be in line with the supplementary rents/subsidy policy. But anything less, such as a two year duration, would not be acceptable, and as social tenants are such a strong group politically '*politicians would have their hands up*' (= would not touch it).

Conclusions

This chapter has reviewed the varying legal, policy and financial arrangements which limit security for social tenants in our six countries, and how these compare to the arrangements pertaining to private tenants in the relevant country. It has illustrated the range of ways in which different countries have attempted to ensure that the subsidy directed to social housing is well-targeted, and the balance they have struck between this and other objectives, such as maintaining a social mix/avoiding stigmatisation in social housing and ensuring that incentives to work are maintained. Interestingly, anxieties about social instability within neighbourhoods and increased levels of turnover – implied by a 'transitional' model of social housing limited to those most in need for a fixed-term – were less often mentioned than we might have expected. The next and concluding chapter considers the implications of these findings for the current debate in England.

Chapter 4: Conclusions and Implications for the Policy Debate in England

It is clear that the very different models for the SRS in these six countries impacts on the logic for their tenure arrangements, generating a range of lessons for current debates in England.

In those ‘ambulance service’ social rented sectors which are small and highly targeted on the very neediest groups – i.e. US, Canada and Australia – there is an emphasis on ensuring that only those social tenants who are still in ‘need’ remain in the sector. This objective is achieved reasonably efficiently in US public housing and in Canadian social housing by linking rents to income so that, as rational economic agents, many tenants whose circumstances improve move out of the sector of their own accord. While in some instances there are arrangements in place to evict better-off tenants who are no longer eligible for social housing, this power is seldom used (on the contrary, landlords often wish to retain such tenants). In Australia (NSW), on the other hand, where rents are also scaled to income, a fixed-term tenancy regime has been quite recently introduced specifically in order to eject tenants who no longer meet income and need criteria. But in practice only 0.8% of tenancies reviewed thus far have been terminated, generating a negligible number of additional vacancies, and calling into question the efficacy of a policy which is fairly similar to that now proposed in England.

More generally, this ‘ambulance’ role SRS – with its emphasis on a transitional, short-term safety net for the most desperate - implies:

- highly stigmatized and residualised social housing sectors where levels of social mix are very poor; and
- very weak incentives for tenants to improve their financial circumstances thorough work or other means.

At the other end of the spectrum, are the Swedish, Hong Kong and German models whereby the SRS plays a much ‘wider affordability’ role, accommodating a relatively broad spectrum of the population, and there is little or no stigma associated with living in the sector. It is also notable that the legal rights of social tenants are very strong in all three of these models, including with regards to security of tenure. In Germany and Hong Kong in particular the political importance

of tenants was emphasized, and hence the difficulties of interfering with their rights⁷. But this wider affordability model also has significant shortcomings:

- in Germany and Sweden, the increasing autonomy of social landlords means that very many of the poorest and most vulnerable people are entirely excluded from social housing. In the latter case this has led to the establishment of a SHM of sub-leased properties, let to 'risky tenants' with much inferior security and legal protection.
- in Germany and Hong Kong, 'misdirected subsidy' absorbed by relatively affluent households has been a major concern (especially in the latter given the heavily discounted rents in HKHA properties). The supplementary rents that were intended to address this issue have been discontinued in Germany because of concerns about undermining 'social mix' and the administrative burden involved in implementing them. These supplementary charges appear to have operated more successfully in the context of the 'surveillance society' and cultural tolerance of strict sanctions in Hong Kong, though they affect few tenants.

These experiences are very pertinent to current debates in England. The exclusion of the most vulnerable from the SRS in Sweden and Germany is a cautionary note in the context of the current push towards 'localism' in England. It demonstrates the importance of retaining national frameworks, such as the reasonable preference criteria and the statutory homelessness legislation, if we wish social housing to play a key role in meeting need.

The German example would also suggest that supplementary rents may not be a satisfactory or workable alternative to fixed-term tenancies with respect to recouping 'misdirected subsidy'. In the absence of the strict surveillance and sanctions supported in Hong Kong, we may well find the administrative burden of implementing supplementary rents far outweighs any efficiency or equity gains they deliver (particularly in those parts of the country where the gap between market and social rents is not great). And, albeit in a less drastic way than fixed-term tenancies, such supplementary charges risk further residualising the English SRS where this is a far more serious concern than in the still fairly mixed German SRS. On the other hand, if such supplementary rents were to be pitched at a very high income level, while they would do little to generate new tenancies or recovered subsidy, they would at the same time have little deleterious effect with respect to social mix and may effectively 'neutralise the argument' about misdirected subsidy with a relatively modest administrative investment.

⁷ While in Germany only 5% of housing stock is in the SRS, more than half of all German households rent their housing in the social or private sectors and so tenants as a whole are a powerful political grouping.

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Appendix 1: Topic Guide

1. Social housing

- Scale of social housing - % of stock and/or households?
- Who owns/manages/governs social housing?
- Is demand high/low/variable?
- Who is social housing targeted at? – eligibility and allocations
- What is the broad profile of tenants – income levels, household type, age, ethnic profile, support needs, etc. How diverse (e.g. compared with private rented sector)? What is the average duration of tenancy, within a property and/or within the tenure?
- What is purpose of social housing – permanent ‘safety net’; temporary ‘ambulance service’; broad affordability function?
- Any key trends in scale, ownership, purpose, etc.?
- What is the scale of the discount associated with social housing (eg social rents compared to private rents)?

2. Security of tenure: the legal/policy position

- Is there a national/state-wide policy on security of tenure or is this a matter for local decision-making?
- Have there been any instances where a flexible tenancy policy was considered but not pursued when the evidence was considered?
- Do social tenants have secure/unlimited/‘lifetime’ tenancies or is it limited in any way (other than termination based on proven breach of lease agreement)? Is there any distinction between established tenants and new tenants? What form do any limitations take: introductory/probationary tenancies?; fixed-term tenancies?; periodic tenancy reviews?; eligibility ceasing on a change of circumstance? Probe details/rationale
- Are there arrangements to vary rather than terminate tenancies e.g. supplementary rents, demoted tenancies, etc.? Probe details/rationale
- Are there particular segments of social housing where different/lesser levels of security are offered? What is the purpose/rationale for this sub-sector and for the variation in security offered?
- Have any of these security arrangements been modified over time, and if so why?
- How does this all compare to the legal security offered to private sector tenants?

3. Security of tenure: how implemented in practice

- Where there is discretion, how do social landlords determine tenancy terms offered at the outset? Do the terms offered vary depending on age, household type, economic status, support needs, etc (and if so, how are discrimination issues handled)? Or in relation to local housing market conditions/nature of property?
- Where tenants have fixed terms, do they contain break clauses and if not, is rent required to be paid for the whole term if the tenant leaves early?
- What are the procedures and criteria used in the review of expiring tenancies? How resource-intensive are these? Can these costs be quantified in terms of staff time or financial costs?
- Are expiring fixed-term tenancies generally renewed or not? Does this vary according to conduct of tenancy, household type, age, economic status, changes in circumstance, local housing market conditions, nature of property, etc.? Does this vary much between landlords/areas?
- How easy/difficult/fast/slow are eviction processes? Is a court order required? Are grounds required? What grounds are available/used in practice? How does this all compare to private sector eviction processes? Any data on rates of eviction in private and public sectors?
- To what extent are any supplementary rents (to reflect a tenant household's 'improved circumstances') actually enforced?

4. Security of tenure: evaluating the arrangements

- Why is security limited/unlimited in social housing – what is the rationale/policy assumption for the basis of the current arrangements?
- Do the current arrangements command consensus? Or are they controversial in any way (if so, how)? How long have the current arrangements been in place, and how well established are they?
- What are considered to be the main advantages and disadvantages of these arrangements? - probe work (dis)incentives, social mix, community stability, fairness/need, efficient use of stock, homelessness, etc.
- What is the view of key stakeholders on their fairness and practicability – housing providers, pressure/lobby groups, professional bodies, central and local government, NGOs, tenants, prospective tenants, other types of household? Is any of this evidenced by surveys, qualitative research etc?
- How do you think the proposed changes in England – minimum 2 year renewable fixed-term tenancies – would be received in your country?

5. Policy changes

- Are there any current plans/proposals/lobbying for legal or policy change?
- What has prompted these plans/proposals? Who is for/against them and why?

- What are the prospects of their being implemented?
- 6. Documents/evidence**
- Any data, policy or research documents (in English) that would be helpful for us?

Appendix 2 – Country Profiles

Australia (with particular reference to New South Wales)

SOCIAL RENTED SECTOR	
Size and trend of social rented sector	<ul style="list-style-type: none"> • 5% of stock • Gradual decline over past 30 years
Landlords	<ul style="list-style-type: none"> • 88% of social housing owned and managed by state govt. Remainder is mainly state owned housing managed by community housing providers
Demand	<ul style="list-style-type: none"> • Generally high or very high although public housing often equates to stigmatised neighbourhoods
Eligibility and allocations	<ul style="list-style-type: none"> • Eligibility – formal income threshold to target provision on poorest • Allocations – increasingly targeted towards ‘low income households with complex needs’. Post-2007 priority on SRS role in relieving homelessness.
Profile of tenants	<ul style="list-style-type: none"> • SRS increasingly residualised; PRS also contains large body of low income tenants (many in situations of extreme unaffordability) but PRS also much more diverse.
Rent levels	<ul style="list-style-type: none"> • Because SRS rents scaled to income, amounts charged are generally far below PRS
Dominant role	<ul style="list-style-type: none"> • Ambulance service
SECURITY OF TENURE (GENERAL)	
Social rented	<ul style="list-style-type: none"> • Historically, open-ended tenancies. New state housing tenants since 2006 subject to fixed-term tenancy regime (community housing provider tenancies exempt). Lease length at outset

	<p>determined via highly structured assessment of applicant circumstances and needs.</p> <ul style="list-style-type: none"> Fairly lengthy eviction procedures
Private rented	<ul style="list-style-type: none"> Traditionally a 'flexible tenure' - lease duration typically 6-12 months.
SECURITY OF TENURE IN SOCIAL HOUSING (SPECIFIC ARRANGEMENTS)	
Fixed-term tenancies or periodic reviews?	<ul style="list-style-type: none"> Reviews implemented at fixed points in tenancy depending on initial lease length – 2 years, 5 years or 10 years.
Eligibility withdrawn on a change of circumstance?	<ul style="list-style-type: none"> Yes, but only at the point of lease review. Similar tests applied to those determining initial eligibility and 'appropriate' initial lease length. However, since the income threshold is significantly higher at review there is scope for a tenant to improve their economic situation without making themselves ineligible for tenancy renewal.
Supplementary rents?	<ul style="list-style-type: none"> Alongside system of lease review/renewal, an annual income and rent review which will lead to higher rents if income significantly up
Introductory/probationary/demoted tenancies?	<ul style="list-style-type: none"> Fixed-term tenancy regime supplanted an experimental probationary tenancy regime making lease renewal conditional on 'good behaviour'.
Segments with different/lesser security?	<ul style="list-style-type: none"> No
OVERALL EVALUATION	
Pros	<ul style="list-style-type: none"> Highly structured decision-making on initial lease length and lease review criteria limit staff time implications and scope for inconsistency/unfairness (potentially resulting in decisions subject to challenge). Significant landlord role in assisting tenants found 'ineligible' at lease review in finding alternative (private)

	tenancy.
Cons	<ul style="list-style-type: none">• System quite reliant on tenant honesty in declaring changes in circumstances. Fixed-term tenancies have accentuated the existing disincentive for self-improvement resulting from income-related rent regime. With only a very small % of lease reviews leading to 'ineligibility' decisions, a question as to whether the framework has been worthwhile.

Canada (with particular reference to Ontario)

SOCIAL RENTED SECTOR	
Size and trend of social rented sector	<ul style="list-style-type: none"> • Approx 5% of total housing stock but in long term decline due to minimal new provision since 1995
Landlords	<ul style="list-style-type: none"> • Sector split between public (municipal) housing and private non-profit housing. Also small co-op sector
Demand	<ul style="list-style-type: none"> • Generally high or very high.
Eligibility and allocations	<ul style="list-style-type: none"> • Eligibility: Income test such that, median market rents account for more than 30% of an applicant total income. • Allocations: Date order system overlaid with centrally prescribed priority groups – unaffordability of current housing, poor living conditions and overcrowding.
Profile of tenants	<ul style="list-style-type: none"> • SRS contains predominantly low income households. Somewhat in contrast to PRS but difference is not extreme – both rental sectors subject to a degree of residualisation.
Rent levels	<ul style="list-style-type: none"> • Both PRS and SRS rents nominally set by market. But actual amounts charged in SRS scaled to tenant income. Households entirely dependent on welfare benefits charged only about 20% of market rents; low income earners, 60-80%.
Dominant role	<ul style="list-style-type: none"> • Ambulance service
SECURITY OF TENURE (GENERAL)	
Social rented	<ul style="list-style-type: none"> • 12 month terms usually granted at outset, subsequently renewable on month to month basis.
Private rented	<ul style="list-style-type: none"> • Formally same as in SRS
SECURITY OF TENURE IN SOCIAL HOUSING (SPECIFIC ARRANGEMENTS)	
Fixed-term tenancies or periodic reviews?	<ul style="list-style-type: none"> • No explicit linkage of continued SRS tenure to continuing existence of housing need. However, annual income review will lead to higher rent if

	<p>tenant's financial circumstances have improved. Where earnings have risen to the point where the (nominal) market rent equates to less than 30% of the gross income, the charge is capped at the market level. Given disadvantages of SRS, tenants acting as rational consumers likely look to move to the private sector if their rent rises to the market level.</p>
Eligibility withdrawn on a change of circumstance?	<ul style="list-style-type: none"> Given the income-related rent regime, it is not seen as necessary to restrict actual eligibility according to continuing need
Supplementary rents?	<ul style="list-style-type: none"> See above
Introductory/probationary/demoted tenancies?	<ul style="list-style-type: none"> No
Segments with different/lesser security?	<ul style="list-style-type: none"> No
OVERALL EVALUATION	
Pros	<ul style="list-style-type: none"> SRS tenancies effectively reserved for low income households through market rent mechanism
Cons	<ul style="list-style-type: none"> Removes incentive for tenant self-improvement and compounds sector residualisation.

Germany

SOCIAL RENTED SECTOR	
Size and trend of social rented sector	<ul style="list-style-type: none"> • SRS equates to 5% of total housing stock. • Declining – virtually no new general needs stock being developed and stock ‘converts’ to another tenure as subsidy repaid (see below)
Landlords	<ul style="list-style-type: none"> • SRS in Germany is about <i>subsidy</i> not <i>ownership</i> – comprises housing to which time-limited ‘social obligations’ (to let at below market rent and to allocate to those below an income ceiling) apply only until the public subsidy used to develop it is repaid. • Recipients of these subsidies include MHC, regional government, other public bodies, insurance companies, churches etc • There is also some ‘social housing’ in Germany which is owner occupied – subsidy given to reduce mortgage
Demand	<ul style="list-style-type: none"> • Highly variable - German housing market is slack and there is no overall housing shortage. Only in some ‘boom’ cities in western Germany is there housing pressure, including on SRS
Eligibility and allocations	<ul style="list-style-type: none"> • Eligibility based on a generous income ceiling – approx 40% of population below ceiling • Allocations generally at discretion of the landlord – some municipalities have nomination contracts but in weak position to enforce.
Profile of tenants	<ul style="list-style-type: none"> • Very diverse and similar to the PRS. Some concentration of immigrants, single parents, unemployed people etc. in SRS, but marginal. Many SRS tenants are above the (generous) income ceiling for eligibility - in some areas SRS rents are too high for those on means-tested benefits to afford. Autonomy of landlords means that ‘high risk’ groups – e.g. homeless or

	poor households – are often excluded altogether.
Rent levels	<ul style="list-style-type: none"> • Social rents are a bit lower than PRS but, other than in high value areas like Munich, difference is not great. • Even when housing passes out of SRS rents rise only modestly because of a) limitations on rent increases in PRS (not above a local ‘normal’ rent; and no more than 20% in 3 years), b) the housing tends to be towards lower end of the market.
Dominant role	<ul style="list-style-type: none"> • Wider affordability – some recent political shift towards safety net/meeting need, but strongly tempered by emphasis on ‘social mix’
SECURITY OF TENURE (GENERAL)	
Social rented	<ul style="list-style-type: none"> • Secure ‘lifetime’ tenancies in almost all cases
Private rented	<ul style="list-style-type: none"> • Secure ‘lifetime’ tenancies in almost all cases – PRS and SRS legal position identical in almost every respect (except rent levels)
SECURITY OF TENURE IN SOCIAL HOUSING (SPECIFIC ARRANGEMENTS)	
Fixed-term tenancies or periodic reviews?	<ul style="list-style-type: none"> • No
Eligibility withdrawn on a change of circumstance?	<ul style="list-style-type: none"> • No
Supplementary rents?	<ul style="list-style-type: none"> • Yes – varies a great deal across Germany but broadly there have been two approaches used: <ul style="list-style-type: none"> a) A fixed rent is charged to all, but a supplementary charge is made to those whose income rises above the eligibility threshold (income reviewed every 2 years or so) (older housing). b) At the beginning of the tenancy, a variable rent is fixed depending on household

	<p>income; this is then reviewed every 2 years or so (newer housing).</p> <ul style="list-style-type: none"> • However, recent research indicates that variable rents now used in only a very small number of places, and compensation payments have been discontinued in almost all regions, because of the bureaucratic burden of implementation and the ‘social mix’ argument
Introductory/probationary/demoted tenancies?	<ul style="list-style-type: none"> • No – social landlords have sometimes argued for a ‘probationary’ or ‘introductory’ tenancy model – particularly for ‘risky’ groups - but have made no headway in persuading politicians or public opinion.
Segments with different/lesser security?	<ul style="list-style-type: none"> • No
OVERALL EVALUATION	
Pros	<ul style="list-style-type: none"> • High degree of security for all tenants - which commands widespread societal consensus - and relatively low levels of residualisation/stigma in SRS
Cons	<ul style="list-style-type: none"> • Poorly targeted subsidy and widespread exclusion of poorest/most vulnerable from SRS

Hong Kong

SOCIAL RENTED SECTOR	
Size and trend of social rented sector	<ul style="list-style-type: none"> • SRS houses 29% of population (another 22% live in subsidized home ownership) • Stable in size, governance etc.
Landlords	<ul style="list-style-type: none"> • Hong Kong Housing Authority (HKHA) owns almost all of the social housing (90%) (one HA owns the other 10%). HKHA stock is massive: 711,500 units.
Demand	<ul style="list-style-type: none"> • Strong demand – especially near central urban areas, though waiting times have dropped in recent years
Eligibility and allocations	<ul style="list-style-type: none"> • Eligibility based on an a) income ceiling ('residual income' affordability model = income available for non-housing expenditure in lower half of distribution); + b) asset ceiling; + c) residency – half of household members must have lived in HK for 7 years • Allocations – highest priority to elderly people; lowest priority to single people under 35 (especially if already living in public housing). Families with children = 'ordinary' priority. No account taken of health issues or housing need
Profile of tenants	<ul style="list-style-type: none"> • Widely distributed across the income spectrum (only very highest income groups not in SRS). • Older people in most desirable housing; families and migrants in least desirable.
Rent levels	<ul style="list-style-type: none"> • Subsidy is massive - social rents on average 25% of private sector rents. • But housing affordability is good in PRS too
Dominant role	<ul style="list-style-type: none"> • Wider affordability – originally developed to aid economic development, now to maintain social stability

SECURITY OF TENURE (GENERAL)	
Social rented	<ul style="list-style-type: none"> • Secure 'lifetime' tenancies
Private rented	<ul style="list-style-type: none"> • Market-governed 'flexible' tenancies
SECURITY OF TENURE IN SOCIAL HOUSING (SPECIFIC ARRANGEMENTS)	
Fixed-term tenancies or periodic reviews?	<ul style="list-style-type: none"> • Yes – biennial reviews after 10 years (see below)
Eligibility withdrawn on a change of circumstance?	<ul style="list-style-type: none"> • Yes – if income is three times the eligibility ceiling (see below)
Supplementary rents?	<ul style="list-style-type: none"> • Yes - given the very low rents and broad spectrum of income groups in social housing, 'over-subsidisation' is a major concern. But the political power of social tenants means that the measures taken to counter this 'misdirected subsidy' have been 'lenient': <ul style="list-style-type: none"> - once a household has been in public rental housing for 10 years, a review of their income is undertaken every 2 years; - if their income is double the income ceiling for eligibility, they pay 1.5 social rent - if their income is three times the ceiling (or if they fail to declare their income), they pay double social rent and also have to leave within one year.
Introductory/probationary/demoted tenancies?	<ul style="list-style-type: none"> • No
Segments with different/lesser security?	<ul style="list-style-type: none"> • No – except for a very small subsector of 'transitional' housing offered on 'compassionate' grounds to households such as migrants who would not otherwise qualify for social housing
OVERALL EVALUATION	
Pros	<ul style="list-style-type: none"> • High degree of security for most tenants - which commands widespread societal consensus - and

	<p>no residualisation/stigma in SRS</p> <ul style="list-style-type: none">• Supplementary rents effectively implemented – but few households affected
Cons	<ul style="list-style-type: none">• Poorly targeted subsidy, albeit modified in a modest way by supplementary rents• High levels of intrusion/surveillance• Little emphasis on meeting housing need

Sweden

SOCIAL RENTED SECTOR	
Size and trend of social rented sector	<ul style="list-style-type: none"> • There is no ‘social housing’ in Sweden, i.e. nothing let at below market rents and allocated according to need/other administrative criteria. • But municipal housing companies (MHC) own a 16% of all housing stock in Sweden and form a ‘public housing sector’ • The ‘secondary housing market’ (SHM) is comprised of 12,700 flats across Sweden which are leased by social services authorities to sub-lease to ‘risky’ groups
Landlords	<ul style="list-style-type: none"> • MHCs own almost all public housing • SHM – mostly leased from MHC but some from private landlords
Demand	<ul style="list-style-type: none"> • Strong demand for MHC – especially in major cities, though some low demand in more remote areas
Eligibility and allocations	<ul style="list-style-type: none"> • MHC: eligibility and allocations largely left up to MHC (subject to anti-discrimination laws). Will assess ability to pay rent for any specific flat, and often exclude anyone deemed ‘risky’ • SHM – allocations at discretion of social services authorities and aimed at those who a) have urgent housing needs and are excluded from MHC mainstream housing, b) have support needs, c) but nonetheless thought capable of independent and orderly living.
Profile of tenants	<ul style="list-style-type: none"> • MHC – quite diverse, with poorest often excluded, though still has a lower mean income than other tenures • SHM – poor and vulnerable/excluded households

Rent levels	<ul style="list-style-type: none"> • MHC and private rents coordinated to be very similar • SHM tenants pay same rent as everyone else
Dominant role	<ul style="list-style-type: none"> • MHC – wider affordability function • SHM- very narrow and highly targeted ‘ambulance service’
SECURITY OF TENURE (GENERAL)	
Social rented	<ul style="list-style-type: none"> • Secure ‘lifetime’ tenancies (but sub-tenants in SHM have no security and few rights)
Private rented	<ul style="list-style-type: none"> • Secure ‘lifetime’ tenancies (no difference between PRS and MHC)
SECURITY OF TENURE IN SOCIAL HOUSING (SPECIFIC ARRANGEMENTS)	
Fixed-term tenancies or periodic reviews?	<ul style="list-style-type: none"> • No
Eligibility withdrawn on a change of circumstance?	<ul style="list-style-type: none"> • No
Supplementary rents?	<ul style="list-style-type: none"> • No
Introductory/probationary/demoted tenancies?	<ul style="list-style-type: none"> • Yes – Tenants’ Court can decide to grant someone who has breached tenancy a ‘trial contract’ for a set period rather than evict them. They will regain security if pay rent and ‘behave’
Segments with different/lesser security?	<ul style="list-style-type: none"> • Yes – SHM have much inferior legal security than in mainstream rented housing. • Not only can these sub-tenancies be terminated on the usual ‘breach’ grounds at short notice, they will also be subject to a range of additional tenancy conditions that will also lead to eviction if breached, e.g. that they must not take drugs/alcohol etc. • There is a minimum notice period, but this can

	<p>be as little as a day.</p> <ul style="list-style-type: none">• There is no court order required and no appeals system – termination is entirely at the discretion of social services officers.
OVERALL EVALUATION	
Pros	<ul style="list-style-type: none">• High degree of security for all (full) tenants - which commands widespread societal consensus - and little residualisation/stigma in mainstream MHC
Cons	<ul style="list-style-type: none">• Exclusion of poorest and most vulnerable from mainstream MHC• Very weak protection for sub-tenants in SHM

USA

SOCIAL RENTED SECTOR	
Size and trend of social rented sector	<ul style="list-style-type: none"> • SRS equates to 3-4% of total housing stock
Landlords	<ul style="list-style-type: none"> • Stock split between three main types of providers: public housing, privately owned federally subsidised housing, and Low-Income Housing Tax Credit (LIHTC) funded housing
Demand	<ul style="list-style-type: none"> • Generally high or very high, although less so for LIHTC in some 'rust belt' areas
Eligibility and allocations	<ul style="list-style-type: none"> • Eligibility: income threshold set in relation to area median value • Allocations: Largely on date order basis
Profile of tenants	<ul style="list-style-type: none"> • SRS – especially public housing contains predominantly very low income households. LIHTC-funded housing generally accommodates slightly higher bracket – the working poor rather than workless poor. Profile of this group not substantially distinct from PRS – both rental sectors subject to a degree of residualisation.
Rent levels	<ul style="list-style-type: none"> • Both PRS and SRS rents nominally set by market. But actual amounts charged in SRS set at 30% of tenant income. Public housing rents as paid are always very substantially below market rents. LIHTC-funded housing rents are property specific and nearer to market levels in some more economically depressed areas.
Dominant role	<ul style="list-style-type: none"> • Ambulance service
SECURITY OF TENURE (GENERAL)	
Social rented	<ul style="list-style-type: none"> • 1-2 years is a common initial lease duration, with a routine expectation that this will be renewed providing that the terms of the tenancy are honoured

Private rented	<ul style="list-style-type: none"> Formally same as in SRS
SECURITY OF TENURE IN SOCIAL HOUSING (SPECIFIC ARRANGEMENTS)	
Fixed-term tenancies or periodic reviews?	<ul style="list-style-type: none"> No explicit linkage of continued SRS tenure to continuing existence of housing need. However, in public housing the traditional annual or bi-annual income review will lead to higher rent if tenant's financial circumstances have improved. Where earnings have risen to the point where the (nominal) market rent equates to less than 30% of the gross income, the charge is capped at the market level. Given disadvantages of public housing, tenants acting as rational consumers likely look to move to the private sector if their rent rises to the market level.
Eligibility withdrawn on a change of circumstance?	<ul style="list-style-type: none"> Given the income-related rent regime, it is not seen as necessary to restrict actual eligibility according to continuing need
Supplementary rents?	<ul style="list-style-type: none"> See above
Introductory/probationary/demoted tenancies?	<ul style="list-style-type: none"> No
Segments with different/lesser security?	<ul style="list-style-type: none"> Public housing differs from the other forms of social housing because the latter are subject to time limits on the period for which owners are liable to charge below market rents. When these terms expire existing tenants will have transitional protection but remaining in situ in the longer term will be subject to payment of market rents.
OVERALL EVALUATION	
Pros	<ul style="list-style-type: none"> SRS tenancies effectively reserved for low income households through market rent mechanism
Cons	<ul style="list-style-type: none"> Removes incentive for tenant self-

	improvement and compounds sector residualisation.
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