



Consultation Response April 2009

Changes to the Revenue and Capital Rules for New Council Housing: Consultation on excluding new council housing from Housing Revenue Account Subsidy and Pooling – CLG consultation.

The Association of Retained Council Housing was set up for councils whose tenants have chosen the local authority as their landlord. ARCH brings councils who own and manage housing together to get the best deal for their tenants. These are crucial times for social housing. The way affordable homes are delivered, financed and regulated is changing. Around 100 local authorities own and manage 800,000 properties and ARCH wants to make sure that a brighter future for council tenants is secured.

Introduction

ARCH welcomes the opportunity to comment on the proposals set out in this consultation. This response has been developed with input from our membership and represents their collective views.

General Comments

ARCH welcomes the proposals to exclude new build or newly acquired dwellings from the revenue account subsidy and capital receipts pooling system. The changes will provide more financial freedoms for councils, which is welcomed. Financial

freedom at this time of economic difficulty is essential as it will give councils additional capacity to deliver more affordable housing for our residents.

Whilst the proposals are welcomed, as they remove some of the disincentives for councils to develop new housing, ARCH would like to see these changes:

- brought forward quickly
- broadened to include all new developments, and
- made as streamlined as possible to ensure that councils can concentrate their resources on providing housing and not application administration.

We believe that the proposals in the consultation are only part of the solution to addressing affordable housing supply and that if CLG are committed to ensuring that council's are able to deliver more housing and help address the current economic crisis further reform is needed. Therefore CLG need to

- make HCA grant funding available to local authorities on an equal basis with RSLs and other investment partners
- undertake a fundamental reform of council housing finance and abolish the current system of HRA subsidy and capital receipts pooling for all HRA dwellings
- increase councils ability to borrow against their rental streams
- consider ways of ensuring that this borrowing can be held outside of the PSBR, so that councils are not restricted in how they invest in their properties
- ensure that these changes are substantial and long lasting.

Link to the reform of the HRA subsidy system

ARCH would like to make it clear that any comments we make here on the proposals in the consultation are limited to our thoughts on the consultation itself. We believe that these changes are a move in the right direction but should not detract from the review of the HRA subsidy system. The view of our members is that the current HRA subsidy system needs to be completely overhauled and that all housing, not just new build, should be exempt from capital receipts pooling and councils should be allowed

to retain all income they gain from the sale of their housing. The current review needs to be progressed as quickly as possible to address inequalities in the current system, and to avoid the creation of a “two-tier” system and unlock resources urgently required to deliver new housing

Retained Stock Authorities potential to access HCA social housing grant

To deliver more homes councils need to be able access grant funding from the HCA more easily and more quickly. Under the current arrangements councils are required to establish complex delivery models to meet the pre-qualification requirements for Social Housing Grant (SHG). ARCH believes this is an unnecessary and cumbersome arrangement that acts as a disincentive to authorities from applying and using this grant.

Councils as public bodies are already open to public scrutiny, extensive performance management measures, statutory and regulation requirements. They successfully manage public assets, provide services to their residents on a daily basis, as well as regularly procure and handle multimillion pound contracts. Therefore it is ARCH’s opinion that councils should be able to qualify as investment partners in their own right without setting up a separate company or delivery vehicle. The availability of SHG to retained authorities should not come with any additional conditions or constraints beyond those standard terms and conditions imposed on RSLs.

We believe that SHG should be available to all councils irrespective of size or scale of the proposal. There is some concern that councils could embark on carrying out a rigorous option appraisal for small scale developments only to find that the Scheme is rejected because of scale or value.

Financial Viability and Sustainability

The proposals assumes that council new build is likely to be funded from a mixture of councils own resources. However, it is more likely to be a mix of prudential borrowing, and SHG. Under the prudential borrowing powers the guiding principle is that any borrowing should be prudent, affordable and sustainable from the income

streams generated. Such borrowing is normally taken out over a 30 year period. The amount of SHG is recycled to the HCA upon disposal of the asset. Under RTB provisions, commonly referred to as the “cost floor “ rule, the council will receive over the first 10 years of the assets life, as a minimum, the cost it incurred in building the dwelling being sold under RTB. However, the protection afforded to councils under this rule only applies for the first 10 years. Given the discount rules that apply under RTB there is the potential that after the protection expires the capital receipt achieved could be less than the combined value of SHG repayable or to redeem the prudential debt. To meet the rigorous appraisal standards required by Government, a scheme’s viability will be driven by its RTB assumptions in preference to any other desired outcome and this in turn may lead to limited council new build. To make these proposals work the Government should give consideration to extending the period over which the “cost floor” rule applies or alternatively reconsider the level of discount that may be given under RTB.

Specific Questions

Question 1 – Given the objectives of the policy, what types of properties should qualify to be excluded from the HRA subsidy system and pooling requirements?

As already noted, ARCH believes that all dwellings within the HRA should be excluded from the subsidy system and capital receipts pooling. We believe that local authority receipts should be kept locally so that the council can invest them in local housing services.

The current categories for exemption are welcomed. However, we believe these are too restrictive and should be extended to a wider range of developments, including:

- long term voids, that the council are investing in to bring back into use. This would have the added benefit of assisting authorities with funding their work

on private sector improvement and delivering more Empty Dwellings
Management Orders

- properties that need council investment to make them fit for current needs e.g. remodelling of difficult to let properties or to create sheltered housing to meet the needs of elderly people
- properties that need council investment to make them meet modern standards e.g. modernisation of flats with shared accommodation
- dwellings earmarked for redevelopment / demolition. This would allow such properties to be excluded from the subsidy system as soon as they become void, rather than the current delay (e.g. a property that was demolished in April 2009 would not be excluded from subsidy until 2011/12)
- regeneration that would lead to an increase in stock
- non-traditional housing that needs demolition
- properties where there is a value for money case to replace not remodel. This would particularly help areas of lower demand, but should not be exclusively restricted to low demand areas.
- transfers from one social landlord to another where there are sound management reasons for doing so, or when councils may be willing to buy up shared ownership units from an RSL to converting them into short term rented units
- Conversion to combine adjacent units to provide larger accommodation
- Conversion to meet the needs of extra-care housing
- Conversion to provide self-contained units in multi-occupied accommodation
- existing council owned properties requiring major repair and improvement costing above a specified amount (e.g. £25,000).

Extending the proposals to include the types of properties outlined above would provide an incentive to councils to make greater use of existing stock to meet housing need at the same time as increasing resources available to invest in new housing. We believe that the Government should adopt a looser definition and allow the proposed HCA vetting process to validate that proposals are not merely an artifice to escape the existing subsidy system.

Question 2 – In your view, what types of properties should not qualify to be held outside the HRA subsidy system and pooling requirements?

As stipulated before we want to see most properties exempt from the pooling requirement, with the exception of properties waiting minor works.

As noted above we believe there are cases for exempting remodelling and refurbishment properties and that there is a case properties transferring from one social landlord to another to qualify to be held outside the HRA.

Question 3 – Do you think that the proposed process for applying for section 80B exclusion is the right one to adopt? If not, what would be a better alternative?

ARCH welcomes the acknowledgement that councils should be able to group properties into an application.

We believe that the burden of applying for a Section 80B exclusion should be kept to a minimum, as council resources are better spent on delivering housing and housing services than administering a grant application process.

Therefore we propose that where councils have been granted a Section 80B exclusion, this exclusion should apply to all similar types of developments that the council undertakes for a period of 5 years.

Rationale for process

We would challenge the CLGs requirement to make applications for exclusion covering each scheme for the following reasons:

- other social landlords are not financially constrained if they apply for permission to develop housing. We believe council's and other landlords should be treated with parity.
- where councils would not have to apply for permission to do small-scale developments if they were being brought forward within the HRA, we can not see the rationale for make them apply of permission for the same

developments that they wish to hold outside of the HRA

- any new housing, owned and managed by councils will be regulated by the Tenant Services Authority (TSA), therefore additional regulation is duplicative and unnecessary
- Councils applying for SHG will be required to apply and meet the HCA's criteria and be assessed on scheme suitability and the value for money the scheme will provide. Therefore asking councils to duplicate this process through application for exclusion is unnecessary.

ARCH believes that it is essential that the process is streamlined and that councils should not have a two stage process for applying. We would recommend that where grant is required the HCA should give the approval. Where no grant is required we would recommend that councils apply directly to the Secretary of State and not through the HCA. Where they apply directly to the Secretary of State councils should simply notify the Minister of the number of units in the scheme and confirm that they meet the exclusion criteria.

Question 4 – What factors should be taken into account by the Secretary of State in considering whether to enter into an agreement to exclude properties?

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Conforming to government policies

The consultation paper proposes that applications for exclusion will have to include detail on how schemes confirm to “all government policies regarding housing, including design and quality standards, rents and allocations policies”.

It is not clear from this what level of detail is envisaged, but the requirement for any in-depth detail is unnecessary and will result in further delays, costs and barriers to the timely delivery of new homes.

As noted above this requirement is unnecessary as councils will be subject to TSA regulation for all their housing. This regulatory overview includes all policies and would therefore cover design, standards, rents and allocations. Councils are subject to audit regulation, statutory regulation and performance management schemes. Given the level of regulation we are already subject to ARCH believes that asking councils to produce this information in detail for exclusion applications is duplication and places an unnecessary administrative burden on councils. We would recommend that councils should be able to send a letter confirming that they comply with existing regulatory systems and Government policy.

Impact on Government fiscal policies

The consultation paper also argues that when considering exclusion applications, Government will need to consider the overall impact on fiscal policies and impact on national spending and borrowing plans. As highlighted in the general comments section above, we propose that the current proposals should be accompanied by changes to allow councils to borrow against future rental income outside the public sector borrowing requirement. If this were the case, there would be no impact on national fiscal policies. Furthermore, the impact of individual schemes brought forward for exclusion agreements will be negligible, so this proposal will simply lead to unnecessary delay.

Question 5 – What terms and conditions do you think should be included in exclusion agreements?

We would recommend that councils are granted exclusions when schemes are shown to assist with regeneration, add to affordable housing provision and help deliver on the council's strategic objectives.

Agreements need to include an explicit legal commitment that the exclusion will apply in perpetuity. Investment in house building involves long timescales and councils need stability and certainty in order to invest for the long term. This would ensure councils investment was protected from future changes in policy and legislation.

Question 6 – Do you agree that properties excluded from the HRA subsidy system under section 80B should also be exempted from the requirements to pool capital receipts?

Yes, so that it can be retained locally to be invested in housing and housing related services.

Question 7 – Do you agree with the proposed conditions attached to the exemption from pooling, which require receipts to be used for affordable housing and regeneration?

As in our answer to question 6 we believe that receipts should be retained locally to be invested in housing and housing related services. Housing monies should be ring-fenced to housing and should be used to help meet the criteria of the council's community plan. This could include repayment of debt, or investment in decent homes or wider estate improvements.

Conclusions

ARCH welcomes the consultation and the proposals to exclude some properties from the HRA subsidy system and the pooling mechanism. However, we believe that this is only part of the solution. It is our view that the fundamental issue that stops councils from building is the current financial system. We believe that the current HRA subsidy system needs to be completely overhauled and that all our housing should be exempt from capital receipts pooling and councils should be allowed to retain all income they gain from the sale of their housing.

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