

Item No. 10.	Classification: Open	Date: 15 March 2016	Meeting Name: Cabinet
Report title:		Response to recommendations of Overview and Scrutiny Committee: 'Right to buy' for housing association tenants and the forced sale of council properties	
Ward(s) or groups affected:		All	
Cabinet Member:		Councillor Richard Livingstone, Housing	

FOREWORD - COUNCILLOR RICHARD LIVINGSTONE, CABINET MEMBER FOR HOUSING

With the Housing and Planning Bill currently being considered by the House of Lords, the work undertaken by the Overview and Scrutiny Committee (OSC) to look at its potential impacts on housing in Southwark has been extremely timely. I want to thank the committee for this thorough and extremely useful work. This has included a broad range of interviews with not only those impacted by the changes to the council's own stock but with housing associations and national experts.

It is clear that the Housing and Planning Bill will be very damaging to aspects of social housing in Southwark. In November, council assembly agreed that we should oppose the Bill and asked cabinet to lobby against it. The recommendations set out in this report offer a sound checklist of measures for the council to take to carry out this work and mitigate the impact it could have on our residents.

With the rapid passage of the Bill and its amendments by government, some of the recommendations made by OSC have now been overtaken by events. For example, it is now clear that government will not set out which void properties the council should sell but will instead effectively bill the council annually on the basis of a calculation carried out by the Department of Communities and Local Government. Nevertheless, the work carried out by OSC has been invaluable in helping us understand the potential impact of the Bill and has made sound recommendations in how the council should face these.

RECOMMENDATION

1. That the cabinet agrees the proposed response to the Overview and Scrutiny Committee report on 'Right to buy' for housing association tenants and the forced sale of council properties as set out in this report.

BACKGROUND INFORMATION

2. OSC undertook a review of the possible implications of the Government's Housing and Planning Bill as published on 13 October 2015.
3. Since OSC published its report in November 2015 the Housing and Planning Bill has been considered at report stage, and has had its third reading in the House of Commons on 12 January 2016. As at February 2016 the bill was being considered by the House of Lords.

4. Many of the details of the Housing and Planning Bill are still to be defined, as these are by way of delegated regulatory powers to the Secretary of State. Details of the regulations have yet to be published, and as yet there is no timetable for their publication. These include the definition of what constitutes high value council properties, many of the exemptions to forced sales, and starter homes requirements, for example.
5. Since OSC's report was published on 30 November 2015 a number of Government amendments were agreed by the House of Commons, including one which impacts on the recommendations in OSC's report, as set out in more detail later in this report.
6. The Government has already started to lay some of the groundwork for implementation of the bill once enacted. This includes the introduction of voluntary right to buy for some housing association tenants on a pilot basis, and gathering valuation data on local authority housing stock, including void properties.

KEY ISSUES FOR CONSIDERATION

Recommendation 1 - Plans to build new homes

That the Cabinet Member orders an urgent review of the financial modelling underpinning the 30 year housing investment programme as soon as sufficient data is available from Government to do so. This should explain:

- a) *The impact on Southwark's borrowing plans*
 - b) *any re-allocation of currently anticipated capital receipts to fund the Housing Association RTB discount especially funds planned to support building new council homes.*
 - c) *An answer to the "like for like" question: how will the council's own new homes be comparable to existing social rents? How will Southwark meet its "duty to promote" Starter Homes without compromising or giving up plans originally earmarked for lower, social rents.*
7. Recommendations **a)** and **b)** will be actioned by officers as soon as more information is available from Government. When this information is available it will be fed into the Housing Revenue Account business planning model and the implications for Southwark's long-term business plan and housing investment plans will be reviewed.
 8. The estimated baseline figure for the calculation of Southwark's financial contribution to housing association right to buy is in the region of £38m per annum. This is based on the average number of 'high value' vacant council properties (voids), over the last 3 year period. This estimate uses the Conservative Party's definition of high value council properties as stated in its press release dated 14 April 2015.
 9. It should be noted that there are a number of caveats to this estimate, key of which being that the definition of 'high value' remains unknown. The Department for Communities and Local Government (DCLG) issued a fact sheet to MPs and local authorities on 8 February 2016 which stated that *'Details of the definition of 'high value' and the types of housing that may be exempted from being sold will be set out in secondary legislation. We will continue to engage closely with local authorities and other stakeholders on these matters.'*

10. Regarding part **c)** of the question, as publicly stated, the 11,000 new council homes will be let at council rents.
11. On the question of starter homes, there is very little detail regarding the provisions for Starter Homes in the bill. The implementation of the policy will depend on regulations, the key elements of which are currently unknown. The regulations will set out the proportion of Starter Homes that local authorities are required to provide on reasonably-sized sites of different sizes and in different areas. The bill simply states that planning authorities will have a duty to promote Starter Homes when carrying out its planning functions i.e. negotiating planning obligations.

Recommendation 2 - the forced sale of council homes

- a) *Southwark reviews its voids policy and implementation to ensure that no council home is sold that could be legally retained without genuinely significant cost. This review should include looking at the number of homes being sold under the current Southwark Council voids policy.*
 - b) *That, subject to the details of legislation and guidance, the Cabinet Member instructs officers to compile a detailed list of properties which are excluded from forced void sales. This list should be as extensive and wide-ranging as is legally permissible. OSC would expect this list to include newly built properties, sheltered housing, and properties within TMO and other co-operative arrangements.*
 - c) *That the Cabinet Member should instruct officers to develop new policies which reduce the number of void properties, consequently reducing the number of properties which the council is then forced to sell. This might include doing more to encourage mutual exchanges and voluntary downsizing to smaller properties. Clearly this is a piece of work in which the expertise of Southwark's Housing Solutions Team would be crucial.*
 - d) *That the Cabinet member instructs officers to develop new policies to tighten the definition of a void property and ensure that no properties are forced into sale unless it is strictly, legally necessary. Again, this work should take advantage of the expertise in Southwark's Housing Solutions Team.*
12. **a) - d)** *Southwark has a policy of pro-actively managing its assets through its voids disposals policy to help fund its housing investment programme. A review of this policy was agreed by Cabinet on 22 July 2014. This policy is kept under review as required.*
 13. Since OSC made its recommendations it should be noted that the Department for Communities and Local Government (DCLG) issued local authorities with forms for capturing data on all of their historic void properties for the period 12/13-14/15, as well as on current stock valuations. The stated purpose of this information was to *'help Government to evaluate the impact of different threshold levels for determining high value vacant housing. It will also provide granular information to help inform the implementation of the policy at a local level.'* As previously indicated the details of the basis of Southwark's future financial contribution towards the operation of the Government's housing plans as

enacted through the bill, and the full extent of possible exemptions to the policy, are not yet known. However the bill includes a requirement on the Secretary of State to consult the local authority before making a (financial) determination.

14. It should be noted that the Department for Communities and Local Government has recently notified local authorities that '*Brand new vacant housing (i.e. that has not yet been occupied) would not fall within the definition of vacant housing for the purposes of this policy.*' This means that newly built homes on initial letting would be exempt from the calculation.

Recommendation 3 - housing associations in Southwark

- a) *Southwark should proactively address the risk posed by this legislation to planned housing association projects by instigating discussions (perhaps at leader and/or cabinet member level) with housing associations who are currently planning future homes in Southwark. This should include both plans which are in progression, such as Notting Hills development at the Aylesbury Estate and new plans such Peabody Housing Association "Newington Triangle" development. Southwark and the Housing Association L&Q have been designated as a pilot by DCLG for the Housing Association Right to Buy scheme, this might allow Southwark to test some of the risks and possible mitigates identified in this report.*
 - b) *That Southwark council seeks clarification from Housing Associations on changes to the profile of future development, and seeks to work with those committed to the continuation of providing homes at social rents.*
 - c) *That Southwark council should share its experience of the impact of Right to Buy with senior managers at Housing Associations to make them more aware of the potential impact on housing stock, including its relationships with leaseholders.*
15. **a)** Senior officers have been engaged in a number of strategic discussions with Chief Executives and senior managers of the main developing housing associations in the borough. These meetings have covered a number of topics including the impact of housing association right to buy, the 1% per annum cut on rents, welfare reforms, development plans, and other current issues. These meetings have been positive and constructive. A number of areas of potential for shared working have emerged including- intermediate housing, impacts of welfare reform, tackling anti-social behaviour, and common landlord standards.
 16. The Government launched its voluntary right to buy scheme for tenants of a number of participating housing associations on 25 January 2016. This included London and Quadrant housing association in Southwark. Tenants must have been a tenant for a minimum of 10 years. Officers from London and Quadrant are to meet the Cabinet Member for Housing to provide details of their experience of the pilot once the scheme has had the opportunity to bed in.
 17. **b)** Southwark already operates a list of approved housing association partners who comply with the Council's planning policies, which set out the percentage of homes to be developed at social rents.
 18. **c)** Southwark has a mechanism for sharing good practice with local housing associations through its strategic partnership Southwark Housing Association

Group which meets regularly.

Recommendation 4 - Southwark Council's internal preparation for the implementation of this policy

- a) *That Southwark council undertakes preliminary work to determine the potential impact of mortgage defaults on the borough's temporary housing and homelessness services.*
 - b) *That the council, in collaboration with housing associations, works with local financial inclusion and debt charities to educate those considering the Right to Buy on the impact of moving into home ownership – interest rate fluctuations, cost of major works, responsibility for repairs etc.*
19. a) It is not possible to predict this with any accuracy as the take up of housing association right to buy is not yet known. However the Council, through its joint Homelessness Forum with the advice sector works with its partners to identify and prevent homelessness wherever possible, including through the provision of debt advice etc.
20. b) The council is working to improve services for council leaseholders and freeholders through the development of its new Southwark Homeowners Service. Prospective council leaseholders considering exercising the right to buy are provided with comprehensive advice on the financial implications of owning their own home.

Recommendation 5 - external communications

- a) *The Cabinet Member should instruct officers in the Communications Department to develop an external communications plan which highlights the hugely negative impact that these proposals would have on residents of our borough if they are enacted in their current form. OSC would expect that such a plan to include articles, letters and press releases aimed at the national, city-wide and local government sector press.*
- b) *If Southwark is forced to 'forward pay' an amount to meet its obligations to the government it publishes a detailed model showing where such receipts have come from and the impact on future building plans.*
- c) *Southwark vociferously campaigns for the Government to issue further information on the Housing Bill and define "high value".*
- d) *That the Cabinet Member initiates the drafting of a joint letter from the Leaders of all three political groups on Southwark Council to the Local Government and Housing Ministers highlighting the absurdities and negative impact of these proposals, with particular regard to the impact on home building and the availability of affordable homes.*
- e) *That the Leader of the Council and the Cabinet Member for Housing write to the Chair of the Communities and Local Government Select Committee offering to give oral evidence to the Committee. (The Committee is currently looking at the impact of these proposals Housing Associations, but it is widely expected that it will follow this up with a further enquiry into the impact on housing and Local Authority provision).*

- f) *Continue to contribute to lobby efforts through our membership of London Councils and Central London Forward. Southwark Council should also support any legal challenge to the policy of forced void sales, should that be considered a viable option following consultation with other London Boroughs.*

One additional problem identified by OSC is the issue of companies writing to tenants (either of Housing Associations or the Council) and encouraging them to buy their homes under Right to Buy, and then immediately selling them on. The Cabinet Member should write to these companies and stress that their activities are not welcome in our borough

21. a). The communications team are developing some simple messages around the bill to include an insert to the annual rent notification letter to tenants and information on the council website. However it should be noted that the bill is still progressing through Parliament, a number of Government amendments have already been tabled, and therefore the details of the bill may be subject to change. More detailed information will be provided via Southwark Life, Southwark Housing News and the website on the impacts for new and existing tenants as this becomes available from Government.
22. b) See above and previous details as outlined in paragraphs 7, 13 and 14.
23. c) See previous details as outlined in paragraph 13.
24. d) A significant Government amendment has been tabled since OSC's report was published. This stated *"Where the agreement is with a local housing authority in Greater London, it must require the authority to ensure that at least two new affordable homes are provided for each old dwelling. But if the Greater London Authority has agreed to ensure that a number of the new affordable homes are provided, that number is to be deducted from the number for which the local housing authority must be made responsible"*. This amendment was accepted by the Commons. The full details of what this might mean in practice, e.g. the type and tenure of replacement homes, their likely location etc., are not yet known.
25. e) The commons committee has concluded its work. Helen Hayes, M.P. was briefed about potential Southwark impacts, where known, in her role as local M.P. and member of the Housing and Planning Bill committee.
26. f) Southwark as a member of London Councils and Central London Forward continues to participate, contribute evidence, and lobby as appropriate on the issue of high value council sales, and wider housing devolution for London.
27. g) By their nature we do not believe these companies are amenable to this type of lobbying. Instead, the council's approach is to provide advice and support to prospective homeowners, as set out in paragraph 20.
28. Area housing forums have received a detailed briefing on the Housing and Planning Bill as at December 2015 as well as a copy of the Council's response to the Government's 'Pay to Stay' technical consultation.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Law and Democracy

29. The report recommends that cabinet agrees the proposed response, set out in the report, to the OSC report on matters arising from the Housing and Planning Bill 2015-16.
30. The cabinet has responsibility for consulting with scrutiny and taking into account the final reports of scrutiny inquiries under Part 3B of the council's constitution.
31. The Housing and Planning Bill is summarised as 'a bill to make provision about housing, estate agents, rent charges, planning and compulsory purchase'. It is, as indicated in the report, in the latter stages of the legislative process.
32. The legal implications of provisions in the bill relevant to the recommendations in the OSC report are set out in the body of this report. As stated, the detail informing how the provisions of the bill will operate will be provided by regulations which will not be available until after the bill becomes law.
33. As indicated in the report it will only be possible to fully consider and address the implications of the bill once it is enacted and regulations providing the detail are published. When making decisions and setting policies following the new law coming into force, the council is required to have due regard to the public sector equality duty (PSED) in section 149 of the Equality Act 2010. This duty requires the council to consider the need to eliminate discrimination, harassment, victimisation or other prohibited conduct; advance equality of opportunity and foster good relations between people with protected characteristics and those who do not.
34. With reference to paragraphs 20 and 21 of the report, cabinet is reminded that any publicity issued by the council (defined as any communication in whatever form, addressed to the public at large or a section of the public) must adhere to the Code of Recommended Practice on Local Authority Publicity (DCLG, March 2011), and the principles set out in the Code. In particular, expressions of the council's views on this issue should be objective, and not capable of being interpreted as a political statement or commentary on contentious areas of policy. Publicity should also be even-handed and present different positions in a fair manner. The appropriate use of publicity and cost effectiveness are also relevant matters.

Strategic Director of Finance and Governance (FC15/054/IY)

35. At this point, it has not been possible to accurately assess the financial impact on the council's housing investment programme as insufficient information has been available, although all indications are that it will be negative. Once the final provisions of the Government's Housing and Planning Bill are enacted and Secretary of State regulations issued, the HRA business plan will be updated and further financial modeling undertaken to identify the implications in order to inform future decision making.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Overview and Scrutiny recommendations report to Cabinet	Constitutional Team Southwark Council 160 Tooley Street SE 2QH	Paula Thornton Paula.thornton@southwark.gov.uk 020 7525 7055
Link: http://modern.gov.southwark.gov.uk/documents/s59178/Report%20Right%20to%20Buy%20for%20housing%20association%20tenants%20and%20the%20forced%20sale%20of%20council%20properties.pdf		

APPENDIX

No:	Title:
None	

AUDIT TRAIL

Cabinet Member	Councillor Richard Livingstone, Cabinet Member for Housing	
Lead Officer	Gerri Scott, Strategic Director of Housing and Modernisation	
Report Author	Claire Linnane, Housing Strategy and Partnerships Manager	
Version	Final	
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Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
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