

## Response of Gateshead Council to Government (Secretary of State for MHCLG - Aug 2018) Consultation on the Social Housing Green Paper

### Policy Context

1. In August 2018 the Government issued a consultation on its Social Housing Green Paper “A new deal for social housing” setting out a fundamental shift in its approach to social housing. It is “not just about creating a safety net, but about providing homes based on individuals’ needs rather than solely their ability to pay. Social housing helps to keep neighbourhoods diverse and integrated, and it provides the stability people need to build lives and strong communities”.

### Background

2. The consultation was issued on 14<sup>th</sup> August, with a deadline of 6<sup>th</sup> November.
3. The comprehensive content of the Green Paper and the timescale set necessitated a response to the consultation being submitted in advance of Cabinet, however, Housing and Economy, Portfolios were consulted on the draft response.
4. There are 48 questions in the consultation paper; the response submitted on behalf of the Council is set out in the attached annex.

### The Green Paper

5. The Government recognises that not everyone will be able to meet their housing need through the market, and states it is committed to “getting more of the right homes built in the right places, sold or rented at prices local people can afford – and that includes building a new generation of council homes to help fix our broken housing market”.
6. The Paper recognises the particular role of social housing in providing supported housing for vulnerable people, those in crisis, older people, and people with learning difficulties and mental ill-health.
7. The Government proposes to:
  - i. support local authorities to build by allowing them to borrow,
  - ii. explore new flexibilities over how they spend Right to Buy receipts, and **not** requiring them to make a payment in respect of their vacant higher value council homes.
  - iii. support housing associations to build by providing funding certainty through strategic partnerships.
  - iv. consider how to help people buying shared ownership properties to build up more equity in their homes
  - v. not to implement at this time the provisions in the Housing and Planning Act to make fixed term tenancies mandatory for local authority tenants.
8. The Green paper also focuses on balancing tenant/landlord relationships, covering a number of key issues:
  - i. Ensuring homes are safe and decent
  - ii. Effective resolution of complaints
  - iii. Empowering residents and strengthening the Regulator
  - iv. Tackling stigma and celebrating thriving communities

- v. Expanding supply and supporting home ownership

### **Ensuring homes are safe and decent**

9. The first principle is about ensuring homes are safe and decent. The concern is about safety, but also maintenance, repairs and poor living conditions.
10. The Government has announced £400 million funding for local authorities and housing associations to remove and replace unsafe aluminium composite material cladding on social residential buildings 18 metres or over that they own, and financial flexibilities are available to local authorities for other essential fire safety work.
11. Government has consulted on significantly restricting or banning the use of “desktop studies” to assess cladding systems, and is consulting on banning the use of combustible materials in the external walls of high-rise residential buildings.
12. The Paper also refers to recommendations made in Dame Judith Hackitt’s review “*Independent Review of Building Regulations and Fire Safety*” published 17 May 2018.
13. The Government wants to use the Green Paper to promote a review of the standard set for social homes. The Regulator of Social Housing (“the Regulator”); now Homes England, currently requires that social homes meet the Decent Homes Standard (A parallel consultation was issued, and a separate report is provided on the Government’s consultation on the social housing regulatory regime).

### **Effective resolution of complaints**

14. The Government is concerned that residents should have a stronger voice to influence decisions and challenge their landlord to improve performance. They want to see swift and effective resolution of disputes; a common perception is that the process of redress takes too long.
15. Social housing landlords are required to provide residents with a complaints handling service, to publish information on the nature and number of complaints received and to inform residents of how information on complaints is used to improve services.
16. If residents are unhappy at the end of this process, the resident can refer their complaint to a “designated person” (such as a local MP, councillor or tenant panel) but if they do not want to do this, or the designated person does not resolve or refer it themselves, a resident must wait for eight weeks before the complaint can be referred to the **Housing Ombudsman**. (The process is known as the “democratic filter”; which doesn’t apply in most non- housing sectors)
17. Residents can also approach the **Regulator of Social Housing** directly with their complaint at any time. However, the Regulator only acts in such circumstances where there is evidence of systemic, corporate failure of an organisation rather than individual issues.

### **Empowering residents and strengthening the Regulator**

18. The Government’s aim is to empower residents and make sure their voices are heard. The objective is to drive better services and ensure residents have more choice and control.

19. The proposal is to strengthen the Regulator, so it not only focuses on the governance and financial viability of housing providers, but also on how residents are treated and the level of services they should expect.
20. To achieve this, the Government considers that performance data needs to be published in a clear, regular and consistent format, and so propose that the performance of all landlords should be assessed against a number of agreed and meaningful key performance indicators.

### **Tackling stigma and celebrating thriving communities**

21. The Green Paper suggests that people's experience of living in social housing could be improved, by encouraging greater professionalisation and a customer service culture in housing management.

### **Expanding supply and supporting home ownership**

22. The Government has announced a further £2 billion in the Affordable Homes Programme, alongside the flexibility for schemes to offer Social Rent, and support for increased local authority borrowing by £1 billion. Strategic partnerships are being developed with larger housing associations, and housing associations are being offered longer term funding certainty to help them deliver more homes.
23. The Green Paper states that the Government will not require local authorities to make a payment in respect of their vacant higher value council homes, and they are exploring new flexibilities over how Right to Buy receipts can be used (a separate response on the Government's consultation on the use of Right to Buy receipts has also been presented in this report at appendix 3). The Government is also proposing to help those in shared ownership to progress to outright ownership more easily.
24. The Government is also consulting on longer tenancies in the private rented sector, and are now proposing **not** to implement ("at this time") the provisions in the Housing and Planning Act 2016 to make fixed term tenancies mandatory for local authorities.

### **Implications for Gateshead**

25. The shift in the Government's position on the role and value of social housing is welcomed, including its commitment to support the delivery of new affordable homes, including council housing, and the reversal of the intention to require local authorities to make a payment in respect of their vacant higher value council homes. There is still, however, an underlying theme of home ownership within the paper.
26. The need to ensure consistency and good practice in property and tenancy management, and provision of tenant focused services across the sector is also supported.
27. The concern is, however, that announcements within the Green Paper, whilst generally positive, are likely to offer a centralised, one size fits all approach. An apparent focus of available funding on local authority areas where the demand for social housing appears highest will not ensure local needs are met, and potential additional administrative burdens may not be proportionate to or reflective of local circumstances or priorities.
28. The Green Paper won't address many of the current issues evident in Gateshead:
  - i. balancing the HRA; ensuring its sustainability.
  - ii. loss of stock due to right-to-buy, at significant discounts
  - iii. Development viability

## **Implications of Recommended Option**

### **29. Resources:**

- a) Financial Implications** – The Strategic Director, Corporate Resources confirms any financial implications as a result of the consultation will be the subject of a future report.
- b) Human Resources Implications** – No human resources implications.
- c) Property Implications** – No property implications.

**30. Risk Management Implication** – No risks associated with the consultation.

**31. Equality and Diversity Implications** – No equality and diversity implications

**32. Crime and Disorder Implications** – No crime implications.

**33. Health Implications** – No health implications.

**34. Sustainability Implications** – No sustainability implications directly arise from this report

**35. Human Rights Implications** - No human rights implications.

**36. Area and Ward Implications** – The detail of this consultation would impact on all Ward Areas.

## Gateshead Response to the consultation:

### Ensuring homes are safe and decent

#### Question 1:

1. How can residents best be supported in this important role of working with landlords to ensure homes are safe?
  - i. *Resident engagement strategy – how info on safety will be shared; how issues will be identified and reported?*

#### Gateshead's Answer Q 1

- Providing residents with a user friendly, annual safety report; covering gas, electrics, fire safety, HHSRS compliance
- Make available a dedicated help line/e-mail to deal with safety matters
  - With a requirement for landlords to report on their response rate and case outcomes
- Provision of home hazard awareness training for tenants

#### Question 2:

2. Should new safety measures in the private rented sector also apply to social housing?
  - i. *For example, in 2015, we introduced a requirement to install smoke alarms on every storey in a private sector rented home, and carbon monoxide alarms in every room containing solid fuel burning appliances. Government has recently announced that there will be a mandatory requirement on landlords in the private rented sector to ensure electrical installations in their property are inspected every five years.*

#### Gateshead's Answer Q 2

- Yes, standards should apply to all rented properties; no one should be prejudiced because of the tenure of housing they live in. This should be done in a way that is proportionate and recognises that different types of property may require different measures.

#### Question 3:

3. Are there any changes to what constitutes a Decent Home that we should consider?
  - i. *In reviewing the Decent Homes Standard, where practicable we will also consider the outcome of the Government's consultation on 'The Clean Growth Strategy' on whether the energy performance of social homes should be upgraded to Energy Performance Certificate Band C by 2030 where practical, cost-effective and affordable*

#### Gateshead's Answer Q 3

- Rather than change, there should be re-education on the Decent Homes Standard, and reinforcement that this includes compliance with Housing Health & Safety Rating System (HHSRS). There is a tendency for social housing providers to focus on the decency aspects, whereas the private sector looks towards compliance with HHSRS.
- There must be a continued recognition of the importance of safeguarding the long-term financial sustainability of social housing providers, and providers should be encouraged and supported to develop new models for capital investment (including for energy efficiency), and repairs and maintenance services that will be sustainable, whilst being customer focused.

#### Question 4:

4. Do we need additional measures to make sure social homes are safe and decent?

#### Gateshead's Answer Q 4

- This would not be necessary if the Decent Homes Standard was interpreted correctly, however, the underlying cost implications must be addressed.

- Allowing Local Authorities to retain a greater proportion of right-to-buy capital receipts, and greater flexibility in their use would help Local Authorities with delivery, and acceleration, of investment plans, whilst maintaining affordable rents for residents.

## Effective Resolution of complaints

### Question 5:

5. Are there ways of strengthening the mediation opportunities available for landlords and residents to resolve disputes locally?
  - i. *See consultation “strengthening consumer redress in the housing market” – how to make in-house complaints processes and redress schemes better*
  - ii. *Alternative dispute resolution and mediation services*

#### Gateshead’s Answer Q 5

- Care would be needed to ensure the process is not lengthened
- Sharing of best practice would be supported.

### Question 6:

6. Should we reduce the eight-week waiting period to four weeks, or should we remove the requirement for the “democratic filter” stage altogether?
  - i. *Reforming the filter stage would require primary legislation*

#### Gateshead’s Answer Q 6

- The removal of the democratic filter should be avoided, however, four weeks would be more reasonable
- A methodology and process of best practice, would be helpful to ensure a consistent approach is provided.

### Question 7:

7. What can we do to ensure that the “designated persons” are better able to promote local resolutions?
  - i. *what more could be done in the meantime to help ensure that “designated persons” better understand their role and help to deliver swift local resolutions for residents.*

#### Gateshead’s Answer Q 7

- Effective and periodic training, properly resourced.
- Use of real-life examples of solutions to help guide decisions.

### Questions 8-11:

8. How can we ensure that residents understand how best to escalate a complaint and seek redress?
  - i. *for example, supplying details on redress options at every new letting*
9. How can we ensure that residents can access the right advice and support when making a complaint?
  - i. *Do more residents need to be able to access independent advice and advocacy?*
10. How can we best ensure that landlords’ processes for dealing with complaints are fast and effective?
  - i. *One option might be for the Regulator to set out more specific timescales in a Code of Practice*
11. How can we best ensure safety concerns are handled swiftly and effectively within the existing redress framework?
  - i. *Pending consideration of the “strengthening consumer redress in the housing market” consultation.*

#### Gateshead’s Answer Q 8-11

- The primary responsibility should be on the landlord to provide information about the complaints process. Regular contact with tenants should be an essential part of a customer focused, well run property and tenancy management service. This could be supported by codes of conduct issued by the Regulator with a proportionate, periodic assessment of compliance regime, however, this should be a framework and not prevent flexibility that delivers positive outcomes.
- The use of model welcome/information packs that are updated annually, or in response to key changes, and include clear advice and explanation of processes and procedures, to help tenants:

- understand their rights and responsibilities
- understand the rights and responsibilities of their landlord
- This could be linked to a requirement to provide tenants with annual safety reports
- The timeframe for responding to complaints is important, however, there are other measures of quality based on outcomes for residents and landlords.

## Empowering residents and strengthening the Regulator

### Question 12:

12. Do the proposed key performance indicators cover the right areas?
- keeping properties in good repair;
  - maintaining the safety of buildings;
  - effective handling of complaints;
  - respectful and helpful engagement with residents; and,
  - responsible neighbourhood management, including tackling anti-social behaviour
- Are there any other areas that should be covered?

#### Gateshead's Answer Q 12

There should be consistency, however, disproportionate and unwieldy national monitoring can be counterproductive. Councils should be supported to have their own robust approach to understanding performance, sustaining relationships with tenants, and seeking evidence of resident's satisfaction. Ensuring compliance with a code of conduct of framework may be more effective.

Other important indicators include:

- Management of empty properties
- Effective management of rent arrears
- Good management of possession cases - Gateshead's intention is to set out in its Strategic Tenancy Policy an expectation for registered providers to include the statutory provisions on review of possession proceedings in their tenancy policies. The Localism Act sets out statutory provisions for local authorities on the process to be followed when recovering possession (and reviewing decisions to seek possession) of Flexible Tenancies.
- Length of tenancy
- Number of supported tenancies provided, homelessness prevented.

### Questions 13-15:

13. Should landlords report performance against these key performance indicators every year?
14. Should landlords report performance against these key performance indicators to the Regulator?
15. What more can be done to encourage landlords to be more transparent with their residents?

#### Gateshead's Answer Q 13-15

- Annual reporting could be appropriate; however, it should be focused and proportionate to ensure it genuinely exposes good and poor practice and delivers clear outcomes.
  - League tables do not help shine a light on issues and their root causes, they risk being an administrative burden adding little value.
  - Evidence of regular, meaningful engagement between residents and providers should be provided, and good practice shared.
16. Do you think that there should be a better way of reporting the outcomes of landlords' complaint handling? How can this be made as clear and accessible as possible for residents?
- i. The Regulator already expects landlords to publish information about complaints each year, but approaches vary. We are considering setting out a consistent approach on how landlords should report their complaint handling outcomes, by asking them to report how many complaints were resolved, how many were resolved after repeated complaints and how many were referred to the Housing Ombudsman*

#### Gateshead's Answer Q 16

- It may be more meaningful if the type of complaints and type of issue were reported to identify common or repeat issues.

### Questions 17-18:

17. Is the Regulator best placed to prepare key performance indicators in consultation with residents and landlords?
18. What would be the best approach to publishing key performance indicators that would allow residents to make the most effective comparison of performance?

**Gateshead's Answer Q 17-18**

- This should be developed in consultation with local authorities.
- Annual reporting would allow year on year comparisons; however, it should be linked with analysis and improvement or change planning.

**Question 19:**

19. Should we introduce a new criterion to the Affordable Homes Programme that reflects residents' experience of their landlord? What other ways could we incentivise best practice and deter the worst, including for those providers that do not use Government funding to build?

**Gateshead's Answer Q 19**

- It could be very difficult to ensure robust, equitable and fair assessment. It would seem more appropriate to work with landlords to change practice in a timely way, not just where funding need arises.
- How would landlords dealing with the most vulnerable tenants, and those with challenging behaviour and lifestyles be considered and supported.

**Question 20:**

20. Are current resident engagement and scrutiny measures effective? What more can be done to make residents aware of existing ways to engage with landlords and influence how services are delivered?

**Gateshead's Answer Q 20**

- Landlords should be continually reviewing their approach to engagement, and this is particularly vital in the light of budget constraints and cuts affecting local authorities.

**Question 21:**

21. Is there a need for a stronger representation for residents at a national level? If so, how should this best be achieved?

- The Local Government Association is working with local authority landlords to look at examples of effective empowerment and engagement of their residents. From this they will produce advice and guidance for local authorities.*
- The National Housing Federation is working with housing associations to develop an accountability and transparency offer that includes a trust charter to be developed with tenants, setting out what they can expect from their landlord.*
- A number of national tenant and resident organisations in the sector have been exploring the option of an independent platform for tenants

**Gateshead's Answer Q 21**

- Priority should be given to supporting the improvement and empowerment of tenants at a local level matters, a national panel cannot understand the circumstances of every tenant/landlord relationship, however, sharing best practice, or raising awareness of important issues could be helpful.

**Question 22:**

22. Would there be interest in a programme to promote the transfer of local authority housing, particularly to community-based housing associations? What would it need to make it work?

- Local authority tenants have the right to request that their homes are transferred to a housing association, while social landlords are also free to explore alternative governance structures, including community-based models*

**Gateshead's Answer Q 22**

- It should be a matter for councils as to how they manage their housing stock into the future, to deliver local priorities and objectives.
- There is evidence that where Councils have transferred stock, they have lost the ability to ensure the full range of housing needs within their local area, particularly of the most vulnerable and complex, are met.

**Question 23:**

23. Could a programme of trailblazers help to develop and promote options for greater resident-leadership within the sector?

**Gateshead's Answer Q 23**

- Only if the learning from Trailblazers is disseminated in a timely and inclusive way, and provided their perspective is not narrow or weighted to specific local, provider, or geographical circumstances.

**Question 24:**

24. Are Tenant Management Organisations delivering positive outcomes for residents and landlords? Are current processes for setting up and disbanding Tenant Management Organisations suitable? Do they achieve the right balance between residents' control and local accountability?

- Local authority tenants have the legal right to seek to take on housing management functions themselves by exercising their statutory Right to Manage. If they are assessed as competent and have the support of tenants via a ballot they can set up a Tenant Management Organisation*
- We recognise that there have been different ways of establishing Tenant Management Organisations, as well as varied practice and experiences for residents.*

**Gateshead's Answer Q 24**

- No comment

**Questions 25-27:**

25. Are there any other innovative ways of giving social housing residents greater choice and control over the services they receive from landlords?

26. Do you think there are benefits to models that support residents to take on some of their own services? If so, what is needed to make this work?

27. How can landlords ensure residents have more choice over contractor services, while retaining oversight of quality and value for money?

**Gateshead's Answer Q 25-27**

- Through landlord and tenant boards, set up within the framework of the service provided by the housing provider. It would be of concern if separate mechanisms were introduced that may be under resourced and not sustainable.

**Question 28:**

28. What more could we do to help leaseholders of a social housing landlord?

**Gateshead's Answer Q 28**

- Other than providing guidance, further involvement would not be proportionate
- Sometimes leaseholders have unrealistic expectations of maintenance or capital investment costs. We have experience of requests to buy-back property from leaseholders where they have been unable to afford the ongoing maintenance or required investment in key structural or building components.

**Question 29:**

29. Does the Regulator have the right objective on consumer regulation? Should any of the consumer standards change to ensure that landlords provide a better service for residents in line with the new key performance indicators proposed, and if so how?

**Gateshead's Answer Q 29**

- Change is not considered necessary

**Question 30:**

30. Should the Regulator be given powers to produce other documents, such as a Code of Practice, to provide further clarity about what is expected from the consumer standards?

Is "serious detriment" the appropriate threshold for intervention by the Regulator for a breach of consumer standards? If not, what would be an appropriate threshold for intervention?

**Gateshead's Answer Q 30**

- This would be helpful, provided there was a genuinely collaborative approach with the sector

**Questions 32-33:**

32. Should the Regulator adopt a more proactive approach to regulation of consumer standards? Should the Regulator use key performance indicators and phased interventions as a means to identify and tackle poor performance against these consumer standards? How should this be targeted?
33. Should the Regulator have greater ability to scrutinise the performance and arrangements of local authority landlords? If so, what measures would be appropriate?

**Gateshead's Answer Q 32-33**

- See answers above

**Question 34:**

34. Are the existing enforcement measures set out in Box 3 adequate? If not, what additional enforcement powers should be considered?

**Gateshead's Answer Q 34**

- Measures should be equal across all tenures

**Question 35:**

35. Is the current framework for local authorities to hold management organisations such as Tenant Management Organisations and Arm's Length Management Organisations to account sufficiently robust? If not, what more is needed to provide effective oversight of these organisations?

**Gateshead's Answer Q 35**

- This should be a matter for local management agreements and robust performance and compliance monitoring by the local authority. Sharing of best practice would be useful.

**Question 36:**

36. What further steps, if any, should Government take to make the Regulator more accountable to Parliament?

Gateshead's Answer Q 36

- No additional comment

## **Tackling stigma and celebrating thriving communities**

**Question 37:**

37. How could we support or deliver a best neighbourhood competition?

**Gateshead's Answer Q 37**

- This seems frivolous in the context of such limited resources. Facilitating the sharing of best practice could achieve wider benefit.

**Question 38:**

38. In addition to sharing positive stories of social housing residents and their neighbourhoods, what more could be done to tackle stigma?

**Gateshead's Answer Q 38**

- Reinforcement of the value of social housing, and the vital role it plays in diversifying our housing market, and in meeting local housing needs.
- Support local authorities to carry out the investment in stock and place, that will ensure long-term stock sustainability and meet residents' changing aspirations.
- Reforming Right to Buy to allow local determination, and allowing councils to keep all receipts to reinvest locally
- A review of approaches to social housing marketing and letting, to modernise and simplify.

**Question 39:**

39. What is needed to further encourage the professionalisation of housing management to ensure all staff deliver a good quality of service?

**Gateshead's Answer Q 39**

- Council's and management organisations are delivering high quality services despite significant pressures. Council's need to be supported to invest in their staff and their service, to enable current standards to be sustained and improved.

**Question 40:**

40. What key performance indicator should be used to measure whether landlords are providing good neighbourhood management?

**Gateshead's Answer Q 40**

- Monitoring of anti-social behaviour and the effectiveness of service activity in addressing issues in a robust, proportionate and timely way. Identifying barriers to good service delivery, including availability of input from other organisations.

**Question 41:**

41. What evidence is there of the impact of the important role that many landlords are playing beyond their key responsibilities? Should landlords report on the social value they deliver?

**Gateshead's Answer Q 41**

- Recognition of this would be very helpful

**Question 42:**

42. How are landlords working with local partners to tackle anti-social behaviour? What key performance indicator could be used to measure this work?

**Gateshead's Answer Q 42**

- Number and type of reported incidents, number of cases resolved, and outcomes. Monitoring of trends. It would be equally meaningful to identifying barriers to good service delivery, including availability of input from other organisations including mental health support

**Question 43:**

43. What other ways can planning guidance support good design in the social sector?

**Gateshead's Answer Q 43**

- Through the expectation of compliance, as a minimum, with Nationally Described Space Standards (NDSS), local plan policies, design frameworks.
- To support delivery where development viability is demonstrated.

**Question 44:**

44. How can we encourage social housing residents to be involved in the planning and design of new developments?

**Gateshead's Answer Q 44**

- The principles of good design and sustainable communities relates to all residents, and residents of all tenures should be encouraged to engage in the planning process.

## **Expanding supply and supporting home ownership**

**Question 45:**

45. Recognising the need for fiscal responsibility, this Green Paper seeks views on whether the Government's current arrangements strike the right balance between providing grant funding for housing associations and Housing Revenue Account borrowing for local authorities.

**Gateshead's Answer Q 45**

- There should be at least a level playing field. Councils have the added statutory responsibility to ensure new homes meet the very diverse needs of their local communities, and the costs of delivering this should be recognised.

- Gateshead is a local authority with land and the aspiration to secure development of a range of housing to meet our local needs, however, we face significant issues of development viability that suppress delivery, and we need the tools and resources to overcome this.
- Housing associations are free to borrow whereas government restrictions on councils prevent them from doing so. The Government should consider removing the HRA debt from counting towards public sector debt measures, and allow Councils to borrow at prudential levels by lifting the HRA debt cap.
- The Right to buy framework and financial restriction on local authorities makes it extremely difficult for local authorities to deliver replacements, Councils should be allowed to retain 100 per cent of RtB sales receipts and be able to set discounts locally.

**Question 46:**

46. How we can boost community-led housing and overcome the barriers communities experience to developing new community owned homes?

**Gateshead's Answer Q 46**

- Many Community led housing groups have a will but not the land or the right resource to take development forward. Where there is a clear need for community owned homes, there is need for resources and know how to support business case development, acquisition of land, design services etc.

**Question 47:**

47. What level of additional affordable housing, over existing investment plans, could be delivered by social housing providers if they were given longer term certainty over funding?

**Gateshead's Answer Q 47**

- Significant additional delivery, provided there was a recognition of the lead-in time required to scale up programmes. Currently grant regimes include far too short application deadlines and insufficient time for delivery.

**Question 48:**

48. How can we best support providers to develop new shared ownership products that enable people to build up more equity in their homes?

**Gateshead's Answer Q 48**

- Clear guidance on benefits and real, user friendly examples of 'how it works' in practice.