



Report of the Director of Environment and Neighbourhoods

Executive Board

Date: 11 June 08

Subject: Under-occupation of Council Housing

Electoral Wards Affected:

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

Eligible for Call In

Not Eligible for Call In

(Details contained in the report)

EXECUTIVE SUMMARY

Given the reduction in the number of family-sized Council homes available to let, it is imperative that the Council makes, and is seen to make, best use of its own stock. Since 2006 the Council's lettings policy has allowed tenants who are under-occupying to be awarded a high priority on the Leeds Homes Register. Although this has enabled some tenants to move to a smaller home, additional incentives are required to persuade other tenants to downsize. This report proposes a number of additional financial and support incentives which can be used to encourage under-occupying tenants to move. The report will recommend that from June 2008, under-occupiers in the largest properties will be offered £1,000 per bedroom released, if they moved to a suitably sized property. Meanwhile, more detailed research is undertaken by the Arm's Length Management Organisations (ALMOs) who are already currently conducting surveys of their tenants which will provide useful information on the levels of under-occupation. From this data and detailed financial modelling of the proposed incentive packages, a further report will be brought to Executive Board detailing an action plan with targets on how these incentives will be implemented for 2009/10.

Finally, the report clarifies that the Council will use the legal powers available to reduce under occupation in cases of succession to tenancies. However, such enforcement will be used as an absolute last resort when negotiations to find satisfactory housing have been exhausted and subject to guidance to ensure consistency.

1.0 Purpose Of This Report

- 1.1 The purpose of this report is to provide details of the extent of under-occupation in Leeds, and propose that new incentive schemes are developed to encourage under-occupying Council tenants to move to smaller properties to promote best use of housing stock. It also clarifies how the Leeds Arm's Length Management Organisations should use Ground 16 powers under the Housing Act 1985 to move underoccupying tenants who have succeeded to a Council tenancy following the death of the tenant.

2.0 Background Information

- 2.1 A tenant is defined as under-occupying if they would release a larger property than they would be offered if they were to move.¹ Research shows that in the social housing sector, under-occupiers are most likely to be middle aged couples, whose children have left home, or single people of pensionable age.²
- 2.2 Council tenants have a right to remain in their home as long as they keep to their tenancy agreement. Therefore, any move to a smaller home as a result of under-occupying a property must be voluntary.
- 2.3 There are clear drivers for the Council to make best use of its stock in light of current demand far exceeding the supply, in particular, for family sized housing. In 2006, the Council commissioned two major research reports: the Housing Market Assessment, and research into the demand for Council housing. The key recommendations were that the Council should work more closely with its partners to maximise the amount of social housing available. The Council is doing this through building new affordable homes, and by ensuring it achieves best use of its own stock. The use of incentive packages to encourage underoccupying tenants forms a key part of this approach.
- 2.4 In April 2005, Neighbourhoods and Housing Scrutiny Board considered a report on incentives to make best use of Council housing, including under-occupation. As a result of that inquiry, the lettings policy was amended to allow under-occupying tenants to be considered for the highest priority band (Priority Extra), and be considered for a direct let, provided the move will achieve best use of Council stock. This would allow the ALMOs to assess each case individually to ensure best use of stock. It would enable someone to downsize from a 3 bed house to, for example, a 1 bed flat or bungalow, or even a 2 bedroom flat / house, if it freed up the larger property for which there was high demand. (In multi storey flats, 2 bedroom flats are often let to either single customers or childless couples, even though they only need one bedroom in accordance with the Lettings policy. This is because the Council aims not to let multi storey flats to families where possible. As a result, under-occupiers in multi storey flats would not normally be awarded priority to move as an under-occupier). ALMOs were also asked to consider giving support to tenants wishing to downsize, including financial support where appropriate. This has been considered in a handful of cases. That said, it has not been prioritised by the ALMOs. In February 2008, Environment and Neighbourhoods Scrutiny Board made a further inquiry into the Lettings Policy. This report recommended that the Council undertakes further performance monitoring of the number and types of moves made by underoccupying Council tenants, as well as develop the use of wider range of incentives to under-occupiers, in conjunction with ALMOs.

¹ Managing under occupation - a guide to good practice in social housing, DETR, April 2001

² Ibid

- 2.5 Communities and Local Government (CLG) recently recognised the need to promote best use of stock by encouraging local authorities to develop under-occupation strategies. In December 2007, the then Housing Minister, Yvette Cooper MP, launched a good practice guide on overcrowding and under-occupation.
- 2.6 Under-occupation is not always detrimental to the Council or to under-occupying tenants. A degree of under-occupation can help promote sustainable communities by:
- enabling older tenants who have lived in an area for a long period of time to remain in their homes;
 - reducing the child density on an estate and encouraging an age mix of tenants;
 - encouraging tenants to remain on less popular estates, thereby reducing voids.
- 2.7 Whether under-occupation is a problem will depend on the sustainability issues outlined above, and the level of demand from existing and prospective tenants. Under-occupation in Council properties normally arises either when grown up children leave home, or where there is a succession following the death of a tenant. Tenants who are under-occupying may wish to move to a smaller property for financial reasons, for example to reduce their rent costs, fuel bills, and Council tax. They may also wish to downsize if any deterioration in their health means they are no longer able to manage stairs, or the upkeep of a larger property or garden.

3.0 Main Issues

3.1 The extent of under-occupation in Leeds

- 3.1.1 The 2001 census states that 72% of properties in Leeds are under-occupied to some degree. This is not surprising, as many households have spare bedrooms, particularly in the owner occupied sector. The census provides further detail which shows that 33% of Council stock is under-occupied by 1 room, and a further 19% is under-occupied by 2 or more bedrooms.³ This states that, for example, a one person household is assumed to require 3 rooms: one bedroom and 2 common rooms. Common rooms are defined as living rooms, kitchens, and other habitable rooms, but not bathrooms/ toilet. For a family, the number, age and gender of any children are taken into account when deciding how many bedrooms are needed. The letting of Council housing is based upon an applicant's current housing need, which ensures that appropriate occupancy of the house is achieved. There are sometimes legitimate reasons for letting a house with a spare room to a household. For example, a separated parent may need a spare bedroom for a child who regularly visits, or a spare room may be needed for relatives who visit a tenant to provide support, but who live a long distance away.
- 3.1.2 Contrary to the census data, each ALMO has undertaken a customer satisfaction survey in 2007 that reports that only 2.5 – 3.5% of tenants perceive that they have too many rooms in their house. This is not surprising, as people often expect to have a spare bedroom for use as a bedroom, storage or office.
- 3.1.3 The Census data has indicated the extent of the opportunity to reduce under-occupation, although, as stated in the satisfaction survey, only a very small proportion of customers feel that they under-occupy their homes. Therefore, more detailed research is required involving a detailed survey of the household composition of each tenancy, and research into what would entice those under-

³ figures are based upon the Office of National Statistics definition of under-occupation.

occupiers to downsize.

3.1.4 Lettings data from April – December 2007 show that 180 tenants have moved to a smaller house. This equates to 5% of all lettings and 23% of all transfers. Of these, almost all had been in a priority band, and a third moved for medical reasons. This analysis shows that very few customers are choosing to move to smaller properties. Those who do, more often move from 3 bedroom properties. The majority of customers who move do so for medical reasons, because they are unable to maintain a larger property and / or a garden. That said, the Council believe that some under-occupying tenants would be prepared to downsize, if appropriate incentives and support were offered to them.

3.1.5 The Council's lettings policy includes a 'bedroom standard' which outlines the size of property a household can expect to be considered for. The policy aims to achieve best use of stock by ensuring that larger properties are let to households who require them for children. When a customer applies to downsize, the usual lettings bedroom criteria would normally apply, but the lettings policy gives the ALMOs the discretion to allow continued under-occupation in circumstances where an extra bedroom may be granted. This discretion is based upon the supply and demand for the particular property types that the applicant is seeking. In practice, the ALMO often uses its discretion, and grants at least one extra bedroom to allow the move to occur.

3.2 Developing incentive packages for under-occupiers

3.2.1 A number of authorities have introduced some financially based incentives to reduce the amount of under-occupation. Many of these have been London and South East based authorities. However, due to increased pressure on housing supply throughout England, many more authorities are considering adopting such incentives.

3.2.2 There are broadly two types of incentives: financial, and policy / advice and support based incentives.

- Financial incentive for each bedroom released. Some authorities offer up to £1,000 per bedroom released by the move. For some customers, this may be a very attractive proposition, and may well encourage them to consider moving to a smaller property. If this were implemented in Leeds, then the Council, in partnership with ALMOs, would need to set the appropriate tariffs.

3.2.3 Support with the moving process. Many London Boroughs have employed dedicated staff to assist their tenants and support them with the move. Research shows that, especially for elderly people, the complexity of the rehousing process and the energy required for a move puts them off moving. Therefore, staff provide in depth support to promote the idea of downsizing, assistance with the rehousing process, help in managing the move, and offer financial assistance such as for removal vans, post re-direction and utility services. A number of London Boroughs have proved successful in increasing the number of customers who downsize by using this approach. Other advice could include:

- bidding on properties through CBL on behalf of the customer and/or accompanying customers on property viewings;
- offering separate rehousing for households with adult children.

3.2.4 The Council, through its ALMOs and Tenant Management Organisation (TMO), is currently gathering detailed information on occupants of its properties. This will

include information of which properties are under-occupied. Each ALMO is at a slightly different stage at gathering this information. To do this, the ALMOs need to undertake an in depth 'census' type survey, where they can gather detailed information on the number of household members in each tenanted property. Such a census would need to be undertaken on a regular basis to ensure that the information is up to date, as household compositions change over time. Once the survey has been undertaken, research will need to be commissioned to find out what incentives are required to entice differing customer groups to downsize; the level and type of packages required; and the staffing resource required. Once we have all this data, financial modelling can be undertaken to provide appropriate budgets and targets for reducing the level of under-occupation in the city. As a result, the long term strategy for under-occupation will be implemented from 2009/10.

3.2.5 In the meantime, the Council will encourage the release of larger properties as soon as possible. Therefore, it is proposing to provide up to £300,000 to support tenants downsizing. Each tenant that downsizes will be eligible for £1000 for each bedroom released. From July 2008, the Council will invite expressions of interest from all tenants occupying 4 bedroom or larger houses to see if they would consider downsizing. Priority will be considered from applicants from the largest properties and based upon the availability of properties that they move into. Customers will be let properties that they are eligible for in accordance with the Lettings policy. If the budget is not spent on customers from the largest properties, then customers in 3 bed houses followed by 2 bed houses will be invited to express interest. This initiative will provide the Council with an indication of the level of demand based upon the support packages offered. Lessons from this initiative will be fed into the under-occupation strategy for 2009/10.

3.2.6 This initiative aims to release for re-letting, some of the largest houses in the city at a prudent cost, compared to the cost of building new family homes. It will also enable the Council to efficiently make better use of its stock.

3.2.7 In addition to work undertaken by the ALMOs, the Golden Triangle Partnership (GTP), between Leeds, Harrogate and York Councils, will commission research on under-occupation in these three authority areas in 2008.

3.2.8 The GTP has submitted a bid for funding to develop a pilot scheme which would aim to relocate 50 under-occupying households over a three-year period. The 50 family properties released, would be made available for households in housing need from the Golden Triangle area (which for Leeds covers the outer North East, North West and South East areas). New build housing development schemes will be targeted for this initiative, and housing associations will be given funding to provide white goods, carpets, curtains and removal costs. In addition, the funding will provide support through the moving process, such as completion of benefit claims, post redirection etc.

3.3 Under occupation - Legal powers

3.3.1 The legal powers available to the Council to deal with under-occupation, are specific to when under-occupation has arisen following the death of a tenant where succession occurs. In Leeds, a few cases have come close to court action, but have been resolved locally. However, it is recognised that the Council has not developed a consistent policy for this area.

3.3.2 Where succession occurs following the death of a tenant, the Council has the power

under Ground 16 of the 1985 Housing Act to seek possession if the remaining occupant is under-occupying. Possession action cannot be taken under Ground 16 if the successor is the spouse or a civil partner of the deceased tenant. The Act states that notice can only be served between 6 and 12 months after the death. When taking possession action under Ground 16, the Council has to offer alternative accommodation which is suitable for the remaining household members. This is the only instance where the authority can obtain possession through the courts against an under-occupier. Tenants are informed of this in their tenancy agreement, which states:

‘If the tenancy passes to a member of your family and the home is bigger than they need, this is one of the grounds for possession. We will offer them a suitable alternative property. If they do not accept that offer we have the right to ask the Court to give us possession of the property.’

- 3.3.3 From research, a number of authorities throughout the country have used this power where necessary. However, authorities will only use Ground 16 powers where negotiations to move to a mutually satisfactory property have failed. In Leeds this power has not been used to date, as appropriate properties have been found through local negotiations.
- 3.3.4 This report seeks to clarify that Leeds will use Ground 16 powers as a last resort when local negotiations to find satisfactory rehousing have been fully exhausted. To assist customers in such circumstances, the Lettings policy already permits ALMOs to offer a larger property than normally permitted. For example, a customer who is eligible for a one bedroom property may be offered a 2 bedroom property.
- 3.3.5 Before consideration for a Ground 16 application being made, ALMOs will be expected to assess each case on its own merits. In doing so, the ALMOs will take into account the following before a court order is sought:
- Length of time that the customer has lived in the property;
 - Family circumstances. This will include support networks and links to current education and employment;
 - Supply and demand for their current property;
 - Supply and demand for the property type and area that the customer wishes to move to.

4.0 Implications For Council Policy And Governance

- 4.1 The development of an incentive scheme would not require an amendment to the Council’s lettings policy, but it would be good practice to develop a joint policy statement with the ALMOs to promote the use of financial incentives and use of Ground 16 powers.

5.0 Legal And Resource Implications

- 5.1 Legal Services have provided guidance on the use of the Ground 16 power where appropriate.
- 5.2 There is currently no budgetary provision for this proposal. Therefore, the £300,000 allocated for 2008/9 will have to be met from earmarked HRA surpluses occurring in 2007/8.
- 5.3 Financial modelling will be undertaken to examine the expense of the suggested

incentive types once an idea of the demand for such incentives is developed, and the size of the support packages required is known, through the survey information gathered by the ALMOs and the research undertaken by Strategic Landlord Group.

6.0 Conclusions

6.1 The reduction in Council house lettings means the Council must ensure that the best use of its stock is made. The Council is already enabling a number of tenants to downsize to more appropriately sized housing by awarding priority on the Leeds Homes Register. However, further incentives can and should be developed, both for customers (such as financial support for each loss of a bedroom and in particular, officer support with the moving process), as well as for the ALMO to ensure that it is a priority for them to develop these services.

7.0 Recommendations

7.1 That Executive Board:

- Approves up to £300,000 to be spent in 2008/9 on encouraging under-occupiers in the largest stock to downsize to more appropriately sized accommodation.
- Approve that the available legal powers are used to manage under-occupation as stated in section 3.3.5 - 6.
- Receive a further report in February 2009 providing a detailed action plan with targets on how incentives for under-occupation can be adopted for 2009/10.