

Consultation Response

Shelter's response to the Housing Corporation consultation on Tackling Homelessness

July 2006

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Shelter

Shelter is a national campaigning charity that provides practical advice, support and innovative services to over 170,000 homeless or badly housed people every year. This work gives us direct experience of the various problems caused by the shortage of affordable housing across all tenures. Our services include:

- A national network of over 50 housing aid centres
- Shelter's free housing advice helpline which runs from 8am-midnight
- Shelter's website which provides housing advice online
- The Government-funded National Homelessness Advice Service, which provides specialist housing advice, training, consultancy, referral and information to other voluntary agencies, such as Citizens Advice Bureaux and members of Advice UK, which are approached by people seeking housing advice
- A number of specialist projects promoting innovative solutions to particular homelessness and housing problems. These include 'Homeless to Home' schemes, which work with formerly homeless families, and Shelter's Inclusion Project, which works with families, couples and single people who have had difficulty complying with their tenancy agreements because of alleged anti-social behaviour. The aim of these particular projects is to sustain tenancies and ensure people live successfully in the community.

Executive Summary

- ❑ The measures proposed in the consultation paper to improve practice around homelessness are mostly about collecting and publishing information. Whilst these are welcome measures in themselves, they are not enough. A more concrete incentive is needed. Shelter's view is that performance monitoring and regulation are essential tools for setting priorities and influencing the direction of RSLs' activities. The type of activity on which RSLs are monitored currently centres around their need to provide a good service for their tenants, as well as sound finance and governance. This must be broadened out to reflect the fact that RSLs are now the major providers of social housing, and need to have more regard to their responsibilities to their partner local authorities and to meeting housing need in the local area. Performance management and regulation must reflect this to give a clear signal of the Corporation's perspective.
- ❑ We are also concerned at the weaknesses of the data available on who RSLs house, particularly on the homelessness status of direct applicants, and we would like to see local authorities have an auditing role over RSLs' assessments of

homelessness status. The data on refusals of nominations by RSLs is also inadequately recorded and this needs to improve.

- ❑ Work needs to go into building a better relationship between RSLs and local authorities. RSLs need to think about local authorities and local voluntary and statutory agencies as stakeholders in all their activities, and be willing to involve and consult them in the full range of their activities. RSLs should also be taking an active role in local homelessness forums and strategy planning groups. We would like to see local authorities' influencing role over the activities of RSLs strengthened.
- ❑ RSLs should let a good proportion of their available properties to statutorily homeless households. This obligation becomes particularly important when the local authority, because of stock transfer, is entirely dependant on lettings by RSLs to discharge its statutory duty to homeless households. Evidence indicates that this obligation on RSLs is not currently being met.
- ❑ Nomination agreements need to be improved. We do not, however, believe that increasing the percentage of nominations made available to local authorities will be enough on its own. The problems centre around the inadequacy of the information exchanged between local authorities and RSLs, the inadequacy of support packages in place, and the reluctance of RSLs to take on as tenants those they regard as a high risk for tenancy management difficulties. Even if 100% of RSL vacancies were offered to local authorities, the above problems would still result in a number of vulnerable households being effectively excluded from allocations by RSLs, because their nomination would be refused. Shelter would wish to work towards a situation where, through tackling these issues, first nominations by local authorities are accepted in the overwhelming majority of cases, particularly when there is a homelessness duty involved.
- ❑ Provision of effective support, rather than the exclusion of households who require support, is the key to creating sustainable communities. Funding for adequate support provision is absolutely crucial to the delivery of homelessness strategies and for fostering cooperation between local authorities and RSLs. As well as better and more secure funding for the provision of support, we would like to see better partnership working between RSLs, local authorities and other statutory and voluntary agencies, to assess support needs and coordinate provision.
- ❑ Stock rationalization is increasingly important as an issue; it is becoming the most significant obstacle to full local participation by RSLs. We consider that

implementing the measures outlined below (which would penalise RSLs who did not play an active part in tackling homelessness in each area they work in) would provide a powerful incentive for RSLs to look at the need to rationalize their stock.

- ❑ We do not believe that RSLs are complying with the guidance in Housing Corporation Circular 07/04 as regards adopting preventative approaches to rent arrears management, with eviction very much the last resort. We are increasingly concerned about the unfair and inappropriate use of Ground 8 as a tool for possession action by RSLs. The DCLG has given local authorities an incentive through the Best Value Performance Indicators to adopt a preventative approach to arrears management. RSLs should have a similar incentive.
- ❑ Shelter supports programmes to make efficient use of the existing housing stock, whilst maintaining that the only solution to the current housing crisis across all sectors in England is to increase overall supply through new building. In this context we would like to see RSLs involved in innovative programmes to convert privately leased accommodation into permanent housing stock. We also support an improvement in voluntary programmes to reduce under-occupation.
- ❑ We welcome the emphasis in the consultation paper on the need to address particularly the housing needs of BME communities. We recommend that the approach followed takes in the areas of targeted advice and advocacy and capacity building within BME communities, as well as the need to build the types of homes that households from BME communities need.
- ❑ Shelter supports initiatives aimed at increasing mobility and would like to see more RSLs involved in local and sub-regional choice based lettings schemes. We are, however, concerned to ensure that such schemes do not disadvantage vulnerable households, particularly those from BME communities.
- ❑ We would like to see the role of Regional Housing Boards expanded in monitoring how well RSLs are contributing towards homelessness strategies. They could be involved in setting regional targets for proportion of lettings being made to homeless households; in scrutinizing nomination agreements; and in setting parameters for inter-regional and cross-regional allocations to ensure a balance between the promotion of mobility and local needs.

Summary of Shelter's Recommendations

- A new Key Line of Enquiry (KLOE) to be added to those which the Audit Commission currently uses to assess the effectiveness of RSLs. This should be called "Addressing homelessness and housing need in the local area".
- Housing Corporation Assessments to give more weight to the extent to which RSLs are complying with section 3.6 of the Regulatory Code and Guidance.
- A new Performance Indicator (PI) based on a grading which local authorities would make for each RSL in their district, giving an assessment of how well that RSL participates in the devising and implementation of their homelessness strategy.
- A new PI on the percentage of lettings which go to statutorily homeless households, set and monitored by the Regional Housing Boards in cooperation with the corporation.
- A review of guidance and expected performance standards for RSLs on Nomination Agreements (Circular 02/03)
- Revision of the information which is collected in the RSR on nominations so that it includes details of applicants whose nominations are refused in cases where the vacancy eventually goes on to be filled by another local authority nomination; and it sets out the reason for refusal of the nomination in each case.
- *Once this revision has taken place*, and the information being collected on refusals is accurate and comprehensive, the introduction of a new Performance Indicator (PI) on the % of nominations refused.
- Regional Housing Boards to set a regional target for the above PI each year and to have a dispute resolution role in the event of disputes arising over nominations and exclusions. The target should be set with flexibility at a local level to reward progress and commitment to the homelessness strategy by RSLs.
- Revision of the PIs on rent arrears to bring them into line with the Best Value PIs used for local authorities.
- Review of Circular 07/04, strengthening the directions given to RSLs on the use of Ground 8, in order to stamp out bad practice in this area.

Introduction

The position of RSLs in the social housing sector has changed significantly in recent years. In 1997 RSLs owned and managed around 22% of social housing stock in England. By 2004, this percentage had risen to 42% due to stock transfer and building

programmes¹. With a further programme of stock transfer due to take place in the coming years this figure is likely to increase. They receive large sums of public money for new development and maintenance of existing stock. The UK Housing Review of 2005/6 indicates that in 2003/4, Housing Associations received nearly £2 billion of public investment, whether directly from the Housing Corporation, or from local authorities².

The number of households accepted as statutorily homeless and housed by local authorities in temporary accommodation while they wait for a permanent tenancy in the social housing sector was around 40,000 in 1997. In 2006 this number is nearly 100,000³.

In more than one third of local authority areas⁴, all of the available social housing for rent is owned or managed by RSLs; within the next few years, this figure is likely to rise to around half of all local authorities⁵. In many other areas, RSLs are major providers through partial stock transfer. Given this situation, it is vital that RSLs now take on the full level of duty to provide social housing to those in most need which was once mainly the responsibility of local authorities. Shelter very much welcomes this review by the Housing Corporation of how it uses its monitoring, funding and regulatory role in the RSL sector to tackle homelessness.

We particularly applaud the level of priority given by the Corporation in this consultation to the promotion of effective partnership working between local authorities and RSLs – this is an area where there must be improvement; current ways of working are having damaging effects on housing outcomes for Shelter's clients every day. We are well aware from our own partnership working with the National Housing Federation and individual RSLs that there is a lot of good work being done by some RSLs and local authorities to improve ways of cooperating together and tackling homelessness; sadly these examples of good practice are still in a minority and in order to make them universal the Corporation must provide concrete incentives for improvement through its monitoring and regulatory role. Shelter does not believe that the measures set out in this consultation paper go far enough in achieving this. Our response makes a number of specific recommendations for ways in which this can be addressed. As well as giving a specific response to many of the individual consultation questions, we have given an overview in a section on general points at the start of each Objective. Where we do not propose to respond to a specific question in the consultation paper, that question has not been reproduced.

¹ Wilcox, S: UK Housing Review 2005/6, CIH/CML, 2005, table 17a.

² Wilcox, S: UK Housing Review 2005/6, CIH/CML, 2005, table 59. Total gross investment expenditure from HC and LAs is £1,987,000,000.

³ DCLG quarterly homelessness statistics. In March 2006, the figure was 96,370.

⁴ 136 out of a total of 360 LAs in England have transferred all their housing stock to RSLs – source Wilcox, S: UK Housing Review 2005/6, p14

⁵ Ibid

Specific responses to the consultation questions

Objective 1

Encourage better partnership working among associations, local housing authorities and other agencies including Supporting People teams, seeking to improve co-operation in delivering local housing strategies and offering alternative housing options

General points on this objective

We believe this is the key area which the Corporation needs to work on.

The joint ODPM/Housing Corporation/LGA/NHF good practice guide published in 2004 recognized that there is some way to go before RSLs are fully and effectively contributing to tackling homelessness and participating in local authorities' homelessness strategies⁶. Shelter willingly acknowledges that there is some very encouraging good practice in existence which shows that it is possible for RSLs to work well with local authorities and to make a major contribution to tackling homelessness. Our joint conference with the National Housing Federation in 2005⁷ highlighted a number of examples. We were also pleased to see the publication of the joint Housing Corporation/Chartered Institute of Housing guide (Homelessness Prevention and Housing Associations – contributing to efficiency), which details further examples of the good work taking place. In our view, a major shift needs to take place in the priorities and outlook of the RSL sector so that these examples of good practice become universal, and are built on. The Corporation must play a strong role in bringing this about.

Given the above, it is disappointing to note that the main tool being proposed for achieving the objectives set out in the consultation paper will be simply collection and analysis of information. Shelter recommends that the Corporation goes further in giving RSLs incentives to improve their level of participation and cooperation. Earlier this year⁸ we argued for local authorities to be given the opportunity to make a grading of each RSL with stock in their district, according to how well the RSL was participating in their homelessness strategy, and that this grading should then become one of the performance indicators on which the Corporation judges RSLs' operating success. We welcome the

⁶ Effective cooperation in tackling homelessness: Nomination Agreements and Exclusions, ODPM/HC/NHF/LGA November 2004

⁷ see Housing Associations and Homelessness: The challenge ahead. Conference report, Shelter, 2006

⁸ Shelter consultation response to the Housing Corporation Consultation on the Performance Indicator framework for Registered Social Landlords, February 2006. See <http://england.shelter.org.uk/policy/policy-825.cfm/ct/1/sb/40/pg/1/plitem/202>

endorsement of a need for measures which strengthen local authorities' influencing role over their partners contained in "Visionary Leadership in Housing" - the recent publication from the Chartered Institute of Housing and the Local Government Association (LGA)⁹. And we are pleased to note that the Corporation is already working directly with the LGA to look at these issues.

Whilst we recognize that RSLs feel over-burdened by performance monitoring, and that the Corporation has committed to reducing this burden, Shelter's view is that performance monitoring and regulation are essential tools for setting priorities and influencing the direction of RSLs' activities. The type of activity on which RSLs are monitored currently centres around their need to provide a good service for their tenants, as well as sound finance and governance. This must be broadened out to reflect the fact that these are not their only duties. RSLs are now the major providers of social housing, and need to have more regard to their responsibilities to their partner local authorities and to meeting housing need in the local area. Performance management and regulation must reflect this to give a clear signal of the Corporation's perspective.

We believe that the need for this change in emphasis is becoming more urgent, given the increasing prominence being given to RSLs' role in tackling antisocial behaviour (ASB) and the tightening of the way RSLs are being monitored as to their work in addressing ASB. RSLs already operate a risk-based approach to considering local authority nominations and lettings and are reluctant to take applicants with support needs or past tenancy problems. This creates particular problems for groups such as ex-offenders. We are concerned that RSLs will come to see applicants with support needs as increasingly undesirable, and in their need to be seen as performing well under ASB performance measures, will operate more and more exclusionary allocations policies. This situation would, in Shelter's view, amount to a dereliction of their duties under the Regulatory Code¹⁰ and it is something which the Corporation needs to address. Without introducing a correspondingly strong incentive to ensure that they fulfil their duties to cooperate with local authorities in meeting local housing and homelessness needs, it will be very unwise for the Corporation to strengthen performance management incentives on ASB, as to do so would give a perverse incentive for RSLs to operate exclusionary lettings policies.

Regulation and incentives via performance indicators need to be balanced out to give an incentive to RSLs to pursue active tenancy support and a preventative approach to ASB, so that they can fulfil their duties to those homeless and in housing need, and at the same time tackle ASB. There are means in existence for RSLs to take a positive and preventative approach to dealing with ASB - Shelter recently published a good practice

⁹ Simpson, M et al: Visionary Leadership in Housing: a new future for local housing strategy, CIH/LGA, 2005

¹⁰ The Regulatory Code and Guidance, Housing Corporation, August 2005, section 3.6

guide for the sector¹¹. But the proposals in this consultation paper give RSLs no concrete regulatory or performance management incentive to fulfil duties to local authorities in housing homeless and badly housed applicants. This omission, coupled with the strong emphasis elsewhere on preventing anti-social behaviour, risks leading RSLs to take the easiest and most socially damaging route of tackling ASB by more and more exclusion.

To tackle this risk effectively, and further the Corporation's stated objective of better partnership working, Shelter recommends the following actions:

1. A new PI based on a grading which local authorities would make for each RSL in their district, giving an assessment of how well that RSL participates in the devising and implementation of their homelessness strategy
2. A new Key Line of Enquiry (KLOE) to be added to those which the Audit Commission currently uses to assess the effectiveness of RSLs. This should be called "Addressing homelessness and housing need in the local area". We have set out a proposed format for this KLOE in Appendix A, along the lines of those for other KLOEs published by the Audit Commission.
3. Housing Corporation Assessments to give more weight to the extent to which RSLs are complying with section 3.6 of the Regulatory Code and Guidance. Checking a sample of recent assessments on the Corporation's website showed that this aspect of management is only mentioned at all in about half of the assessment reports, and then the assessment of performance seems to be determined only by whether or not nomination agreements are in place.
4. Revision of the information which is collected in the RSR on nominations so that it includes details of applicants whose nominations are refused in cases where the vacancy eventually goes on to be filled by another local authority nomination; and it sets out the reason for refusal of the nomination in each case.
5. *Once this revision has taken place*, and the information being collected on refusals is accurate and comprehensive, the introduction of a new Performance Indicator (PI) on the % of nominations refused.
6. A new Performance Indicator (PI) on the percentage of lettings which go to statutorily homeless households.
7. Regional Housing Boards to set targets for the above PI each year in each local authority, and to have a dispute resolution role in the event of disputes arising over nominations and exclusions.

The fact that a significant majority of RSLs own stock in many different local authority areas is an obvious obstacle to the sector's ability to participate fully in local housing and

¹¹ Cullen, S: Back on Track – a good practice guide to addressing antisocial behaviour, Shelter, 2006

homelessness strategies and is becoming more and more of a concern. Shelter welcomes the fact that the consultation paper acknowledges the need for work on rationalization of housing association stock, and we have been pleased to note the work taking place in 2 pilot studies led by the Chartered Institute of Housing¹². However we do not consider that this issue is being addressed with sufficient urgency. It is notable that the most often-quoted barrier to rationalization stated in the CIH's review paper¹³ from their interviews with RSLs is "There is no 'pressure in the system' to influence, persuade or compel housing associations to undertake stock rationalisation activity."¹⁴ We consider that implementing the measures listed above (which would penalise RSLs who did not play an active part in tackling homelessness in each area they work in) would provide a powerful incentive for RSLs to look at the need to rationalize their stock. We also recommend that the full range of other measures set out in the CIH report to remove barriers to rationalization are actively and immediately pursued.

Q 1.2 Should we seek to establish a feedback mechanism facilitated through Regional Housing Boards

This would seem to be an appropriate role for Regional Housing Boards. See also Q1.5 below for a further suggested role for the Regional Housing Boards.

Q 1.3 Although at present we are not minded to change our minimum requirements, we invite views on whether we should revisit our approach to nominations allocations (for example, raising our minimum requirement from 50% to 75% of net lettings), where there is evidence of specific problems with nominations responses that other measures have not solved.

We support the proposal of increasing the minimum requirement of nominations from 50% to 75%, where there is evidence of specific problems with nominations responses that other measures have not solved.

However, the percentage of net lettings offered for nominations will not solve problems by itself. The quality of nomination agreements themselves, and their level of enforceability also needs to be improved. Whilst the 2004 good practice guide¹⁵ contains very good and comprehensive guidance on nomination agreements, including matters such as the factors that should be considered when drawing them up and the need to include protocols for what happens when a nomination is considered inappropriate, there is no

¹² Rationalisation of housing association stock – stock rationalisation review paper, CIH/HC, 2006

¹³ Ibid

¹⁴ Ibid, page 5

¹⁵ Effective cooperation in tackling homelessness: Nomination Agreements and Exclusions, ODPM/HC/NHF/LGA November 2004

evidence that most nomination agreements are anywhere near approaching this standard. Such information as Shelter has available indicates that many nomination agreements are not even written down, or that the written agreement is so old that it cannot be traced. We are also aware of that local authorities often do not enforce or even clearly monitor the terms of these agreements.

In November 2005, a full year after the publication of the good practice guidance on nominations, the Public Accounts Committee concluded that there was a problem with establishing how well local authorities and RSLs were achieving cooperation with nominations. They recommended: "If necessary, formal agreements with Registered Social Landlords need to be strengthened to make their responsibilities much clearer. Compliance with these agreements should be routinely monitored and communicated to ODPM."¹⁶ Shelter would endorse this conclusion. We would like to move to a position where Regional Housing Boards (RHBs) hold a copy of the written nomination agreement between each local authority and housing association, completed to the level of detail as specified in the 2004 guidance, and are responsible for reviewing each year how well the terms and conditions of that agreement were complied with. The RHB should also have some responsibility for determining whether or not the terms of any such agreement are satisfactory and fair, and for acting as an adjudicator in the event of any dispute in the setting up or carrying out of any such agreement.

Q 1.4 If we conclude that change is needed, we think it is likely that we would review and if appropriate revise Circular 02/03. Comment on this circular is invited.

Please see the response to Q1.3 above. We would like to see Circular 02/03 updated and revised, to make reference to the good practice guidance of 2004, and to improve the compliance section.

The current section 4 of circular 02/03, on Compliance, is inadequate and needs to be looked at again. This section states that compliance is assessed by the Corporation's regulation teams, taking into account any inspection report. However, the current priorities of the regulation teams, and of the Audit Commission (who are responsible for carrying out inspections) do not adequately encourage compliance with good practice in terms of nomination agreements. The Audit Commission's Key Lines of Enquiry on Lettings and Allocations puts the following description under the category of "excellent" - "Has formal nomination agreements in place with other housing partners, such as councils, housing associations and voluntary organisations and monitors these to ensure

¹⁶ House of Commons Committee of Public Accounts: the Office of the Deputy Prime Minister: Tackling Homelessness. Thirteenth report of session 2005/6, The Stationery Office 2005

the agreements are adhered to.”¹⁷ When, to receive an “excellent” rating, all a RSL has to do is have some kind of formal nomination agreements and carry out some form of monitoring, this gives little incentive for good practice up to the standard recommended in the 2004 good practice guidance.

The revised circular should include in the compliance section full details of the way in which the RHB is to monitor adequacy of and compliance with nomination agreements; and it should include reference to the good practice guidance.

Q 1.5 We invite views on the value of publishing sector-wide reports on housing association performance in housing nominations and homeless households, particularly on what data we should focus on and what form reports should take.

Figures from CORE indicate that in 2004/5, local authorities across England were letting 47%¹⁸ of their vacant properties to statutorily homeless households, whereas for RSLs the figure was 15%. In the worst performing regions, RSL lettings to statutorily homeless households were in single figures. This situation needs to improve and a major priority must be providing incentives for RSLs to let a larger proportion of vacancies to homeless households, and removing obstacles to this improvement.

Whilst we support the idea of collecting and publishing statistics on the proportion of lettings to homeless households, we would suggest that this needs to go alongside improving the reliability and quality of the data available.

One of the problems with identifying how RSLs are performing on tackling homelessness is that statistics on the proportion of lettings which go to homeless households, and the effective cooperation in nominations, are unclear and easy to discredit. One of the Corporation's priorities must be to collect more accurate and universally accepted information on the percentage of lettings to homeless households.

We are particularly concerned that there is no check or verification available on the self-reporting of the homelessness status of direct applicants to RSLs. This blurs the figures on how many lettings are going to statutorily homeless households and prevents an accurate picture from emerging of homelessness and how it is being addressed within any local area (page 10/11 of the consultation paper). The CORE lettings system (question 14) asks RSLs to record whether the household was 1. not homeless, 2. statutorily

¹⁷ Audit Commission Key Lines of Enquiry 7: Lettings and Allocations, effective from July 2004

¹⁸ Annual digest of CORE data, Comparing LAs and HAs, 2004/5. NB the DCLG produces alternative statistics which indicate that the proportion of local authority lettings going to statutorily homeless households is more like 34%

homeless or 3. other homeless. The fact that RSLs make an assessment themselves of the homelessness status of direct applicants leaves open the possibility of mistaken categorization of applicants, and inconsistency in the categorization of applicants between different RSLs. Assessing accurately whether or not an applicant is statutorily homeless is a complex and specialized task requiring a good level of knowledge of all the relevant statute and case law, codes of guidance, and the expertise to apply these to the applicant's circumstances. Shelter's experience in housing advice and advocacy shows that even specialist staff in local authority homeless persons units sometimes get it wrong. We believe there is an unacceptably high margin for error when this assessment is made by housing officers or other RSL personnel who do not have specialist training. This can lead to the basic information on how RSLs are succeeding in housing homeless applicants being incorrect or misleading. To address this problem we recommend the following

- All RSL staff who have responsibility for supplying data on homelessness for CORE should attend specialist training on homelessness law and practice.
- Each RSL should set up an agreement with their local authority homeless persons unit for the HPU to carry out quarterly checking and auditing of a sample of cases where direct applicants' homelessness status has been assessed by the RSL, to determine whether the assessment was correct.
- Where individual cases are found to have been incorrectly categorized, the CORE records for those cases should be formally amended. Where a significant number of incorrect assessments are picked up (more than 1 in 10), the RSL should be required to inform the Housing Corporation and the CORE contractors so that the statistics supplied by the RSL on the homelessness status of direct applicants housed can be disregarded. In these circumstances, a note should be made by the Corporation and passed on to the Audit Commission to pick up this area in the next HCA or inspection of that RSL.

We would also make the point again, that simply collecting information is not a strong enough signal of the Corporation's willingness to ensure that RSLs fulfil the duty under the regulatory code to assist local authorities discharge their duties to homeless households. This can only be done through regulation and performance management.

We recommend the introduction of a new Performance Indicator for RSLs on the percentage of their lettings which go to statutorily homeless households. Given the context described above, this would be valuable to RSLs and to the sector as a whole, giving clarity, and it would provide an indication of the priority which the Corporation attaches to this aspect of performance. The PI would allow the Corporation, local authorities and other interested parties such as the DCLG to see clearly a comparison

between different RSLs, and within individual RSLs over time, as to the fulfillment of this duty. At a time when the government has implemented a target for local authorities to halve the number of homeless households in temporary accommodation by 2010, it is particularly important that RSLs should be given an incentive through the PI framework, to increase the numbers of lettings to statutorily homeless households.

We recommend that this PI is accompanied by the setting of a target to encourage early improvements. We consider that the target is more appropriate at a regional than national level, and that the setting and monitoring of such a target should be done by the Regional Housing Board (RHB) in co-operation with the Corporation. Because there can be different levels of need and homelessness within a region, we recommend that the RHB look at each local authority area individually when setting the regional target. They should invite representations from the local homelessness forum or strategy group in each area as to the details of homelessness and housing need within their area, and any particular issues or difficulties faced. If the RHB considers, based on these representations about local conditions, that a particular local authority area should have a higher or lower target than that for the region as a whole, then they should be able to set a specific target for that local authority. Any such individual targets could be reviewed annually with the regional target and amended accordingly. Of course, local RSLs should be represented on homelessness groups or forums so their views and concerns will have a chance to be reflected in the representations made to the RHB and thus the targets which are imposed on them. The setting of targets in this way would provide an incentive for RSLs to take a more active role in the local homelessness forum or strategy group.

Q 1.6 Further, should we begin by means of a pilot to publish more detailed information on housing association performance where associations are identified as outliers?

This proposal does not go far enough. To seriously tackle homelessness, simply collecting information and publishing it will not be effective. Instead of a pilot to look at publishing information, we would like to see the introduction of a performance indicator on percentage of lettings to homeless households. The desired changes in performance need to have the weight of measurements and targets behind them. If they do not, then other areas of performance which are the subjects of PIs will be prioritized by the RSL.

Q 1.7 If a pilot would be helpful, should the information be published in HCAs?

The HCA should be expanded to cover an assessment of how well the RSL is working with the local authority and the regional housing board to further their local and regional

housing strategies. This category should include how well they are working on tackling homelessness.

Q 1.8 We invite views on the value of publishing sector-wide reports on housing association practice in refusing nominations.

We agree that refusal of nominations is a major problem and a priority for the corporation to address if they are to tackle homelessness effectively. However publishing reports is not enough to solve the problem.

We would like a Performance Indicator to be introduced for RSLs, monitoring the percentage of nominations made by the local authority which the RSL refuses. It should be noted, however, that the introduction of such an indicator would also not solve the problems which exist unless, before it is introduced, the standard of information collected about nomination refusals is revised and improved. This is because the way in which nominations made and refused is currently recorded conceals the true problem. Although there is no performance indicator showing the number of nomination refusals, RSLs are required to submit this information to the Corporation in the long RSR return¹⁹ (Question G4). Guidance notes for the RSR²⁰ make it clear that a nomination is only to be recorded as being refused if the eventual letting was made to an applicant who was not nominated by the local authority (eg an internal transfer applicant, or a direct applicant to the RSL's waiting list). Any number of nominations can be made by the local authority and refused, without any record being made of this, as long as the eventual letting does go to a local authority nominee. This allows a situation to continue whereby RSLs can refuse any number of applicants nominated to them by the local authority, on any criteria at all, without this coming to the attention of the Housing Corporation, provided the local authority is eventually able to make a successful nomination. Since local authorities have such a great need to find accommodation for statutorily homeless households, and other people on their housing register, there will be very few occasions when, if a nominee is refused, they will not simply keep on making nominations until the RSL finds one of the nominees acceptable. Only in the eventuality where the local authority does not have anybody at all that they can make a successful nomination of, so that the vacancy reverts back to the RSL for them to let to another category of applicant, will a refusal of nomination be recorded. And in that eventuality it will only be recorded as one refusal, when in fact several individual nominations may have been refused.

¹⁹ Regulatory and Statistical Return, submitted in long and short versions to the Housing Corporation by all RSLs with more than 250 units of stock, at the end of March each year.

²⁰ RSR 2006 Guidance notes (long): filling in the regulatory and statistical return, Housing Corporation, 2006, page 23

This situation means that there is no effective scrutiny of the pattern of RSL refusals of nominations by the Housing Corporation. This must be changed. Any new performance indicator on refusals of nominations cannot be fully effective when the vast majority of refusals go unrecorded. The Corporation will be aware that local authorities continually accuse RSLs of “cherry picking” nominees ie insisting on receiving several nominations, and awarding unfair priority for allocation to applicants who are considered to be low-risk, whilst making it very difficult for any applicant who has support needs or any history of past tenancy problems to be housed by an RSL. RSLs wish to refute these accusations, and all parts of the social housing sector wish to see RSLs and local authorities enjoying a better partnership, with higher levels of trust and information exchange. In order to provide effective scrutiny, to clarify the picture, and to improve partnership working, a more accurate system for recording and categorizing refusals must be put in place. All multiple nominations should be recorded, and the reason for refusing each one must be set out by the RSL.

Many of the problems encountered by local authorities in trying to discharge their duty to homeless applicants arise from unfair and restrictive allocations policies and exclusions by individual RSLs. A recent Shelter investigation into exclusions in Tyne and Wear²¹ which investigated practice amongst both local authorities and RSLs, found that standards of practice in key areas were outside the requirements of the 2002 Homelessness Act and the Housing Corporation Circular 07/04 on exclusions and evictions. 37% of the households in the research had been excluded for rent arrears of less than £500. In 49% of the cases looked at, the issue which formed the basis of the exclusion had been fully or partly resolved by the time of the application yet still people were excluded. Half of the exclusions were overturned on appeal – generally a good indicator of poor practice. Monitoring statistics on proportion of lettings to homeless households and proportion of nominations refused, whilst valuable in itself and something we are strongly calling for, will not fully bring to light all these exclusionary policies and practices. What is needed is an external review of a RSL's policies and practices which will identify where these are likely to affect the local authority's ability to discharge their statutory duty. Since RSLs are required under the Regulatory Code to cooperate with local authorities in fulfilling this duty, the scrutiny of their policies and practices should be a key line of enquiry for the Audit Commission and the Housing Corporation's Regulation team.

We recommend the introduction of a new Key Line of Enquiry - called “Addressing homelessness and housing need in the local area”. We have set out a proposed format for this KLOE in Appendix A, along the lines of those for other KLOEs published by the Audit Commission.

²¹ Finch, R: Exclusions in Tyne and Wear, Shelter, 2006.

It is common practice for housing associations to ask for details of 3 or 4 applicants at once when they request a nomination. They then select one and return the others. This practice is useful to RSLs because it allows them to keep relet times down by considering several applicants together, rather than one after the other. We have no objection to RSLs wishing to keep their relet times down and manage their stock efficiently. However we would make two points in relation to this practice:

1. In some local authority areas, each of the applicants whose details are sent is written to informing them that they have been nominated to a housing association. All but one are then disappointed when they hear that they are not, in fact, going to be allocated the property. This makes an already difficult and stressful situation even worse for these unsuccessful applicants. In some cases brought to the attention of our housing advice services, the same applicant (particularly if they are vulnerable with significant support needs) can receive many such letters, repeatedly raising their hopes and then letting them down. This has a damaging effect on an already vulnerable person. It is the individual human cost of RSLs' desire to house applicants who they consider to be the lowest risk.
2. We would like to move to a situation where RSLs will be willing to house whichever applicant the local authority considers to be highest priority for the nomination and do not require several applicants to choose between. In particular, where an applicant has been assessed as being statutorily homeless, there should be no further room for a RSL to refuse the nomination on the ground that the applicant may have previous rent arrears or a history of tenancy problems. We would suggest that the fact that the local authority has made a decision that the household's homelessness is not intentional, covers any question of whether previous tenancy problems remain an issue.

Of course we recognize that moving to the situation described above would require a more general improvement in partnership working and trust between RSLs and local authorities so that support needs and support packages can be agreed, and information sharing is improved. Elsewhere in this response we highlight initiatives which are already in train to improve partnership working (1.14 and 2.1), and wish to state again how crucial this improvement is, so that a better system of nominations and refusals becomes workable.

The consultation paper states that there can be good reasons why homeless households are not offered nominations - 1. the size of properties available locally and 2. how the

local authority prioritises its nominations²². Neither of these things exist independently of the allocations policies of RSLs and of the degree of cooperation enjoyed between local authority and RSL. A particular RSL may have an allocations policy which says each child must have its own bedroom, and another may have a policy which states that children of the same sex can share a bedroom. These two RSLs' policies will affect the size of household which can be successfully nominated to one of their properties, independently of the size of properties which become available. RSLs' practices in cooperating with the local authority can also affect the nominations it receives. If the local authority has a history of having repeatedly nominated applicants with support needs or former rent arrears, which an RSL refuses, then the local authority will in due course stop nominating such applicants to that RSL, knowing that their nomination will be refused. This deterrent effect will not show up in the number of nominations made or refused; it will be hidden behind the local authority's "choice" of how to prioritise their nominations for any given RSL.

Q 1.9 Further, should we begin by means of a pilot to publish more detailed information on refusals where associations are identified as outliers?

It may be unfair to identify certain RSLs as "outliers" based on currently-available statistics alone; as set out above they do not give a complete picture. A RSL's bad practice in allocations and exclusions may not necessarily show up in statistics on the number of nominations refused. Resources need to be spent improving the data collected, then when it has been improved as outlined above, the publishing of detailed information should go ahead.

Q 1.11 Would associations and local authorities find it useful for us to commission the production of model protocol agreements for information exchange and housing benefit liaison?

Shelter would support the creation of model protocol agreements by the Corporation as an aid to efficiency and consistency. Information exchange is a vital factor in achieving better trust and cooperation and we would welcome resources being put into this area.

Q 1.12 How can we encourage associations and local authorities to co-operate in providing timely and appropriate support for nominated households?

See 1.14 below

²² Consultation paper , page 12

Q 1.13 Should we expect associations and local authorities routinely to set up case conferences when a nominated household has been identified as vulnerable and before an offer of housing is made?

See 1.14 below

Q 1.14 Is there a need for good practice guidance on liaison among agencies and associations for effective support to be established?

We would welcome further good practice guidance.

However there are a number of good practice examples available. We would particularly like to bring to the Corporation's attention a Shelter project in Cornwall called the Multi Agency Assessment Panel. This project, which has been in operation for more than 3 years is joint funded by a number of agencies including Government Office for the South West, 3 of the local authorities in Cornwall, the Probation Service, local voluntary agencies and the Drug and Alcohol Action Team. The project works with clients with multiple support needs who find it very difficult to secure accommodation or to sustain a tenancy. The panel's coordinator will

- receive referrals from all the above agencies and others
- assess the client's support needs in a private meeting with the client and their key worker, and decide which agencies will need to be involved in providing ongoing housing-related support for the client
- gather these agencies together for a case meeting at which an action plan will be drawn up and signed up to by all agencies
- monitor the achievement of the action plan at regular intervals

This project has had considerable success in putting together tailored support plans for clients with multiple needs, to enable them to secure housing, or to maintain their existing tenancy. One of the project's strengths is seen as being the independent nature of the coordinator's role, together with the fact that coordinating the panel and the action plans is the postholder's sole responsibility – they are not subject to competing priorities or to the political difficulties which can arise in local government and other large organizations. A number of local RSLs have participated in the panel meetings and the action plans; although currently no RSL is a contributor to the funding of the project, in order to secure the cooperation of this key sector, the project has allowed RSLs to make contributions in kind ie the staff input and time to attend the meetings and follow up the action plans is taken as being equivalent to financially funding the project.

We consider that this example is well worth pursuing and is capable of being rolled out nationally with a little further development. We would suggest that one of the ways in which RSLs need to increase their cooperation with the local authority's homelessness strategy is to be willing to join in funding initiatives like the Multi Agency Assessment Panel.

Q 1.15 *We think there is merit in and welcome views on the value of encouraging associations to appoint a homelessness champion at a senior level within the organization*

Should a homelessness champion be appointed, we would like to see the role encompass the following criteria:

- They should be part of the national or central staff of the RSL, rather than a locally based person who only covers some of the local authority areas in which that RSL has stock
- They should have some influence or responsibility over the drafting and amendment of operational policies and procedures within the RSL
- They should regularly make reports to the board or committee meetings of the RSL so that the issue of homelessness becomes tied in with the governance of the RSL

Q 1.16 *Are there other, better ways of raising the profile of responding to housing need and homelessness within associations?*

As outlined above, what is needed is for the extent of cooperation with local authorities in discharging their homelessness duty to be more effectively monitored. This cooperation and success at helping the local authority discharge its statutory duty should be

- included as a KLOE in the HCA
- highlighted in any Audit Commission Inspection and the associated rating
- included in the performance indicator framework for RSLs.

It is only by introducing ways in which RSLs' rating by the Housing Corporation and Audit Commission actively depends on their providing a good level of cooperation, that such cooperation will improve. As long as it is not measured or monitored at this level, RSLs will always have an incentive to prioritise other areas of work which are monitored at this level.

Objective 2

Achieve sustainable, cohesive and balanced communities where people want to live, with transparent local lettings and community building policies that work to strengthen viable, local and mixed communities, choice, mobility and residents' voices

General points on this objective

Shelter supports the aim of creating sustainable and mixed communities. However we have concerns over the way in which sustainable communities tend to be conceived by RSLs and their representative bodies. This conception is based on the exclusion of households with support needs. Circular 07/04 which specifies that blanket exclusions of particular categories of applicants is not acceptable, also makes an exception for local lettings policies based on the need to create sustainable communities. Shelter's experience indicates that local lettings policies tend to be based around prioritizing lettings to households which have particular characteristics (for example economically active households), and excluding households which have other characteristics (for example households whose income is derived from welfare benefits, households with large numbers of children, households below a certain age).

We have consistently argued that there is no incompatibility between housing tenants who have high support needs, and furthering sustainable communities. Our Inclusion Project in Rochdale has shown clearly that with the correct type of support, even tenants with significant support needs can be enabled to sustain their tenancies and function as part of a community²³.

We question the sustainability for society as a whole of a policy which restricts the access of those in most need to social housing. If these households are excluded from access to social housing because of local lettings policies and the wish to create a sustainable community, then they do not just disappear. Instead they will end up in the worst housing in the private rented sector. If a household who has support needs cannot sustain a tenancy in the social housing sector, then their prospects are very poor indeed in the private rented sector.

As mentioned in the general points on Objective 1 above, we are concerned to ensure that a balance must exist in the performance and regulatory tools between RSLs' role in

²³ Jones, A et al: Addressing antisocial behaviour – an independent evaluation of the Shelter Inclusion Project, University of York/Shelter, 2006. This research found that 60% of tenants who had been supported through the project were no longer exhibiting any antisocial behaviour, while a further 11% had shown improvements in behaviour. 84% were no longer subject to any possession action putting them at risk of homelessness. The service was considered to be cost effective in light of the high costs of pursuing punitive action against perpetrators of ASB, and of eviction and repeat homelessness.

tackling anti-social behaviour and their role in meeting local housing need and addressing homelessness. To stress the first and not the second will lead to a perverse incentive for RSLs to simply exclude any applicants who they think present a risk.

We believe that a broader and more strategic approach needs to be taken towards the creation of sustainable communities. The local authority has a key role to play in this approach; their overview of the position regarding support needs and availability of housing in the local area is vital in order to set the parameters of any local lettings policies to be operated by individual landlords. The issue of provision and coordination of appropriate support is crucial. We strongly recommend that RSLs should participate in forums with the local authority housing and homelessness division, the supporting people team, social services, and local voluntary agencies, so that genuinely sustainable communities can be developed by looking at an overview of support needs and provision in the area, as well as placement of individual households with particular support needs.

Funding of the support needed is no less crucial. The overall Supporting People budget has been subject to repeated cuts²⁴, and the system of funding for individual projects has been one of annual review, offering no security or incentive to engage in long term planning or strategic evaluation. We urge the Corporation to do everything possible to lobby for a more secure and strategic approach to funding of these vital support services in the forthcoming Comprehensive Spending Review.

Q 2.1 We invite the submission of examples of good practice where associations and local authorities work productively together to reach agreement on a common approach to local lettings policies.

The examples below are from Shelter's joint conference with the National Housing Federation in November 2005²⁵

WORKING TOGETHER IN WYRE

In Wyre a joint forum convened by local authority homelessness officers brings together homelessness staff, housing officers from all the housing associations, tenancy support officers, and hostel workers. The group jointly identify suitable properties for new homeless applicants, assesses need for support, and work through tenancy sustainment issues. The joint working

²⁴ The Supporting People budget has been reduced in the three years since its introduction in 2003/04 from £1.8bn to £1.72bn for 2004/05 and is currently £1.69bn. Shelter is calling for a firm commitment for SP funding to be ringfenced and increased each year to reflect the real inflation costs of service providers and for no further cuts to be made.

²⁵ Housing Associations and Homelessness: The challenge ahead. Conference report, Shelter, 2006

through this forum has been highly successful in ensuring that homeless people are given full access to social housing in Wyre.

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KNOWSLEY'S HIGH PRIORITY ASSESSMENT PANEL

Knowsley BC recognised that they needed to improve their homeless services, and that to do this they needed to involve other agencies. They therefore set up a High Priority Assessment Panel. The panel involves homelessness officers, representatives from the LA Housing Strategy team, Housing Associations, Children's Social Services, Rent Deposit Schemes and the Supporting People Core Strategy Group. The main aim of the panel is to help homeless households move from temporary to settled accommodation within 6 months. A key area of its' work is working with households with rent arrears or anti social behaviour issues to assess need, reduce exclusions and ensure support packages are in place when required. They consider what voids are available, and referrals from agencies, such as probation and those on the panel. Whilst they still have some way to go to fully engage some partners, the panel has gained wide support, and has been successful in getting vulnerable people suitable housing with the support needed to prevent homelessness reoccurring.

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NEW PROGRESS AND SOUTH RIBBLE COLLEGE PARTNERSHIP

New Progress HA for example is working on a scheme with South Ribble College to train people in skills needed to maintain a tenancy. The certificates are recognised by other social landlords in the area. As well as increasing the skills of tenants in managing a tenancy, the aim of the scheme is to give prospective landlords confidence to re-house some applicants they may have been reluctant to otherwise – for example young people with a history of tenancy failure.

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Q 2.2 We invite views on the value of publishing sector-wide reports on housing association performance in delivering choice-based lettings.

Shelter highlighted the importance of RSLs participating in choice based lettings schemes in our report *A Question of Choice*²⁶ and we would be pleased to see the Corporation taking a more pro-active stance in encouraging and incentivising participation. However we do not see the collecting and publishing of information as being the most useful way in which the issue of RSLs' performance in this area could be improved. We would return again to the issue of stock rationalization. This is the single greatest barrier in the way of RSLs' participation and needs to be addressed more urgently.

Objective 3

Support housing associations to prevent homelessness by promoting holistic and seamless housing allocation and management approaches, with eviction very much a last resort

General points on this objective

We welcome this recognition of the importance of housing management practices as a means of either preventing, or contributing to, homelessness. Shelter is concerned that there is little evidence that RSLs are complying with the guidance in Housing Corporation Circular 07/04²⁷ as regards adopting preventative approaches to rent arrears management, with eviction very much the last resort. We are aware of some examples of good practice in this area, but our housing advice and court duty desk services continue to see cases of very harsh and inflexible possession actions being taken by some RSLs. The use of Ground 8²⁸ by RSLs seems to be rising²⁹. Further than this, at a plenary session of a recent Shelter conference³⁰ the Chief Executive of the National Housing Federation appeared to acknowledge as widespread the practice of RSLs using Ground 8 in cases where the real issue was not rent arrears, but in fact the wish to evict tenants causing problems with antisocial behaviour.

Shelter is of the view that there is no need at all for RSLs to use this mandatory ground for possession, which takes away all judicial discretion about whether or not it is reasonable to grant a possession order, and prevents cases even being adjourned where the issue is one of housing benefit delays and an appeal is outstanding³¹. RSLs have alternative

²⁶ Grannum, C: *A question of choice – good practice and issues in choice based letting*, Shelter, 2005

²⁷ Housing Corporation Regulatory Circular: *Tenancy Management – eligibility and evictions*, Housing Corporation, 2004

²⁸ Ground 8 (of the 1988 Housing Act, schedule 2) is a mandatory ground for possession on assured tenancies, the most common type granted by Housing Associations. It requires only the existence of 8 weeks' rent arrears to automatically grant a possession order against the tenant

²⁹ Pawson, H et al: *The use of possession actions and evictions by social landlords*, ODPM, 2005; also see Hunter, C et al: *The exercise of judicial discretion in rent arrears cases*, DCA, 2005. The latter study found that 36% of all possession actions in London courts were brought under Ground 8.

³⁰ "Developing Effective Homelessness Strategies", held in London by Shelter, 13 July 2006

³¹ *North British Housing Association v Matthews* (2004) EWCACiv1736

discretionary grounds (10 and 11) which will allow them to pursue possession action for rent arrears, with the only difference being that the judge will be able to look at whether or not it is reasonable to issue a possession order before doing so. The fact that RSLs are using a ground which evades this test of reasonableness is a clear indication that they are not, in fact, taking a preventative approach to rent arrears management with eviction as a last resort. We also find the suggestion that Ground 8 is being used by RSLs with a secondary motive of obtaining quick and easy possession against tenants accused of antisocial behaviour, to be of extreme concern. To quote from the introduction to Regulatory Circular 07/04: "Associations should act to support and sustain, rather than terminate, a tenancy: early intervention is essential. Housing associations are often under pressure from tenants and communities to evict those accused of antisocial behaviour (ASB). Nevertheless, associations should pursue alternative interventions, retaining eviction as a last resort." Clearly, if actions are being brought under Ground 8, rather than Ground 14 which would require collection and presentation of evidence of antisocial behaviour, and an assessment of whether or not it is reasonable to grant possession, this is at odds with the requirements of Circular 07/04.

We are, naturally, pleased to see the Corporation represented on various working groups set up to promote preventative approaches to arrears management, and the pre-action protocol on rent arrears³². However, whilst all the guidelines may be there encouraging RSLs to adopt a preventative approach to arrears management, as long as RSLs' performance is assessed on a simple measure of current tenancy rent arrears as a percentage of rent debit, then RSLs have no real incentive to adopt a preventative approach in practice. The monitoring of current tenancy rent arrears, particularly on a snapshot basis at the year end, creates a perverse incentive for RSLs to pursue aggressive arrears management policies which increase possession actions and evictions. If a RSL evicts a tenant with high arrears, their arrears balance will be removed from the current tenancy arrears figures, thus apparently improving performance on this indicator. The tenant's debt moves into former tenant arrears, which are not monitored.

The current suite of Best Value Performance Indicators applied to local authorities has introduced a new set of PIs around rent arrears, which are intended to measure performance in rent collection without giving perverse incentives to local authorities to take harsh possession and eviction measures³³. We recommend that these PIs are also

³² Civil Justice Council Protocol for possession claims based on rent arrears, effective from October 2006

³³ The indicators in use by local authorities are: BV66a: Rent collected by the local authority as a proportion of rents owed on Housing Revenue Account dwellings (high numbers=better performance) ; BV66b: The number of local authority tenants with more than seven weeks of (gross) rent arrears as a percentage of the total number of council tenants (low numbers=better performance); BV66c: Percentage of local authority tenants in arrears who have had Notices of Seeking

applied to RSLs. Shelter recently held a joint conference with the National Housing Federation to discuss the role of RSLs in tackling homelessness³⁴. Our conference seemed to indicate that there is some feeling amongst RSLs who pursue good practice in this area that evictions should be discouraged through the PI framework. Two senior managers from RSLs in the North West who showcased their good practice at the conference made the following comments:

"We need to measure evictions and measure the wider social cost. Most of the costs will be to social services, health, education, homeless services, cost of dealing with social exclusion. There is a wider community benefit to reducing evictions that isn't measured in terms of efficiency"

"As a movement there are still questions we are not asking ourselves...is reducing evictions really one of our targets? Do we bench mark? Do we monitor? The housing corporation doesn't ask us how we are doing on reducing evictions. There needs to be a BVPI to really get us as a sector to change our approach on this".

Applying the same suite of PIs on rent arrears to RSLs as applies to local authorities would address these concerns, and at the same time acknowledge the outward focus of RSLs towards meeting the needs of the wider community and their partner organizations.

Q 3.1 We invite views on the value of publishing sector-wide reports on housing association practice in relation to evictions.

We welcome publication of statistics and information on practice in relation to evictions. Given the controversy surrounding the use of Ground 8, we strongly recommend that the Corporation takes action to monitor specifically the numbers of possession actions that RSLs are taking using Ground 8. We also strongly recommend an immediate revision of Circular 07/04 to include an express prohibition of the use of Ground 8 in all cases where there are issues of support needs and allegations of antisocial behaviour.

Q 3.2 Further, should we begin by means of a pilot to publish more detailed information on housing association practice where associations are identified as outliers?

Possession served (low numbers=better performance); BV66d: Percentage of local authority tenants evicted as a result of rent arrears (low numbers=better performance).

³⁴ Homelessness and Housing Associations: The Challenge Ahead, 9th Nov, Manchester

We do not believe that a pilot is necessary in order to implement the collection and publication of information. The exercise should take place nationally straight away.

Q 3.3 If a pilot would be helpful, should the information be published in HCAs?

See 3.2 above. Where information is collected, we would like to see it published in HCAs.

Q 3.4 Is there enough information now published for associations to make good informed judgments when considering the cost of eviction, or should we be doing more to promote better cost-benefit analysis?

Shelter's own report "Housekeeping", published in 2003³⁵, highlighted the cost of eviction and since then there has been no significant updating of the figures. We welcome the limited updating of this information in a recent publication by the CIH and the Corporation which sets out some of the costs and benefits of homelessness prevention³⁶. The translation of the huge personal and social costs of homelessness into financial terms is a very valuable exercise. Because RSLs are under such a lot of pressure to secure efficiency savings and reduce their operating costs, we believe expanding on this sort of cost-benefit analysis will form a vital part of shifting RSLs' priorities so that they give greater weight to their responsibilities towards addressing housing need and homelessness in the local area.

We would also like to see the Corporation working in cooperation with the National Housing Federation to raise the profile of available guidance on good practice for RSLs in tackling antisocial behaviour³⁷.

Q 3.5 How can we encourage local authorities and associations to co-operate and encourage best practice in prioritizing and allocating social housing as move on from supported housing?

The issue of move-on from supported housing is one of many areas which would benefit from greater cooperation and partnership working between RSLs and local authorities, bringing in a range of other voluntary and statutory organisations. The mechanisms for greater partnership working and cooperation, outlined in the response to Objectives 1 and

³⁵ Neuburger, J: Housekeeping – preventing homelessness through tackling rent arrears in social housing, Shelter, 2003

³⁶ Homelessness Prevention and housing associations – contributing to efficiency, CIH/HC, 2006

³⁷ See for example Cullen, S: Back on Track – a good practice guide to addressing antisocial behaviour, Shelter, 2006. See <http://england.shelter.org.uk/files/docs/22305/Back%20on%20track.pdf>

2 above, are no different for achieving better practice in the area of move-ons from supported housing than in any other area.

Q 3.6 How can we encourage consideration of wider move on options, such as better use of the private sector?

We have some concerns over the proposals in the consultation paper to broaden the use of housing options (ie to consider the private rented sector as an alternative to social housing) for individuals leaving supported accommodation and ready for a move to general needs accommodation. This group of prospective tenants is highly likely to be disadvantaged by the insecurity and variable property condition offered in the private rented sector. Where the local authority has been able to create a scheme in cooperation with private sector landlords in the area, ensuring better conditions in a private sector tenancy, then this may provide a good enough alternative to the social rented sector for these vulnerable tenants. Such a scheme would need to address the following:

- good quality accommodation
- good management standards
- a measure of security in terms of providing a home for longer than the statutory minimum of 6 months

The local authority would also have to be able to ensure that floating support provision was available to fully meet the needs of the household, and this support package would have to be tailored to the fact that the household was living in the private rented sector without access to the supportive housing management and community development which are offered by the RSL sector.

Where such conditions are not met, the private rented sector will be unsatisfactory for move-on accommodation and we would be strongly against the pursuing of these housing options proposals in so far as they relate to the private rented sector.

We are aware of a small number of innovative schemes which make shared ownership, or fully owned, housing possible for individuals who may be ready to move out of supported accommodation³⁸. These schemes tend to be directed towards specific groups eg adults with learning difficulties whose families are in a financial position to be able to pay for part or full ownership of accommodation. We would support further investigation into the good practice shown by these schemes and review of their wider application.

³⁸ see the Mencap "Secure Futures" scheme in partnership with Golden Lane Housing - <http://www.glh.org.uk/>

Objective 4

Encourage housing associations to make better use of existing housing stock, including reducing under-occupation and bringing empty homes back into use, hand in hand with more efficient lettings procedures and exploration of the scope to convert temporary tenancies into settled homes

General points about this objective

Whilst clearly Shelter supports initiatives to reduce under-occupation in social housing, and to bring empty homes back into use, we believe it is important not to be drawn into thinking that such measures will provide a solution to the problems of housing supply and overcrowding which are such a major challenge to the housing sector. These problems are so severe that reducing empty homes and under-occupation would have a fairly marginal effect in the overall context of under-supply³⁹.

Shelter were very pleased to see the inclusion of the provisions in the 2004 Housing Act for Empty Dwelling Management Orders and we are working, through our Housing Act Implementation project and website, to ensure that these provisions are introduced effectively.

***Q 4.1** Where private sector leased homes are used for temporary accommodation and managed by associations, how can we encourage associations to work with local authorities and private landlords to achieve a settled home outcome?*

We are concerned at the current erosion of the concept of a settled home as a permanent tenancy. We do not consider that the 6 months security of tenure offered in the private rented sector - even if it can be extended up to 2 years based on the goodwill of individual private landlords - is sufficient to meet the needs of a household which has been through the trauma of homelessness, for a genuinely settled home.

We would welcome a programme aimed at increasing the length of the lease which RSLs have on the properties which they lease from private sector landlords.

***Q 4.2** Is there scope for more associations to run tenancy deposit schemes for private tenancies and to implement in any private stock they might own?*

³⁹ London Housing – Briefing on overcrowding in London, 2004. This briefing used Census information to establish that in London, where overcrowding is at its worst, even if all households significantly under-occupying properties in the social rented sector were to agree to move to smaller premises, it would not address more than a small fraction of London's severe overcrowding.

Shelter strongly supports the provision of tenancy deposit schemes and bond or guarantee schemes which enable low income households to secure a tenancy in the private rented sector. We would like to see more RSLs involved in running such schemes, as a further means of increasing their partnership working with local authorities.

***Q 4.3** We think there are likely to be a number of innovative and creative possibilities, and want to know whether it would be useful for the Corporation to commission toolkits and good practice guidance for associations to work more extensively with the private sector.*

We would welcome the commissioning of such toolkits and good practice guidance.

***Q 4.4** How can we encourage innovation aimed at converting PSL into permanent homes?*

PSL has been important in that it has provided local authorities with a relatively stable source of temporary accommodation in which to house homeless households. However, as leases expire and properties are handed back, homeless households have to move and councils have to seek alternative accommodation to lease. Rents in temporary accommodation are high and these are largely funded out of housing benefit, with no longer term public benefit accruing.

New 'temporary to permanent' schemes seek to provide temporary accommodation for homeless households and at the same time use the housing benefit revenue to create a long term social asset in the form of permanent homes. Shelter is on the board of the *Local Space* in Newham. Under this scheme, *Local Space* as an RSL, purchases properties on the open market and then leases them to the local authority for use as temporary accommodation. The rental income from the properties effectively funds the borrowing necessary to acquire the properties. When the loans are substantially repaid, the properties can convert to social housing on assured tenancies and social housing rents. Such schemes provide local authorities with a much more stable supply of accommodation in which they can place homeless households, without having to move them on when PSL leases expire. For its part, the RSL increases its stock of social housing.

These new schemes are an innovative way of using existing funding streams to create permanent homes. In addition to the revenue from housing benefit, however, an injection of capital is necessary to purchase the properties on the open market. The Housing Corporation has already provided a grant of £25m to the *Local Space* project to facilitate the procurement of properties and has a further budget of £10m for the development of 'temporary to permanent' schemes in 2006-2008. Shelter welcomes the fact that the

Housing Corporation is supporting these initiatives which enable properties used as temporary accommodation to become permanent homes. We also welcome the recent announcement by the DCLG of further funding to explore developments of this type of initiative.

Q 4.5 *Are there other sources of funding that could be utilised for this purpose, perhaps in combination with Social Housing Grant?*

The Housing Corporation bidding guidance (2006-2008) stipulates that the schemes described above must not only capture housing benefit flows to convert temporary accommodation to permanent homes but must also help reduce disincentives to work. High rent levels and steep housing benefit tapers mean that those living in temporary accommodation can rarely afford to start work, trapping households in cycles of poverty and unemployment. A new pilot project, *Working Future*, seeks to address this problem in the Newham area. This creative scheme enables working households in temporary accommodation to be liable for a social rent only, with the remaining amount paid through a DWP block grant. At present this scheme is being piloted amongst 150 households in PSL properties in Newham.

Shelter has called for this *Working Future* model to be rolled out more widely, to enable many more of those in temporary accommodation to work. The scheme is essentially cost neutral, as the rent which would have been paid by housing benefit, is simply paid in two separate ways: housing benefit and block grant. If 'temporary to permanent' initiatives were to be combined with a *Working Future* model, this would maximise the effectiveness of both Housing Corporation and DWP grants, providing both a means for converting temporary accommodation into permanent homes and simultaneously removing work disincentives.

There is room for the sources of funds for such programmes to be looked at in innovative ways. Given high demand and low risk to rent payments associated with the temporary accommodation sector, this sector may prove attractive to private investors when Real Estate Investment Trusts (REITs) are introduced. Similarly, in 2005 Shelter and the CIH published proposals for a scheme known as Homesave⁴⁰. This scheme considered ways in which tenants of social housing whose income does not make home ownership a possibility, could use their savings to invest in a portfolio of property in the social rented sector, or in the activities of their RSL. With further research and development it is possible that the purchase of temporary accommodation could provide a good target for these funds.

⁴⁰ Terry, R, Simpson, M and Regan, S: Homesave – increasing choices for tenants to own assets, CIH/Shelter, 2005

Our main criteria for whether or not such innovatively funded schemes were acceptable or not would be the quality of accommodation provided; the standard of housing management involved; and the extent to which the tenants of the accommodation provided had security of tenure and the possibility of turning their temporary accommodation into a long term home.

Q 4.6 *How can housing associations help local authorities to make use of the powers they were given in the Housing Act 2004 to bring empty homes back into use?*

We believe that RSLs have a role to play in implementing Empty Dwelling Management Orders on behalf of the local authority, particularly where all the local authority's own housing stock has been transferred to a RSL and there is no housing management provision within the local authority. Whether, in each area, the local authority choose to manage these dwellings themselves, or to get a RSL, or even a private company to implement the Empty Dwelling Management Orders on their behalf, would be a matter for local discussion at the relevant homelessness forum or strategy group.

Q 4.11 *We want to hear about incentive schemes to encourage people to move out of larger homes that they no longer need.*

We have been concerned to observe the rising undercurrent in the social housing sector which talks about the desire to move on under-occupying older householders, or households whose personal circumstances would no longer make them a priority for allocation of social housing. These households have often made a valuable contribution to their local community or estate over a number of years. In the drive towards creating mixed and sustainable communities, they provide a leavening of the intense concentrations of low income and support needs on RSL estates – indeed they may often be part of the support provision for more vulnerable residents in an informal way. Notwithstanding the above, we do support voluntary schemes which provide effective incentives for this group of tenants to consider changes to their housing circumstances, whether these changes would be a move into part or full home ownership through the Government's Homebuy scheme, or a move to a tenancy of a smaller property in the social rented sector. These schemes, to be effective, must address the following :

- Flexibility in the offer of a property of a size appealing to the under-occupying household, even if this means moving down only 1 bedroom in size. Such a move would still provide a gain to the RSL in question, given the scarcity of larger units. Traditional under-occupation schemes offering a move to bedsizes appropriate to the allocation standards for new tenants have been shown to be ineffective.

- Assistance offered with the inconvenience, expense, and disruption of moving house, which may be a particular obstacle to elderly households. This should include redecoration, clearance and cleaning, DIY assistance, and help with the administration of moving, eg dealing with utility companies.
- Priority in allocations systems so that the tenant can choose the location of the new smaller home eg allowing tenants to stay on the same estate, or to move to an area of their choice.

Objective 5

Work with Regional Housing Boards to direct our investment funds towards improving access to housing where there is housing need, with a strong focus on meeting the needs of black and minority ethnic households, providing larger homes and encouraging mobility, while balancing the demands of regional housing strategies

General points about this objective

Shelter recognizes the importance of targeted planning to address the housing needs of BME communities. We welcomed the publication of the Corporation's BME Action Plan in 2005. Although we strongly support the aims of the Corporation to build more homes, and particularly larger homes which will address the disproportionate problem of overcrowding, and of homelessness amongst larger families in BME communities⁴¹, the problems experienced by these households in securing accommodation will not be solved simply by building these extra homes. There are significant barriers in the way of enabling BME households to get their housing needs met, particularly with the advent of Choice Based Lettings, which some BME households find it hard to navigate.

Q 5.1 Do we need to develop special mechanisms to ensure better partnership working to tackle homelessness and housing need among Black and Minority Ethnic communities? If so, what ought they to focus on?

As mentioned above we believe it is important to work directly with local communities, building up the advocacy skills and expertise available within that community. RSLs could contribute well to this process by working with local community groups, and perhaps holding training sessions with leaders and advocates from the community. Employing more front-line staff from BME communities represented locally would also be a useful measure. As a good practice example, Sheffield Homes, who run the Choice Based

⁴¹ Garvie, D: The Black and Minority Ethnic Housing Crisis, Shelter, 2004

Lettings scheme in Sheffield, have received funding from the Home Office to employ housing officers who are bi-lingual and familiar with the largest minority ethnic communities in the area. Rochdale MDC have used the PATH traineeship system⁴² to achieve the same end.

Q 5.2 We invite comment on how data and information about the reasons for homelessness and repeat homelessness among different Black and Minority Ethnic populations can be more accessible and better understood so that interventions are focused on tackling the causes of homelessness among these groups. We are thinking, for example, of how we can support associations in carrying out race impact assessments of their policies and strategies.

It seems likely that one of the reasons for more homelessness and repeat homelessness amongst BME households is their difficulty in accessing appropriate housing advice and advocacy. We are currently managing a research project to investigate barriers which BME households may experience in accessing housing advice. It is an in-depth research study on Access and Barriers to Housing Advice which will carry out qualitative research amongst specific minority ethnic communities in four areas of England. As part of this project we will be interviewing stakeholders, including RSLs, in the relevant areas. The final report will be published in November 2006. We have also recently launched an advice project in East London working with minority ethnic communities to address homelessness, debt and housing problems⁴³. This project will complement the capacity-building work we have been doing with minority ethnic communities in Newcastle to enable households from these communities to work better with the local choice based lettings system, as well as providing general housing advice and advocacy.

Our experience in Newcastle allows us to strongly recommend a capacity-building approach to addressing the problem, working with local communities and training up advocates from within that community.

Q 5.4 How can we help to achieve a stronger voice for Black and Minority Ethnic communities in regeneration programmes and on Regional Housing Boards, and in ensuring Black and Minority Ethnic access to non-traditional neighbourhoods where these are aspired to?

⁴² See www.pathuk.co.uk for details of the traineeship scheme.

⁴³ East London Multi Lingual Private Sector Tenants Advocacy Project, based in Stratford, EC1. This project has been part funded by the Government's Ethnic Minorities Innovation Fund, and is run in partnership with the East London Financial Inclusion project.

We are aware of some examples of good practice in this area and would recommend that the Corporation looks at the work done by Bradford Community Housing Trust in increasing participation by BME residents in their choice based lettings schemes, and in supporting households from minority ethnic groups to move into non-traditional areas. Sheffield Homes, and Rochdale MDC, have also done good work in this area.

Q 5.6 Should we explore how to roll out incrementally into other regions, where appropriate, the approach to mobility developed for the Thames Gateway in London?

There are still a lot of unanswered questions over the approach to mobility in the Thames Gateway and we would be wary of extending this model until its outcomes are clearer. One of the biggest issues is over the position of BME households. Shelter has always expressed concerns that homeless or vulnerable households will be steered towards the new growth areas in the Thames Gateway by local authorities in London who are under so much pressure to reduce homelessness. BME households are disproportionately represented in the group of homeless households, and also amongst those households who are severely overcrowded. For this reason there is a significant risk of BME households being moved to the growth areas with insufficient support from a pre-existing community or from statutory or voluntary agencies, and suffering disadvantage.

We also question whether the situation in London and the South East in terms of excess of demand over supply coupled with the vigorous economic growth in the region, can be mapped over to the very different issues around demand and supply in other regions.

Q 5.7 Should we do more to ensure that new stock transfer associations open up their housing to people living outside the area? If so, what might that be?

Shelter is in favour of using allocations policies to aid mobility, rather than to stand in the way of it, but we understand the very real concerns of RSLs and local authorities in high demand areas who worry about preserving the scarce supply of housing in the area for those with a local connection. We believe that a proportion of available lettings across the social housing sector, in all communities and areas, even in small rural villages, should be available for letting to households moving in from outside the area. There is scope for the relevant proportion to be set for each local authority by the Regional Housing Board, who are in a good position to take a broad and unbiased view of the patterns of need and supply in each area in the region.

Q 5.8 Should cross-authority mobility be promoted by using grant conditions to achieve nominations pooling?

We believe that using grant conditions as a leverage to encourage particular forms of behaviour amongst RSLs is an option that has significant potential. We do not believe that cross-boundary mobility is the main goal which it should be applied to achieving. We do not think this is the priority area where the Corporation should be applying all the tools at its disposal. As stated elsewhere in this response, we believe the key areas where the Corporation needs to intervene are in the percentage of lettings which go to homeless households, and the extent to which RSLs cooperate with local authorities in devising and implementing their homelessness strategy.

Q 5.9 Should CBL be promoted by using grant conditions to achieve sub-regional and pan-regional implementation of choice based lettings schemes?

We believe that the biggest obstacle standing in the way of RSLs participating in CBL is the need to rationalize their stock. We would suggest that creating powerful incentives for RSLs to rationalize their stock will be a more effective way of increasing sub-regional and RSL participation in CBL, than attaching conditions to grant funding. However, given that stock rationalization is a long-term process, we would not be averse to the Corporation attaching conditions to grant funding in order to incentivise participation in local CBL schemes.

Q 5.10 Can we improve the way in which we take account of local need in our interaction with Regional Housing Boards?

See section 1 above. We would like to see the Regional Housing Boards involved in setting regional targets for the percentage of lettings which go to statutorily homeless households. We would also like Regional Housing Boards to be involved in monitoring the quality of nomination agreements, and to act in an arbitration capacity where disputes arise over nominations.

We have also suggested under 5.7 above that Regional Housing Boards may be in a good position to set other targets, such as that for the proportion of lettings which should be made in each local authority area to applicants from outside the area, thus aiding mobility.

Q 5.11 Should we follow up housing outcomes through our established impact assessments?

We would support this proposal.

Q 5.12 *We are interested in stakeholder views on whether grant conditions are likely to be the most effective way to achieve our objective and if they are not, what else we might do in relation to investment funds.*

See above. We consider that the role of the Regional Housing Boards has considerable scope for development in terms of the way they are empowered to set targets and monitor the activities of both RSLs and local authorities in key areas such as lettings and allocations, in order to ensure that bigger regional and national goals are reached. Given that the RHBs are responsible for allocation of the NAHP funds within their regions, they should be brought into a more supervisory role in the activities of housing providers.

Objective 6

Identify, learn from and promote the best examples of good practice and support associations and other social landlords to raise performance standards and deliver high quality services to residents

General points about this objective

As mentioned elsewhere, Shelter have been pleased to see the initiatives and publications which have come out recently to disseminate good practice in tackling homelessness in the RSL sector. We believe that these are very valuable and would encourage the Corporation to put resources into the dissemination of good practice as a spend-to-save exercise.

Q 6.1 *We are very interested in feedback on the Award scheme: whether it has been promoted and handled effectively so far, and how we can roll out nationally knowledge and understanding of best practice.*

We welcomed the Gold Award scheme as we welcome all encouragement and publicizing of good practice amongst RSLs. It is notable, however, that none of the activities described in the winning RSLs involved good practice in nominations, exclusions, arrears management, or active participation in the local homelessness strategy and working well with the local authority. These are such crucial areas, as outlined in this response, that for a Gold Award scheme not to take the opportunity to highlight them looks unfortunate. Whilst we can imagine that the 3 winners may well pursue good practice in these areas as part of the projects for which they won the award, we would have liked to see this area brought out more in the description of the winning activities.

Conclusion

Our response to this consultation paper focuses on what Shelter sees as the main areas in which RSLs' practices need to change so that they can play a role in tackling homelessness reflecting the changed nature of the RSL sector and the amount of public funding it now receives. We have outlined measures which we believe the Corporation should take now. These will act together to provide incentives to RSLs to modify their practices, and give greater weight in their activities to fulfilling the regulatory duty to assist local authorities and play a role in addressing homelessness and housing need in the local area. We have also highlighted a major area in which the collection of data by the Corporation is inadequate – that of measurement of the number of nominations refused by RSLs – and set out why this is so and how it needs to be changed.

We have been very encouraged to see the emphasis that the Corporation is placing on improving cooperation and partnership working with local authorities; we are also aware that there is a lot of hard work being done by individual RSLs and local authorities to improve practices together, and a body of good practice examples is building up. Shelter's view is that this is the key to enabling RSLs to fulfil their statutory duties. An improvement in trust and information sharing on both sides will reap enormous benefits. Getting to that point will not be easy; we would like to see more urgency attached to moves to facilitate stock rationalization, so that this does not act as an obstacle in the way of working towards this goal.

We will be glad to discuss any of the contents of this response further if that would be useful.

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