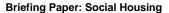# Conditionality Briefing: Social Housing
Suzanne Fitzpatrick, Beth Watts & Sarah Johnsen

Social housing is an important site for the governance of anti-social behaviour (ASB), as well as being a key arena for other forms of conditionality aimed at regulating the conduct of low-income populations. These housing-based forms of social control are typically exercised via tenancy agreements and allocations criteria, both of which have become potentially much more conditional in England as a result of the Localism Act 2011. In sharp contrast, the behavioural conditionality agenda appears to have little purchase within social housing in Scotland, except with regard to measures to address ASB, which have been further extended by the recently passed Housing (Scotland) Act 2014.

Key points

- The Localism Act 2011 introduced 'flexibilities' enabling social landlords in England to offer fixed-term, renewable tenancies to all new social tenants, with a statutory minimum term of two years. Government has indicated that income, employment status, under-occupancy and behaviour may all be taken into account in the renewal of such tenancies.

- As part of this radical package of social housing reforms in England, 'Affordable Rents' of up to 80% of market rates were also introduced, and new powers for local authorities to restrict eligibility for social housing and to discharge their statutory homelessness duty via fixed-term private tenancies without the need for applicant consent.

- In Scotland, there are no plans to introduce a fixed-term tenancy regime or the English 'Affordable Rent' model. The Scottish Government has recently decided not to proceed with proposals to introduce an initial (probationary) tenancy for all new social housing tenants.

- Advocates of increased housing-related conditionality argue that social housing traps tenants in worklessness and 'welfare dependency', and/or that social housing is a 'welfare service' and those whose circumstances improve should be required to leave.

- Opponents of increased conditionality dispute that social housing is a 'mechanism of social exclusion', and articulate a series of objections to fixed-term social tenancies, including potential work disincentive effects, concerns about community destabilisation, and the potential for negative impacts on social tenants' psychological well-being.

Background

UK social housing originated principally as 'workers' homes, and a 'step up' from the poorer quality private rented homes most tenants would have formerly occupied (Lupton et al., 2009). However, since the 1970s a general trend has seen social housing coming to occupy an increasingly 'residual' role in accommodating poorer and/or disadvantaged households largely to the exclusion of others (Malpass, 2004). This shift was associated with the post-1970 emergence of a needs-based social housing allocation system, including the establishment of priority access to social housing for statutorily homeless households (Fitzpatrick & Stephens, 1999). Alongside this, and arguably even more important, was the exit of better-off social tenants via Right-to-Buy, in the context of a substantial overall contraction in the size of the sector. Social housing now accounts for only 17% of dwellings in England, though Scotland still retains a larger social rented sector at 24% of stock (Pawson & Wilcox, 2013).

While re-affirming a commitment to its 'safety net' role for the poorest households, the 1997-2010 Labour Government saw social housing as a key site in its drive to 'consumerise' public services, as exemplified by the official support given to the introduction of 'choice-based lettings systems' (Malpass & Victory, 2010). Under the post-2010 UK Coalition Government, the rhetoric of consumer choice for social tenants has largely been dropped, with a much stronger emphasis on the primary role of social housing as meeting 'genuine' or 'crisis' needs, intrinsic to which is the shift from indefinite to fixed-term tenancies discussed below (Fitzpatrick & Pawson, 2013). The policy landscape on social housing is quite different in Scotland, with a continued strong presumption in favour of social housing providing a secure 'home for life', and the establishment of a strengthened set of legal entitlements for homeless households (Fitzpatrick et al, 2012). There are, however, some common themes north and south of the border, particularly a preoccupation with ASB (Flint, 2014).

Key policy developments on enforcement, interventionism and conditionality

Successive governments have sought to utilise enhanced conditionality within social housing tenancies to influence the behaviour of social tenants considered 'anti-social', 'welfare dependent' or otherwise 'deviant' (Flint and Nixon, 2006), with Ministers periodically raising the prospect of linking social housing tenancies to voluntary and community activities or actively seeking employment (e.g. Flint, 2008). At local level, there has always been ambiguity about the extent to which social landlords can utilise tenancy agreements to enforce 'pro-social' behaviour amongst their tenants. Non-binding measures such as Good Neighbour Agreements (Croucher et al., 2007) and incentive schemes (Marsh, 2013) are employed by some social landlords to encourage and reward 'good' behaviour on the part of social tenants.

In England the introduction of starter, introductory and family intervention tenancies means that that full security can be delayed for new tenants pending satisfactory completion of a 'probationary' 12-

month period or reduced for those subject to behavioural concerns. In the Localism Act 2011, the Coalition Government took this agenda considerably further by introducing new 'flexibilities' enabling (but not compelling) social landlords in England to offer fixed-term, renewable tenancies to all new social tenants so that "... this scarce public resource can be focused on those who need it most, for as long as they need it." (Department for Communities and Local Government (DCLG), 2010, p.2). The statutory minimum fixed term is two years for the new 'flexible tenancies', but Government has indicated that a five-year minimum term should be standard practice[1]. While there is no national guidance on tenancy renewal, the Government has indicated that income, employment status, under-occupancy and behaviour may all be taken into account (Garvie, 2012).

Fixed-term tenancies could therefore potentially be a powerful new tool for "disciplining the poor" (Marsh, 2013), but this does depend on the extent to which social landlords decide to adopt the fixed-term tenancy regime in practice, and how 'behaviourally-focused' the tenancy renewal criteria adopted at local level turn out to be. The first wave of draft Tenancy Strategies[2] published indicated that under-occupation was the most widely favoured objective amongst those (mainly Conservative) local authorities adopting the new fixed-term regime (see also Inside Housing, 2013), with around half of all draft Strategies also envisaging reference to a household's financial means in reviewing expiring tenancies. A recent online survey of housing associations found that half of the 48 organisations which responded either had already introduced fixed-term tenancies or were considering doing so (Rallings, 2014). Nonetheless, given the likely time and resource implications, it has been argued that aggressive deployment of the new powers is likely to seem unattractive to social landlords at the point when detailed tenancy review procedures need to be implemented (Fitzpatrick & Pawson, 2013).The introduction of fixed-term tenancies in the Localism Act was part of a package of radical policy measures which also included the introduction of an 'Affordable Rent' model, allowing social landlords to charge up to 80% of market rates, and new powers for local authorities to impose restrictions on eligibility for access to social housing (albeit that the statutory 'reasonable preference' criteria for prioritising allocations remain, including with respect to statutorily homeless households). There are also new powers for local authorities to discharge their statutory homelessness duty via the offer of fixed-term private tenancies, without the need for applicant consent.

The implications of these combined changes for 'conditionality' in social housing in England are complex. Ending security of tenure for new social tenants is ostensibly aimed at ensuring the efficient allocation of scarce housing to those most in need, but at the same time social landlords are being encouraged to give longer tenancies to employed people or those who contribute positively to their

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[1] Though there are reports that two-year tenancies are likely to be routinely used with some groups such as young people, see Twinch (2013).
[2] English local authorities have been given a new statutory duty under the Localism Act to prepare a 'Tenancy Strategy', to which housing associations operating locally must 'have regard'. These Strategies must include reference to whether fixed-term tenancies are acceptable locally and on what basis they should be reviewed on expiry.
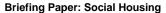
neighbourhoods (DCLG, 2010). Moreover, the Coalition Government has indicated that it would like to see a higher priority given in social lettings to ex-service personnel, working households and others making a 'community contribution' (DCLG, 2012). This implies a shift away from need and back towards behavioural forms of 'desert' in the allocation of, and retention of, social housing in England.

In Scotland there are no plans to introduce a general fixed-term regime or rent increases of the order emerging under the English 'Affordable Rent' model. Housing lists must be open to all over 16s, and the allocation of social housing has traditionally been more tightly regulated by national legislation than is the case in England. However, in 2012 the Scottish Government consulted on giving greater 'flexibilities' to social landlords in how they allocate and manage social housing (Scottish Government, 2012). In August 2014 the Housing (Scotland) Act passed into law[3], introducing measures to: replace the reasonable preference groups for social housing allocations with a broader and more flexible prioritisation framework; allow landlords to take account of property (but not income) in allocating social housing; extend the qualifying period before succession to a social tenancy; and a range of measures on ASB. The Scottish Government decided not to proceed with its proposal to introduce an initial (probationary) tenancy for all new social housing tenants, which had been envisaged as an additional means of addressing ASB. This rejection of probationary tenancies has been treated as a major tactical victory by Shelter Scotland and other voluntary organisations that campaigned vigorously against it (Shelter Scotland, 2013).

Key arguments for and against enforcement, interventionism and conditionality

Commentators in favour of increased conditionality in social housing focus on two key arguments: the welfare dependency argument; and the equity argument.

Advocates of the **welfare dependency** argument see social housing as "perpetuating a vicious circle of dependency" because it "locks... people into properties" and undercuts personal responsibility (Greenhalgh & Moss, 2009, pp31-32). From this perspective, conditionality mechanisms allowing such households to be ejected from social housing will incentivise them to (re)engage with the labour market and generally be more productive citizens. Attempts to rebut the welfare dependency argument dispute that social housing is a 'mechanism of social exclusion', with Robinson (2013), for example, arguing that the stability offered by secure social housing, far from locking tenants out of the labour market, can "render work a more financially viable option" (p. 11). Against this, an in-depth review of social housing in England found that, while sub-market social rents should theoretically enhance work incentives, there was little hard evidence of this occurring in practice (Hills, 2007). Nonetheless, other authors have pointed out that there is no credible evidence to support the

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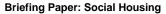[3] See http://www.legislation.gov.uk/asp/2014/14/contents/enacted

proposition that the power to evict social tenants upon the expiry of a fixed-term tenancy will enhance their engagement in the labour market or any other aspect of their well-being (Fitzpatrick & Pawson, 2013). There are also moral objections to evicting households in social housing who remain workless, not least the impact on any children in the household.

Central to the **equity** case for increased conditionality is the notion that social housing is a 'welfare service' (Paris et al., 1985) and those whose circumstances improve should be required to leave (DCLG, 2010). The tighter targeting of public subsidy implied in this argument appeals to the neo-liberal conception of efficient government, while policy positions which prioritise the most needy and vulnerable are attractive across much of the political spectrum. There is also a pro-conditionality argument from consistency: if 'need' is accepted as the most legitimate rationing device for access to social housing, then this begs the question as to why need should not equally be relevant to the retention of such housing (Dwelly & Cowans, 2006). In practice, however, the scope for freeing up space in UK social housing through ejection of 'better off' tenants has been demonstrated to be extremely limited (Fitzpatrick & Pawson, 2013). A range of other objections have also been raised to the removal of social tenants' tenure security, including work disincentive effects, concerns about community destabilisation, and the potential for negative impacts on social tenants' psychological well-being.

Conclusions

The future stages of our research project will enable us to investigate further, and establish empirical evidence about, the key debates highlighted above. In particular: the extent to which English social landlords actually adopt fixed-term tenancies in practice, and how 'behaviourally-focussed' any tenancy renewal criteria turn out to be; the extent to which any such conditional housing interventions impact on the lived reality, well-being and behavioural responses of social tenants; the interrelationship between these housing-based forms of conditionality and other social policy interventions, particularly in the ASB and welfare fields; and how a more nuanced and sophisticated moral and ethical framework may be applied to the diverse range of mechanisms, and differentiated outcomes, for individuals subject to housing-related conditionality interventions. The particularly sharp distinction identified between England and Scotland in the social housing realm provides scope for exploring the impact of divergent policy rationales and frameworks on the lived experiences of a key group subject to welfare conditionality.

About the Project

Welfare Conditionality: Sanctions, Support and Behaviour Change is a major five year programme of research funded under the Economic and Social Research Council's Centres and Large Grants Scheme, running 2013-2018. The project aims to create an international and interdisciplinary focal point for social science research on welfare conditionality and brings together teams of researchers
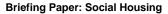
working in six English and Scottish Universities i.e. University of Glasgow, Heriot-Watt University, University of Salford, Sheffield Hallam University, University of Sheffield and the University of York, which acts as the central hub for this collaborative partnership. Central to our work is a desire to inform international policy and practice through the establishment of an original and comprehensive evidence base on the efficacy and ethicality of conditionality across a range of social policy fields and diverse groups of welfare service users.

For further information about the project please visit www.welfareconditionality.ac.uk or contact the Project Manager, Fleur Hughes on 01904 321299 or email info@welfareconditionality.ac.uk

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Prof Suzanne Fitzpatrick, Dr Beth Watts and Prof Sarah Johnsen are members of the Institute for Social Policy, Housing, Environment and Real Estate (I-SPHERE) at Heriot-Watt University, and are leading on the Social Housing element of the research.

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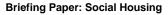
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