

Housing, Regeneration and Planning

Tensions between Allocations Policy and Practice

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This research on 'Tensions between Allocations Policy and Practice' has been undertaken by Craigforth for the Scottish Government. The research sought to gather the views of social landlords in Scotland on the clarity of current legislation and guidance, to explore areas where landlords feel there are tensions, and to identify areas where further guidance would help.

Main Findings

- A number of areas of legislation and guidance were considered by landlords as having insufficient clarity. Landlords had greater difficulty with general terms mainly relating to the priorities within allocations policies, such as 'balancing communities', 'sensitive lettings' and 'best use of housing stock'. Areas relating to eligibility to housing, such as 'exclusions' and 'suspensions', were less commonly identified as lacking clarity.
- Landlords considered there to be many areas of policy and practice where tensions existed, particularly connected with meeting their responsibilities for homelessness and in relation to overcrowding. Most commonly landlords considered that these issues arose as a result of an insufficient supply of housing in the social rented sector.
- Three themes emerged among the main issues reported by social landlords. These were 'prioritising individual housing need', 'balanced communities, individual and community need', and 'allocations and wider agendas'.
- **'Prioritising individual need'** Landlords were also unclear as to what constituted **reasonable** in relation to the statutory requirement that in the selection of their tenants they give 'reasonable preference' to certain categories of persons. Their obligations in relation to homelessness, which were considered by most to have the highest priority and to be increasing, created tensions in meeting the needs of other households, including those in other reasonable preference categories. These difficulties appeared to arise in part because of the very specific obligations on landlords in relation to homelessness, compared to the looser requirements in relation to households in other reasonable preference categories.
- **'Balanced communities, Individual and Community Need'** Landlords were particularly unclear about the meaning of 'balanced communities' and who should define it. Landlords were not clear in what circumstances it was justifiable to bypass an applicant with higher needs on the basis of balanced community objectives, and were unclear what evidence was required to support their interpretation and use of community need.
- **'Allocations and Wider Agendas'** Landlords commonly identified tensions between allocations legislation and guidance, and other housing objectives, principally in the areas of debt management and tenancy management. Landlords reported difficulties in accessing appropriate support for the growing number of applicants with care and support needs, and concerns that housing staff were dealing with situations where they lacked the necessary skills.

Research Aims and Objectives

The aims of this research were to

- investigate landlords' views of how clear current legislation and guidance are, identifying particular areas of confusion and difficulty;
- explore areas where landlords feel there are tensions between what the legislation and guidance say and the outcome of implementing this in practice; and
- identify areas where further guidance is needed for landlords.

Method

A combination of quantitative and qualitative research methods were used.

A review of recent Communities Scotland inspections reports of social landlords to identify issues about allocations which should be explored during the research.

A survey issued to all social landlords in Scotland. A response rate of 67% was achieved.

Case studies in 6 local authority areas to explore in-depth issues and concerns identified in the survey findings with Registered Social Landlord (RSL) and local authority housing and homeless staff. A total of 135 staff participated.

The research gathered and reported the views of social landlords about allocations legislation and guidance: it did not involve validating or verifying the circumstances or experiences reported.

Context

The legal framework for the allocations policies of social landlords is set out in the Housing (Scotland) Act 1987 as amended by the Housing (Scotland) Act 2001. This places duties on local authorities and RSLs to govern who can apply for housing and to set priorities in relation to the allocation of housing. Guidance issued by the then Scottish Executive clarifies the requirements¹.

The legal framework is more specific in relation to admission to the list than it is about the relative priority which should be given to different types of housing need. The only requirement in relation to priority is contained within the

'reasonable preference' requirements: this was introduced in the Housing (Scotland) Act 1966, and has not changed apart from the introduction of a new category of homelessness and threatened with homelessness.

Discussion of the legal framework relating to allocations also has to take account of the duties on local authorities in relation to homeless households and threatened with homelessness.

In addition to compliance with the legal framework, social landlords' allocations policies are expected to meet Communities Scotland's Performance Standards. Social landlords are subject to inspection by Communities Scotland in relation to these requirements.

The context within which social landlords are now operating is very different from 1966, when 'reasonable preference' was introduced. In 1966, nearly half (47%) of housing in Scotland was public sector: by 2006, this had declined to 25%. There has also been a significant change in those applying to, and being housed within, the social rented sector, with an increase in single adult households and a growth in the proportion of applicants who have health, care or support needs, in addition to housing needs.

Over this period, there has also been a shift in the types of allocations policies used by social landlords. Date order systems have been replaced by systems which give priority on the basis of housing need.

More than four out of five respondents to the survey (84%) used either systems where applicants are awarded points according to their level of need and placed in a single queue (points only) or in a number of queues (groups plus points). The decision about the type of allocations system appeared to be influenced by the scale of operation rather than the landlord type.

The majority of organisations (70%) use only one allocations policy. The most common reason for having more than one allocations policy was ownership of specialist housing stock.

Social landlords with larger housing stock were more likely to use local offices, with those with smaller stock more commonly delivering allocations through a single central office.

In terms of information collected, analysed and reported by landlords, this is most commonly undertaken in relation to Black and Minority Ethnic (BME) groups, Section 5 referrals and disability. Information collected, is more likely to be

reported than analysed. The evidence from the case study landlords is that the information they collect is governed by reporting requirements, particularly to Communities Scotland, and that landlords often fail to use this information for their own management or planning purposes.

Overview of Issues and Tensions

Landlord Views on Issues of Clarity

Landlords consider that there are a number of areas of legislation and guidance which are not sufficiently clear. Of 17 areas set out in the survey, 8 were considered insufficiently clear by 25% or more landlords. In relation to three areas more than half of landlords responding stated that they considered the term or area was not sufficiently clear.

In general, broad concepts tended to cause greater difficulty for landlords, particularly 'balancing communities', 'sensitive lettings', 'best use of housing stock', and 'local lettings initiatives'.

Larger organisations (those with stock greater than 1,000 units) were more likely to have concerns about balancing communities, sensitive lettings and local lettings initiatives. Smaller organisations were more likely to identify issues in relation to exclusions, local connection and elected member involvement. Overall, local authorities identified many more areas of legislation and guidance as insufficiently clear compared to RSLs.

Rural organisations were significantly more likely than urban organisations to have concerns about the legislation/guidance relating to eligibility for housing of applicants living outside the local authority area, whereas urban organisations were more likely to have concerns regarding the legislation/ guidance relating to households with arrears.

Landlord Views on Tensions in Allocations

Landlords considered that there are many areas where tensions exist between allocations policy and practice.

Areas where respondents most commonly identified tensions were connected to stock and homelessness - 'Meeting the housing needs of large families/ overcrowded households, with current stock availability' (79%); 'Meeting homelessness obligations, and the needs of other reasonable preference households' (70%); and 'Preventing homelessness, and

meeting obligations on reasonable preference to homeless and other households' (60%).

Local authorities were more likely than RSLs to identify tensions, with nearly two thirds (63%) identifying 7 or more tensions.

Reasons for tensions existing were most commonly attributed to an insufficient supply of housing, either in particular locations, or of particular sizes or types.

The survey issued to landlords distinguished between those areas of allocations legislation and guidance which lacked clarity and those where there were tensions. This distinction between clarity and tension was difficult to maintain with landlords collapsing the two, or pointing out that certain issues created tensions partly because of a lack of clarity. The findings from the research were therefore reported under three main themes – prioritising individual housing need; balanced communities, individual and community need; and allocations and wider agendas.

Prioritising Individual Housing Need

The research identified difficulties amongst landlords with the interpretation of 'reasonable preference'. Landlords had difficulty in understanding what was meant both by the term 'reasonable preference' and the interpretation of some of the categories of applicant who were expected to receive reasonable preference. The particular difficulty in interpretation related to what constituted a **reasonable** level of preference in priority.

Some landlords questioned the relevance of some of the 'reasonable preference' categories given the very different context now compared to 1966 when the concept was first introduced.

There were tensions reported by landlords in responding to their obligations in relation to homelessness and to other 'reasonable preference' categories. Most landlords were unclear about what was expected by the legislation and the guidance: others had taken the view that their duties in relation to homelessness in effect meant that homeless households should receive greater priority than other 'reasonable preference' categories.

Tensions were also reported between meeting 'reasonable preference' obligations, particularly in relation to homelessness, and giving appropriate access to other applicants. The main group seen to be disadvantaged were

existing tenants seeking transfers, but there was also specific mention of newly forming households. For both groups, the reason for the tension was seen to arise from the priority given to those in the reasonable preference categories, with the result that those with lesser or other needs had significantly reduced, or were in effect excluded from, re-housing opportunities. There was a perception that as a result there were an increasing number of 'strategic' presentations through the homeless 'route'.

An issue for landlords was how to set the priorities within allocations policies so that they supported objectives to prevent homelessness as well as giving priority to those households who were already homeless. Effectively, by not being able to respond to the housing needs of other groups – both those within the current reasonable preference categories and others, such as newly forming households – a number of landlords felt that this negated the principles underpinning the homeless prevention agenda.

There were other tensions identified by landlords relating to organisational issues. This included tensions between RSLs and local authorities in relation to the operation of section 5 agreements. There were also specific issues for specialist RSLs where conforming with 'reasonable preference' obligations could limit their ability to create supportive communities for their client group.

Landlords identified considerable and widespread confusion about the rights of A8 nationals and other non-UK residents in relation to eligibility/access to housing.

Balanced Communities, Individual and Community Need

The meaning of balanced communities was considered by landlords to be the least clear of all the terms commonly used in allocations policy guidance. Landlords questioned what a balanced community was, who defined it, and whether it was an appropriate objective for social landlords. Some were strong supporters: others had reservations about its value.

Practical issues were identified, in terms of acceptable practice in giving priority to community needs, whether through sensitive lettings or local lettings initiatives. Local authority landlords and RSLs questioned the extent to which social landlords could deliver balanced communities given the profile of social rented housing stock and of demand. Landlords were not clear in what circumstances it was justifiable to bypass an applicant with higher level needs, particularly one that was homeless, on the grounds of

balanced community objectives. They were also not clear what type and level of evidence would demonstrate to Communities Scotland as to their interpretation and use of 'community need'.

Landlords were uncertain about the extent to which an allocation should take account of the wider community in the interests of fulfilling their duty, both to existing tenants to provide a quality environment, and to new tenants to provide a sustainable tenancy. They also identified tensions between the interests of these different groups: the tensions were most acute in relation to sex offenders, households with a history of anti-social behaviour and those with chaotic behaviour often associated with a combination of substance misuse, mental health problems and offending.

Allocations and Wider Agendas

Landlords commonly identified tensions between allocations legislation and guidance and other housing objectives, principally in the areas of debt management and tenancy management. Landlords were uneasy about a policy framework which they considered resulted in applicants with large arrears being re-housed after a relatively small level of repayment. There were also tensions reported between the pressure to re-let quickly and other objectives of the housing service, particularly achieving a sustainable tenancy.

Landlords considered that there was insufficient alignment of care and support services for individual tenants or applicants increasing the demands on social landlords and threatening the sustainability of tenancies. This issue was of considerable and growing importance to social landlords, both local authority and RSL, and revolved around:

Difficulties in accessing appropriate support for different types and levels of need and with particular complications at points of transition from temporary to permanent accommodation

Implications for allocations where support formed an integral part of the tenancy and where support needs had to be taken into account as well as housing need

'Engagement' issues, where support and care services were available but the individual refused that support

Concerns from social landlords that their staff were dealing with situations where they lacked the necessary skills.

Tensions were also identified by landlords between allocations legislation and guidance and other national policy agendas. In relation to anti-social behaviour, landlords were

concerned about their ability to support people with complex needs and challenging behaviour, and justifying to communities why people evicted for anti-social behaviour were re-housed. In relation to sex offenders, there were concerns about a lack of information sharing and local co-ordination. There were also less frequently identified issues in relation to housing benefit and regeneration.

Conclusions

The research gathered extensive evidence of social landlords' views of the allocations legislation and guidance, of the issues which they see as unclear and of the tensions which they experience in translating these requirements into practice on the ground. There were many areas where landlords identified there was insufficient clarity or tensions existed. The issues surrounding allocations appear to be keenly felt by social landlords and there was enthusiasm for action to be taken to provide clarification and to address tensions.

The views of social landlords must be understood in the context of current demand for social housing and the profile of their housing stock which have both changed significantly over recent decades. There has not been the same degree of change in the legislative and guidance framework. This, together with the contrast between the less prescriptive nature of 'reasonable preference' within the allocations legislation and the tightly defined duties on landlords within homelessness legislation, is likely to explain in part the confusion and tension reported by landlords.

The core problem for social landlords appears to be understanding the scope of what they can and cannot decide themselves at a local level. They also consider that there is a lack of clarity about the role of allocations in local housing systems and the extent to which allocations policies should align with other local housing priorities, other corporate local authority agendas, and social care and health priorities. Linked to both, landlords were unclear about the evidence required to support their local decisions, both in terms of the policy and individual lettings decision

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The report, "Tensions between Allocations Policy and Practice" which is summarised in this research findings is a web only document and is available on the publications pages of the Scottish Government website at

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