

Cabinet Response to the Living in Hackney Scrutiny Commission Review into the Proposed Extension of the Right to Buy to Housing Association Tenants and Forced Sale of High Value Council Homes.

CABINET MEETING DATE

18 April 2016

CLASSIFICATION

Open

WARD(S) AFFECTED

All Wards

CABINET MEMBER

**Cllr Philip Glanville
Housing**

KEY DECISION

No

GROUP DIRECTOR

**Kim Wright
Group Director, Neighbourhoods and Housing**

1. CABINET MEMBER'S INTRODUCTION

- 1.1 The Council has an excellent record of accomplishment of providing genuinely affordable, good quality housing for rent and for sale; housing which meets the needs of Hackney residents across a range of incomes. We are rightly proud that it is in the process of becoming a major developer of homes over the coming years, as well as continuing to enable new homes through partnership and the planning process.
- 1.2 The Housing & Planning Bill contains measures to widen the scope of right to buy to include Housing Association tenants, funded by the forced sale of 'higher value' Council homes. This bill represents the most significant financial and housing supply threat to Hackney and Housing Associations' ability to provide truly affordable housing to Hackney residents since the Second World War. It will end the already strained post war consensus on housing and for the first time in over a century the Government will have no plans for new social housing.
- 1.3 The forced sale of Council homes will adversely impact Hackney residents and tenants' chances of securing good quality affordable housing in the borough, and as a result it is likely to have far-reaching implications on local resident's life chances, children's educational attainment and employment prospects as well as wider community cohesion.
- 1.4 The Council has been rigorously challenging many aspects of the Housing & Planning Bill, explaining the implications for Hackney residents and the Council, whilst recommending and promoting ways to mitigate the worst implications of the Bill for the borough. The LiH Scrutiny Commission's work has been a central and valuable part of this process. No other Council has yet produced such a piece of work exploring the potential impact of this legislation.
- 1.5 A central tenet of the Housing & Planning Bill is local authorities will be forced by the Government to sell 'higher value' social rented homes as they become vacant in order to be able to pay an annual levy (or tax) to the Government. This 'tax' would be levied without any regard to the housing pressures in a local authority area or the long-term financial viability of an authorities' Housing Revenue Account.
- 1.6 Despite the long-term significance of this policy and the financial risk it poses for local authorities, the Government has been extremely reticent to publish any details of how the levy regime will operate. This is despite legislative scrutiny and repeated requests for more detailed information by the House of Commons, House of Lords and a recent highly critical report by the National Audit Office regarding the Government assumptions underlying the policy and how it would operate.
- 1.7 The Government's continued reticence to publish any detailed information concerning the Bill's implementation has only served to

impede any steps the Council might and can take to mitigate the impact of the Bill's policies for Hackney Council and Hackney residents.

- 1.8 However, based on current information the Council estimates that it might have to sell 700 homes in the first five years of the policy (probably in large part to buy to let buyers). These properties will be sold on the open market in a context where the Council has a declining lettings base (last year 1,758 homes were available for lettings) and where 2,300 households are currently living in temporary accommodation awaiting long term secure affordable housing. A direct result of the forced sales policy is that an increasing number of Hackney families will spend longer periods in temporary accommodation waiting for a permanent home.
- 1.9 The Government has indicated that there will be a one-for-one (and in London two-for-one) replacement regime with respect to homes sold by Housing Associations. However, no evidence has been provided as to how this replacement regime will be funded and work. Equally there is no guarantee whatsoever that the replacement home would be in place before Council or Housing Association homes are sold, or will be truly like for like in terms of location, affordability or property size.
- 1.10 A social rented home sold in Hackney by a Housing Association could be replaced by a shared ownership or Starter Home in outer London, or even elsewhere in the country. Locally, the Council has been working with Housing Associations in the borough to seek to mitigate the impact of this policy. However, it is fair to say that this work has been impaired by the lack of any detailed information from the Government concerning how the replacement regime would be funded and function.
- 1.11 The Council does not believe that local authorities should be forced to sell desperately needed properties in an area of high housing stress such as Hackney to fund home ownership discounts for Housing Association tenants. The Council continues to be deeply sceptical that the homes sold by Housing Associations will actually be replaced on a two-for-one basis or on a like-for-like basis and in a timely manner. The extension of right to buy Housing Associations will only serve to reduce the housing opportunities available to Hackney residents.
- 1.12 Aside from the forced disposal of Council housing and the loss of Housing Association stock through right to buy, the reduction in truly affordable rented housing in the borough will be further exacerbated by the Government's commitment to place a duty on Councils to promote 'Starter Homes'.
- 1.13 Starter Homes would be sold at a discount of 20% on the local market value to first time buyers under 40. The Government is proposing that Starter Homes would be defined as 'affordable housing' with a proscription that local authorities would have to promote the provision of new Starter Homes on all sites of more than 10 homes.

- 1.14 Currently all evidence suggests that Starter Homes will be far from affordable to Hackney residents and tenants on moderate incomes and the presumption towards granting planning permission for Starter Homes would systematically force out more genuinely affordable types of housing such as shared ownership. This would further reduce the supply of social and genuinely affordable housing available to Hackney residents.
- 1.15 Based on the current average price for a flat in the borough, the Council estimates that a household would need an income of £71,000 to fund a mortgage to buy an average Starter Home, compared to the average household income in Hackney of £33,400.
- 1.16 Whilst the Council supports households who aspire to own their own home, and is developing over 500 homes for shared ownership, Starter Homes will not meet the needs of Hackney low and middle income earners home ownership aspirations. Currently Starter Homes represent a highly subsidised product for households who are currently better placed and able to purchase their own home, diverting resources away from truly affordable homes to rent and to buy. Unlike shared ownership these homes will not see the discount recycled into new affordable housing.
- 1.17 Other measures proposed in the Housing & Planning Bill would directly affect existing and future tenants living in social rented homes. The Housing & Planning Bill when it receives Royal Assent will make it mandatory for Councils to charge market rents to households with household incomes greater than £40,000 pa in London, a policy commonly known as 'Pay to Stay'.
- 1.18 This income threshold is very low in London terms, not far above the average household income in Hackney (£33,400) or a couple each earning the minimum London Living Wage (£34,000). Indeed, two cleaners working for Hackney Housing would exceed the Pay to Stay Cap. 'Pay to Stay' will act as a disincentive to aspiration amongst tenants, as higher paid employment could result in a huge and unaffordable hike in rent of around 300% in Hackney.
- 1.19 The additional sums raised from Pay to Stay will have to be paid to the Government not retained by the Council. The Council has not been given any assurances that it will be able to recover the estimated £500,000 a year it will cost to implement this policy from the increased rents it will collect through Pay to Stay. Indeed, the Council believes that the policy would actually cost both the DWP and the Council to implement due to higher housing benefit and local administration and enforcement costs.
- 1.20 Tenants in public and private meetings with me have expressed their acute and persistent concern that they will not be in a position to pay a market rent for their existing home, and will categorically not be in a position to move and rent a home in the private rented sector in Hackney. This is a concern shared by myself, the Council and indeed

the Scrutiny Commission. The Council continues to hold and promote the view that social or affordable rents should not exceed more than 33% of a person's gross income. We support recommendation six of the report wholeheartedly.

- 1.21 Tenants have also expressed their individual and collective anxiety over the Government's intention to phase out secure Council tenancies in favour of mandatory fixed-term tenancies of 2-5 years for most new Council lettings, with no automatic right to continue after the fixed term. Councils would be unable to offer secure lifetime tenancies in most cases. The Government has indicated that tenants who have to move because of regeneration or major works etc. may continue to have a lifetime secure tenancy after they move. However, this does not mitigate the acute sense of insecurity that many tenants now feel with respect to their housing.
- 1.22 Combined, all of the legislative changes outlined above represent the most significant threat to current and future supply of social housing in Hackney for a generation. Changes which will affect the availability of truly secure, long term and genuinely affordable housing for generations to come.
- 1.23 The Council will continue to lobby the Government, MPs and Lords to seek amendments to the Bill as it progresses, and to work with partners locally to mitigate the impact of the new policies in Hackney
- 1.24 I welcome the work of the Living in Hackney Scrutiny Commission's work on this issue. I thank the Commission for their work and fully endorse the recommendations they have made. I commend this report to cabinet.

2. RECOMMENDATION

- 2.1. The Cabinet is asked to approve the content of this response.**

Cabinet Response to the Living in Hackney Scrutiny Commission Review into the Proposed Extension of the Right to Buy to Housing Association Tenants and Forced Sale of High Value Council Homes.

Executive Response to the Scrutiny Recommendations

<p>Recommendation One</p> <p>The proposals to extend the right to buy to Housing Association tenants will provide Housing Associations with the capital receipts to reinvest in new homes, although they will, it is proposed have flexibility regarding tenure type and location of new housing units.</p> <p>The Commission recommends that Housing Associations replace houses sold on a like for like basis and in the same geographical areas where possible.</p>	<p>We agree with this recommendation.</p> <p>The Government has indicated its intention that every home sold through right to buy will be replaced on a one-for-one basis, and in London this will be on a two-for-one basis. However, the proposed two-for-one replacement regime in London is highly unlikely to be a truly like for like replacement in terms of affordability, tenure and location. Whilst the Government's detailed proposals have not yet been published, indications are that the Government intention is that Housing Association rental properties that are sold will be replaced with shared ownership homes. There is a very high likelihood that the vast majority of these shared ownership properties will be built in outer London, not in Hackney.</p> <p>The Council has made numerous written and verbal submissions (to the Housing and Planning Bill Committee and the DCLG Select Committee) that any Housing Association homes that are sold through the right to buy in Hackney are replaced on a true like-for-like basis in terms of affordability and location. The Council has also tabled a range of amendments to the Housing and Planning Bill on this issue.</p>
<p>Recommendation Two</p> <p>The Commission considered the extension of right to buy to Housing Associations may reduce the availability of social housing in a locality</p>	<p>We agree with this recommendation.</p> <p>The Council has consistently raised its concern over the potential impact the extension of right to buy will have on the availability of Housing Association rented</p>

<p>and considered that Housing Associations offer portable discounts to tenants in order to retain significant levels of social housing in an area.</p>	<p>lettings. An amendment to the Housing and Planning Bill has been recommended to make it mandatory that a Housing Association offers a portable discount to a tenant who wishes to exercise their right to buy in areas where social housing comprises 30% or less of the total stock within an area.</p> <p>The Council is concerned that once the extension of right to buy is made available to the majority of Housing Association tenants, cumulatively this will result in a reduction in the number Housing Association properties available for rent in Hackney. This would in turn lead to a reduction in the availability of Council nominations to Housing Association properties as they become available for letting.</p> <p>The Council is currently working with Hackney Housing Associations to explore the scope for a local voluntary agreement whereby Housing Associations would offer a portable discount to a tenant if they wished to exercise their right to buy with the objective of minimising the number of Housing Association rented properties lost to the sector.</p>
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<p>Recommendation Three</p> <p>A qualifying period is incorporated as part of the criteria for right to buy to Housing Association tenants.</p>	<p>We agree with this recommendation</p> <p>Indications are that the three-year qualifying period included as part of the Government's voluntary deal with the National Housing Federation will be the eligible period for Housing Associations seeking to exercise their right to buy, which would be the same as for Council tenants.</p>
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Recommendation Four

The Commission considered the levy should be reduced or the Council excluded from it in certain circumstances including:

- Where the number of households in temporary accommodation in a local authority area exceeds the number of annual lettings available to a Council.
- Where a Council has a long term, identifiable self-financing housing capital development programme.
- Where a Council's annual RTB sales exceed 10% of its available annual lettings.
- Local authority areas experiencing acute housing stress as defined by overcrowding, homelessness acceptances, high and increasing levels of household in temporary accommodation.
- All local authority new build properties built within the last ten years are exempted.
- All future local authority voids on designated and proposed

We agree with this recommendation

The Council has been actively promoting since the summer of 2015 a number of property exclusions and exemptions from the force sales regime. The main drivers underlying these exemptions and exceptions include safeguarding the current and future housing regeneration program, maintaining an adequate portfolio of housing stock to meet the Councils current and future housing obligations as well as maintaining an appropriate level of social housing in as many areas as possible within the borough.

All of the exemptions and exceptions that have been identified by the Commission reflect the property exclusions the Council has raised through numerous written and verbal submissions to the DCLG and the Housing and Planning Bill committee.

The Council is particularly concerned that properties that fall vacant on current regeneration estates are not sold on the open market as this will lead to a more extensive and possibly prohibitive leaseholder buyback program and will add a significant financial risk to the Councils existing housing regeneration financial modelling.

<p>regeneration estates.</p> <ul style="list-style-type: none"> • Properties where a compulsory purchase order (CPO) has been agreed or is in the process of being designated or where Demolition Notices are in force are exempted. 	
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<p>Recommendation Five</p> <p>The Commission recommends the presumption and obligation on local authorities to promote Starter Homes in high housing cost and high demand areas should be removed from the proposals.</p>	<p>We agree with this recommendation</p> <p>The Council unambiguously takes a view that a presumption in favour of Starter Homes will result in no ‘affordable’ homes being built in Hackney. This concern has been raised with the DCLG and the Government, through the Council’s written response to the ‘Proposed Changes to the National Planning Policy Framework’ as well as within the Council’s written and verbal evidence provided to the Housing and Planning Bill committee</p> <p>The Council has significant concerns relating to the overall value for money of the Starter Homes initiative and particularly the Government’s intention to spend £2.3 billion supporting effectively the delivery of only 60,000 starter homes, at an average grant rate of approximately £38,000 per unit. The Council would take the view that this disproportionate level of subsidy towards Starter Homes is yet another indication of the inconsistency and contradictory nature of the Government’s overall housing policy.</p> <p>The Council has consistently made the point that a presumption in favour of Starter Homes and their definition as ‘affordable’, when they clearly they are not affordable in</p>
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Hackney or London more widely. Shelter has found that the average Starter Home will be unaffordable to families on middle incomes in a majority (58%) of the country by 2020.

The figure in Hackney will be nearer the national figure of 98% of households on the National Living Wage (Shelter estimate) who will not be able to afford a Starter Home. A 20% discount would reduce the price of an average flat in Hackney to £420,800 not far from the maximum selling price for Starter Homes. However a without a large deposit a household would need an income of over £100,000 pa to secure a mortgage on a Starter Homes at this price. In a context where 95% of households in social housing and 70% across the borough have an income of £30,000 or less Starter Homes are clearly not a viable or appropriate product.

Essentially these homes will come at the cost of cutting the supply of truly affordable housing in Hackney and unnecessarily fettering the Council's ability to require low-rent homes from developers that will meet the needs of Hackney residents. It will have serious and far reaching adverse consequences particularly with respect to the Council complying with its statutory homeless obligations and reducing the number of households (now over 2,300) living in insecure temporary accommodation.

The Government has recently published its draft regulations with respect to Starter Homes and it is intended that the Council responds in a robust way reflecting the concerns outlined above and the concerns that have been raised by the Living in Hackney Scrutiny commission

<p>Recommendation Six</p> <p>The Commission recommends the principle of pay to stay should be resisted; however, if pay to stay is introduced it should not be triggered by a £40k income threshold in London but be set at a rent level that better reflects social rent levels and be at a level that is truly affordable and sustainable for struggling low income families and does not constitute more than 33% of a household's total gross income. Additional income from any pay to stay rents should be retained by Councils to invest in new build social housing.</p>	<p>We agree with this recommendation.</p> <p>The Council has consistently raised its, and Hackney tenants concerns with the Government over the way the Pay to Stay proposals are structured and the criteria for defining a 'higher income'. The Council has made the case (supported with detailed case studies) that Pay to Stay will act as a significant disincentive to work and aspiration. The Council believes the policy is contradictory in terms of the Government's wider objectives. Part of the rationale for the policy is removing what is referred to as the rental 'subsidy' from so called high earners. It is likely that the tenants affected are more likely in turn to exercise the RTB, which will entitle them to a significantly higher 'subsidy' in the form of a RTB discount at the taxpayers' expense which could be over £103,000.</p> <p>In addition to acting as a significant disincentive to work and aspiration the Council has also made the case that Pay to Stay would also result in significant additional housing benefit costs for the Government, and set and running costs for the Council. Far from being an income generator for the Government it will actually cost the Council over £500,000 to set up and implement the scheme in the first year.</p>
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<p>Recommendation Seven</p> <p>The Commission recommends that information is made available to tenants and residents regarding the proposals in the Housing and Planning Bill and that activities are scheduled to deliver</p>	<p>We agree with this recommendation.</p> <p>The Council has been working over an extended period assessing the impact of all of the Housing and Planning Bills measures in the Hackney context. This work has included proposing amendments to the Bill, outlining the impact of the Housing and</p>
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information about the changes that are proposed

Planning Bill's provisions for Hackney residents and tenants as well as holding open meetings with Hackney residents and tenants and bespoke meetings with individual tenant associations. In addition the Council has undertaken advice and information activities which have included making available information concerning the impact of the Bill through the local press, publication of the Council's written submissions on the Council website, meetings with individual housing providers working in Hackney, letters to MPs, Peers and Government Ministers.

Information and advice activity conducted by the Council and the Cabinet Member for Housing on the Housing and Planning Bill

- Presentation to Woodberry Down Community Organisation Board
- Public update and discussion at Hackney: A place to call home event
- Information session on the Housing & Planning Bill for campaigning tenants, advertised in Hackney Today.
- Cabinet Member support and work with leafleting campaigning residents
- Cabinet Member attendance at tenant panel meetings,
- Hackney Homes Board meeting briefing on the Housing & Planning Bill
- Open briefing and discussion meeting for Hackney Homes tenants
- Update article for Hackney Homes News on the impact of the Housing Bill Hackney action.
- Meeting with Team Hackney and other stakeholders focusing on the Housing & Planning Bill and other issues.
- Hackney Better Homes Partnership Board Meeting on the Housing and Planning Bill

Information and advice work reported in the press

Hackney Gazette:

[http://www.hackneygazette.co.uk/news/hackney Councillor and minister clash over affordable housing plans 1 4306769](http://www.hackneygazette.co.uk/news/hackney_Councillor_and_minister_clash_over_affordable_housing_plans_1_4306769)

[http://www.hackneygazette.co.uk/news/new social homes could be sold off before occupancy under Government plans 1 4316817](http://www.hackneygazette.co.uk/news/new_social_homes_could_be_sold_off_before_occupancy_under_Government_plans_1_4316817)

[http://www.hackneygazette.co.uk/news/politics/half hackney Council s housing stock in hoxton and stoke newington may have to be sold 1 4380288](http://www.hackneygazette.co.uk/news/politics/half_hackney_Council_s_housing_stock_in_hoxton_and_stoke_newington_may_have_to_be_sold_1_4380288)

Hackney Citizen:

<http://hackneycitizen.co.uk/2015/07/17/extending-right-to-buy-will-force-mass-Council-home-sell-off/>

<http://hackneycitizen.co.uk/2015/09/18/shelter-warns-right-to-buy-will-force-sale-of-over-2000-hackney-homes/>

<http://hackneycitizen.co.uk/2016/02/10/right-to-buy-social-housing-attack-law/>
The Guardian:

<http://www.theguardian.com/housing-network/2015/oct/05/right-to-buy-deal-truly-affordable-homes-hackney>

<http://www.theguardian.com/uk-news/davehillblog/2016/jan/11/what-will-zac-goldsmiths-2-for-1-housing-bill-amendment-achieve>

Other:

<http://www.theeastender.net/hackney-campaigners-say-kill-the-housing-bill/>

<http://www.24dash.com/news/housing/2015-10-01-Full-letter-Cllr-Philip-Glanville-urges-HAs-to-say-no>

<http://www.eastlondonlines.co.uk/2016/01/future-unclear-for-social-housing-in-hackney/>

Future and ongoing activity

- Launch of an information about the Housing Bill on Hackney Council's website
- Continue to support and advise to local Councillors and TRAs organising local meetings about the Housing Bill
- Writing to all Housing Associations in the borough about the voluntary aspects of the Housing Bill
- Cabinet Member support for further meetings of the 'Save Hackney's Social Housing' group.
- Further communications to tenants and residents regarding the proposals in the Housing and Planning Bill.

During the purdah period during the run up to the London Mayoral elections neither the Council, Hackney Homes nor Cllr Glanville in his official capacity as Cabinet Member can directly write to tenants or organise meetings on political issues like the Housing Bill. The Council will of course continue this type of activity once purdah ends and it builds on the direct communications we have already done through Hackney Today, the public meeting and Hackney Homes news.