

**DACHS Scrutiny Committee - 11 November 2013**

**Welfare Reform**

**Reclassification and remodelling of council housing stock – options paper**

**Purpose of Report**

1. To provide further information to the Committee as requested at the Scrutiny Committee on the 12<sup>th</sup> August 2013.

**Background**

2. According to our latest figures, we have 2,704 properties affected by the charges for under occupancy.
3. Of these 2,221 (82%) have one spare bedroom while 459 (17%) have two and 24 (1%) have three.
4. 1,889 of the 2,704 (70%) are in arrears, with an average of £84.71 arrears.
5. The government's removal of the "spare room subsidy", penalising under occupancy, effectively means that our housing benefit payments are reduced, as affected tenants are expected to pay 14% or 25% of their rent depending on how many "spare" bedrooms they have. We estimate that as a result of this government policy, we will see this year around £1.8m of rental income removed from housing benefit. The tenants concerned will now have to find the cash, and pay the rent, from their other income (benefits, wages, or a mixture of the two). The impact is that central government will see a saving of £1.8m as it is no longer paying the council this amount in housing benefit subsidy, and the HRA will see a potential loss of some proportion of this £1.8m as it now has to collect this element of the rent as cash payments from tenants.
6. Our options for addressing the issues around underoccupancy do include reclassification or remodelling of our stock, which are discussed in more detail below.

**Reclassification**

7. One of the key issues with the under occupancy penalty is that our current Lettings Policy specifically allocates certain 2 and 3 bedroom properties for single people and childless couples, and some 3 bedroom properties to small families who would be deemed only to need two bedrooms. In the main, this affects high rise flats and low rise maisonettes.
8. Reclassifying these properties would in effect redefine them as 1 or 2 bedroom properties, with a dining room / study rather than an additional bedroom. We

would be expected to adjust the rent to reflect the reduction in bedrooms, as this is a specific part of the current rent formula.

9. Reclassification of a property would, under the current rent formula, result in a rent reduction of around £6 per week (£300 per year) per bedroom. It is worth highlighting that the reduction in rent by reclassifying a bedroom is less than the loss of benefit through underoccupancy. Although this may appear an attractive option for landlords, very few housing authorities or housing associations appear to be taking this route. This may be because of the financial loss which would result in a reduced service and that it would appear that once a property has been reduced on the basis of a sound business case, it would be difficult to reclassify back to its original status even if the HB rules were changed.
10. Listed are examples of reclassification that has taken place or is being considered:
  - Nottingham City Council has reclassified just over 1,000 2 bedroom high rise flats as 1 bedroom, to match their lettings policy which is to allocate these to single people and childless couples. In addition, 112 houses have had very small bedrooms (under 50 sq feet) reclassified as studies.
  - Leeds City Council is considering reclassification of around 800 properties. These include 398 3 bedroom flats to 2 bedroom, 341 5 bedroom houses to 4 bedroom, and 126 2 bedroom flats to 1 bedroom. Leeds CC has said that these properties are where there is the greatest proportion of under occupancy and in most cases the “lost” bedroom is a box room / storeroom or a room off the living room which would not necessarily be used as a bedroom. It is worth noting that Leeds CC is not proposing to adjust the rent of these properties downwards to reflect the reduction in bedroom numbers, and is preparing to counter a legal challenge on this approach.
  - Knowsley Housing Trust is looking at reclassifying 566 2 and 3 bedroom properties to 1 and 2 bedroom. KHT has said that these are bedrooms that are not currently being used as bedrooms.
  - Wirral Partnership Homes is looking at reclassifying bedrooms with a vertical lift installed or with a gas boiler.
11. Issues to consider include:
  - Loss of rental income. Unless there is a corresponding increase in the valuation of the property, under the rent formula, the loss of a bedroom results in a weekly reduction in rent for that property of around £6 per week (£300 per year).
  - Equity. We cannot reasonably reclassify a property based on the personal circumstances of the current tenants: this would have to be consistent across all similar properties (e.g. type / location / block etc).
  - Overcrowding. It is possible that by reducing the number of bedrooms we create overcrowding in some properties.
  - Backdating and benefit entitlements. It has been noted that the housing benefit officer currently decides how many bedrooms a property has for benefit purposes, potentially regardless of the number of bedrooms that it has for rent purposes. So if we reclassify, we would need to have a mutual understanding with Benefits on the number of bedrooms in a property and the

date from which any reclassification applies. Without such an agreement it could impact on the tenants with previous HB being claimed back. Also any person not on benefit could mount a legal claim for what would effectively be seen as over payment of rent.

- DWP view. It is up to a council to decide how many bedrooms its properties have. Having said this, in June '13 the welfare reform minister, in a letter to council chief executives said there have been cases of councils reclassifying properties without reducing their rent to reflect a loss of a bedroom. It was expected that 'the designation of a property to be consistent for both housing benefit and rent purposes'. Blanket reclassification without a clear and justifiable reason and without reductions in rent, are inappropriate. Lord Freud said that where DWP suspects properties are being reclassified inappropriately, it will commission an independent audit to 'ascertain whether correct and appropriate procedures have been followed.' Where it is found that a local authority has reclassified properties without reasonable grounds and without reducing rents, DWP would consider either restricting or not paying their housing benefit subsidy. Business cases are crucial in a reclassification exercise.

10. Looking at the current areas where there is under occupancy, there are four key areas where we may wish to consider reclassification.

#### High rise flats

11. We have 1,485 flats in 25 blocks, of which 458 have one bedroom but 1,025 have two bedrooms and 2 have three bedrooms. The level of under occupancy by tenants of working age varies between blocks, and particularly in some of the mature blocks it is less than or around 10%. However, in 9 blocks, under occupancy is 33% or more. We are also seeing more tenants leaving these flats as they are unable to make the rent payments required, and as a result they are becoming more difficult to let.

Bredon Court	61%
Ankerdine Court	56%
Claverley Court	55%
Clent Court	43%
Worcester House	43%
Compton Court	42%
Arley Court	38%
Malvern House	34%
Plant Court	33%

12. The impact on rental income would be a loss of around £300k were we to reclassify **all** 2 bedroom high rise flats as 1 bedroom, or around £150k were we to reclassify all 2 bedroom high rise flats **in the above blocks** as 1 bedroom.
13. However, the potential rent loss if all affected tenants failed to pay the under occupancy element is for **all** high rise tenants only £200k. We would therefore restrict any reclassification to blocks with a higher proportion of tenants of working age who are under occupying. In this scenario, the loss of rental income through reclassification is less than that as a result of non-payment or leaving the property void.

### Low rise 3 bedroom maisonettes

14. We have similar issues with 2 and 3 bedroom maisonettes, where again we have not allocated these to families with a three bedroom need by the Bedroom Standard. However, we have so many individual blocks that it is not so easy to identify them on a block-by-block basis.

### New build apartments

15. Our 18 new build apartments for tenants with learning disabilities are all two bedroom, but in every case so far have been let to a single person. For our latest Care and Support Specialist Housing bid to the Homes and Communities Agency, we have proposed apartments that have one bedroom and an additional living / dining room.
16. We may wish to consider reclassifying our 18 existing apartments in the same way. We have recently agreed that these properties will be entitled to claim Discretionary Housing Payment (DHP) to meet the shortfall, but this is only guaranteed until the end of 2014/15 as there is no certainty that DHP will continue after that point.

### Houses with a third box room bedroom

17. We have a number of three bedroom houses with a very small third bedroom. Recent legal challenges in Scotland have started to define a minimum size for a bedroom, DWP have stated that they intend to mount an appeal against this tribunal decision. In Scotland they have limited size standard to overcrowding legislation which in Scotland is 50 sq ft. In England it is 70 sq ft. Further DWP appear to be saying that it is a bedroom if a single bed can fit into the room. It does appear that the final outcome will be determined by the courts.
18. We may wish to identify the houses that are affected and reclassify them as two bedroom houses. At this stage, we do not know whether there is a correlation between houses with boxrooms and houses where tenants are affected by the removal of the spare room subsidy. We will also need to bear in mind that there will again be a reduction in rent of around £300 per year as a result of the reduction of one bedroom.

### **Remodelling**

19. We may consider physical remodelling of some properties to remove walls and thus reduce the number of rooms in a property. We will take a strategic approach to this as part of the remit of the Future Housing Board which is being established to review our stock and manage new and replacement build.
20. Remodelling work may contribute to updating property layouts in some hard-to-let properties (e.g. maisonettes) as well as forming part of a general improvement / refurbishment programme. It might also include converting some maisonettes into larger houses. Flexible layouts may also be possible (subject to structural constraints), allowing partitions to be moved / put back in to create additional rooms.
21. However, we would need to consider the cost / benefit equation very carefully.

- What would the payback period for the cost of the work be?
- Are we confident that internal remodelling would improve lettability?
- Would any decants be required or would the works be done as properties became void – in which case how would this improve the position for current tenants affected by under occupancy?
- Would demolition and rebuilding prove more cost-effective?

## **Finance**

22. Expenditure on managing, improving and maintaining council dwellings is funded within the Housing Revenue Account (HRA), which is ring-fenced for income and expenditure on council landlord services.

## **Law**

23. The powers and duties of housing authorities in relation to the allocation and management of Council housing are set out in the Housing Acts 1985 and 1996 and the Homelessness Act 2002.
24. HRA finances are governed by Section 74-78B and 85-88 in Part IV of the Local Government and Housing Act 1989. Sections 167-175 in Part VII of the Localism Act 2011 abolish the HRA Subsidy system (Sections 79-84 in Part IV of the Local Government and Housing Act 1989) and introduce self-financing.

## **Equality Impact**

25. The HRA operates in line with the Council's Equality Policies.

## **Recommendation**

26. It is recommended that Members note the contents of this report.



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