



## Board

28 April 2009

### Implications of introducing YHN tenancies

Report by: Chief Executive

For Decision	Area Implications	ALL
--------------	-------------------	-----

<b>Executive Summary</b>	<p>This report pulls together a range of issues relating to the creation of new tenancies emanating primarily from our new build programme. The report proposes areas of commonality with current Council tenancies, and outlines other areas where there will need to be some difference.</p> <p>Where new tenancies are referred to, this means tenancies of either YHN or the charitable subsidiary.</p>
<b>Recommendations</b>	<p>Board is recommended to</p> <ul style="list-style-type: none"> <li>• Approve the principle of the parity of new tenancies with existing Council tenancies wherever possible</li> <li>• Approve the principle that the City Council lettings policy will be applied with the enhancement of local lettings plans</li> <li>• Approve the proposed tenancy agreement</li> <li>• Approve the proposed approach to rent setting</li> <li>• Note that the Board of the charity will need to formally adopt these principles, when operational.</li> </ul>

Business Implications	
<b>YHN Mission and Strategic Objectives</b>	<p>This report is concerned primarily with our strategic objective of investing in refurbishing and building homes. It also contributes to the delivery of three star excellent services and support and care to communities.</p>
<b>Value for Money/Efficiencies</b>	<p>The ownership of new stock by YHN or its subsidiary has tax benefits as previously reported.</p>
<b>Resources (financial,</b>	<ul style="list-style-type: none"> <li>• Existing staffing structures will handle the</li> </ul>

<b>property, technological or human)</b>	<p>developments outlined.</p> <ul style="list-style-type: none"> <li>• The new properties will need to be insured.</li> <li>• An assessment of the resources needed to enhance I.T. systems for the medium to the long term is underway.</li> <li>• Some information and stationery will need to be revised and reprinted.</li> </ul>
<b>Impact on Services/Performance</b>	<ul style="list-style-type: none"> <li>• The proposed principle of parity will mean that, as far as is possible, there will be no negative impact on service provision for the new tenancies.</li> </ul>
<b>Outcomes for tenants/leaseholders</b>	<ul style="list-style-type: none"> <li>• There will be a positive outcome for a number of people who are currently finding it difficult to access high quality, affordable rented housing.</li> <li>• We anticipate that other properties will become available for rent as a bi-product of local lettings plans.</li> <li>• YHN tenants will have higher rent levels and reduced rights under assured tenancy agreements. These will be in line with Housing Association tenancies.</li> </ul>
<b>Risk (reputation, relationship)</b>	<ul style="list-style-type: none"> <li>• If we do not adopt a broad principle of parity of service provision we will risk having a two-tier tenancy system that may be considered inequitable.</li> <li>• Failure to adopt the City Council Lettings Policy would mean that more than one system would be in operation which would be confusing for all stakeholders and may be considered inequitable.</li> <li>• If we do not set rent levels in line with rent restructuring formulae we will be unable to receive grant funding from the Homes and Communities Agency (HCA)</li> <li>• Failure to use local lettings plans would mean that we risk not making optimal use of the available stock.</li> </ul>
<b>Environmental</b>	None
<b>Legal Implications</b>	<ul style="list-style-type: none"> <li>• Legal advice has been sought and the views have been included in the proposed form of tenancy agreement.</li> </ul>
<b>Equality and Diversity</b>	<ul style="list-style-type: none"> <li>• The proposals limit any disparity in service provision to those which are necessary.</li> <li>• The new tenancies will include properties for</li> </ul>

	<p>older people, learning disabled people, young families and people with other support needs.</p> <ul style="list-style-type: none"> <li>• Tenants of YHN and the subsidiary will be able to access the full range of support services.</li> </ul>
<b>Stakeholder Involvement/ Consultation (planned or already carried out)</b>	<ul style="list-style-type: none"> <li>• Consultation to date has primarily been with the Homes and Communities Agency and the City Council.</li> <li>• Future consultation will need to be bespoke as the charity develops, and will comply with landlord and tenant law.</li> </ul>
<b>Background papers</b>	<ul style="list-style-type: none"> <li>• Previous Board reports on the creation of a subsidiary organisation.</li> </ul>
<b>Contact officer(s)</b>	<p>Sheila Breslin, Asst Chief Executive and Director of Business Tel. 2788707  Neil Scott, Director of Tenancy Services  Allison Hodgson, Head of Housing Management  Andrew Lister, Finance Manager Tel. 2788630</p>

# Implications of introducing YHN tenancies

## 1. Introduction

- 1.1 Board members have previously received a series of reports about opportunities to build or buy new housing and the best organisational structures to accommodate new stock.
- 1.2 It has been agreed that ownership by YHN, or a charitable subsidiary of YHN, offers the most efficient and effective means of delivery. In particular Board members will remember that this model allows us to apply for National Affordable Housing grant which, in turn, confirms the business case for the new stock.
- 1.3 In effect, YHN will become an asset-holding organisation, which is a significant watershed in the company's development, and which carries with it a range of implications that need consideration.

## 2. Background

- 2.1 Fundamentally, tenants of the newly built or bought properties will not be City Council tenants, but tenants of YHN or its charity. This has some inherent implications for the tenancies but there are many other areas of service provision that can operate as currently.

## 3. Proposed principle of parity with existing tenancies

- 3.1 In order that there are as few differences as possible between existing and new tenancies it is proposed that tenants of the YHN properties will access services in the same way as Council tenants. Examples include
  - Repairs and maintenance
  - Advice and support
  - Estate and tenancy management
  - Rent and service charge payment options
  - Furniture
  - Tenant involvement.

This list is not exhaustive.
- 3.2 Although the tenant should not be aware of any disparity in provision, there will need to be distinct methods of reporting and accounting for services provided to YHN tenancies. These are internal and operational arrangements.

- 3.3 It is not proposed to create any teams of dedicated staff to deal with YHN tenancies within the corporate infrastructure.
- 3.4 At its February meeting, Board agreed to adopt the City Councils lettings policy with an additional local lettings plan for the allocation of new bungalows. It is proposed that this is the approach for all new YHN tenancies, pending the review of the Council's lettings policy which is planned. Attached at Appendix One is a policy statement for allocations and lettings which outlines the principles by which YHN tenancies will be let.

#### **4 Areas that will necessitate new arrangements**

##### **4.1 Form of tenancy**

- 4.1.1 Council tenants have tenancies called 'Secure Tenancies' which are only available to Council tenants and have some specific associated tenants' rights. The two types of tenancy available to YHN are 'Assured' tenancies and 'Shorthold Assured' tenancies. Having reviewed these options, it is proposed that YHN tenants will have 'Assured Tenancies' in common with Housing Associations.
- 4.1.2 On the whole, the two options are similar; however the Assured Tenancy is slightly more favourable towards landlords. For example, there is a mandatory ground for possession where rent is 8 weeks in arrears both at the time the notice was served and at the date of the court hearing.
- Assured tenancies are similar to secure tenancies in that they are 'periodic tenancies' which continue until they are brought to an end, usually either by a Court order or termination by the tenant.
- The Housing Act 1988 sets out the regime for dealing with assured tenancies and is similar to the Housing Act 1985 (secure tenancies) in having a schedule listing grounds for possession.
- 4.1.3 Where an Assured Tenancy is used, and Homes and Community Agency (HCA) funding has been used to acquire or build the property, the tenant will have the right to acquire the property. This is similar to the Right to Buy, but not as beneficial as the discount is capped at a relatively low figure.
- 4.1.4 To assist in housing management and to simplify things for our tenants, our Assured Tenancy could take a similar form to the current Secure Tenancy, with largely similar rights and obligations. Management of the tenancy should not be significantly different to that of secure tenancies.
- 4.1.5 Some Registered Social Landlords (RSLs) also use a Shorthold Assured Tenancy, where they do not want to give customers an Assured Tenancy straight away. This is basically an assured tenancy but for a fixed term. The fixed term must be at least six

months and at the end of the term, the landlord is entitled to possession. This is irrespective of compliance with the terms of the tenancy.

Using Shorthold Assured tenancies would be difficult to administer and would bring little benefit to our tenants. Having considered the options available, we are confident that grounds for possession for Assured tenancies would allow us to recover possession of a property should this be necessary.

## 4.2 **Rent Levels**

- 4.2.1 YHN will have to create rent setting policies for YHN and the YHN charitable subsidiary. For many developments effectively the rent levels are effectively already determined.
- 4.2.2 If the development is funded through HCA grant the rents must comply with government rent setting guidelines. This means applying the same rent formula as for HRA stock. Rents will therefore be comparable to HRA tenants.
- 4.2.3 As part of its purposes the charitable subsidiary is to provide housing for persons who require social housing due to their circumstances. This will mean setting rent levels affordable for these groups. Setting rents in accordance with government guidelines will comply with these requirements. For socially rented dwellings with or without HCA funding the same rent setting policy will apply.
- 4.2.4 There may be instances when market or intermediate rented dwellings are used to subsidise a development for socially rented dwellings. These would have to be in dwellings which do not benefit from HCA grant. A higher than social rent for a premium site or a property with more facilities could generate an income stream which cross subsidises the rest of that development. For the charitable subsidiary these would come under the classification of Investment Properties.
- 4.2.5 Housing Benefit rent limits should also inform rent setting policies. YHN rents should not be set to exceed Housing Benefit limits so that tenants have to find rent from other income sources.

## 4.3 **Systems and reporting**

- 4.3.1 The new tenancies will be managed on behalf of the charity by YHN. The arrangement will be covered by a Service Level Agreement between the two entities.
- 4.3.2 I.T and operating systems will need to be able to differentiate between City Council and YHN properties. The systems that will need to operate distinctly include
  - Income

- Asset management
- Repairs and maintenance
- Additional and support services.

4.3.3 This will allow us to account for the new tenancies separately and to properly fulfil the reporting requirements of the Homes and Communities Agency and the Charities Commission.

4.3.4 We also need separate systems to guard against HRA resources being spent on non-HRA properties,

4.3.5 The Board of the Charity will require performance, financial and other reports that are relevant to the Charity's business only.

We will need to maintain separate systems to record all meetings, reports, and professional advice obtained by the Charity.

4.3.6 The Trustees must comply with the requirements of the Companies Act and of the Charities Act as to the keeping of financial records and the audit of accounts and will be required to submit the following to both Companies House and the Charity Commission:

- Annual Return
- Annual Statement of Accounts
- Annual Report on the performance and principal activities of the company

## **5 Next Steps**

5.1 The creation of the charitable subsidiary will progress as previously reported.

5.2 The first properties that are purchased by, built by, or transferred to YHN, will be let according to the principles agreed, and with the agreed approach to rent levels.

5.3 Appropriate Internal systems will continue to be developed.

### Your Homes Newcastle

### Policy Statement - Allocations and Lettings

#### Summary

This statement covers all homes available to rent which are owned by Your Homes Newcastle or its subsidiaries.

#### How we will let a home

Your Homes Newcastle will make sure any home that becomes available to let is allocated in line with Newcastle City Councils Lettings Policy, Your Choice Homes.

We will tell you when we have a home available by advertising it through the Your Choice Homes Service. If you are someone who is eligible you will be able to bid for the home and will be selected in line with the council's policy.

Where there are exceptional circumstances we may let a home directly to you. This means the home will not be advertised. We will do this using the council's Housing Management Let process.

#### We will tell you what we have done

Each month we will tell you what we have let. We will do this using the Your Choice Homes Feedback Report.

#### Our future plans

Your Homes Newcastle intends to be the best housing provider in the North East and is committed to creating communities for people to live in that are balanced and sustainable.

This means we may choose to set our own selection criteria for the homes we own. When we do this we will make sure that you understand what this means and that it has been approved by the Your Homes Newcastle Board.

We will continue to work with the City Council to make sure that their Lettings Policy meets the needs of the people who want to live in Newcastle and provides you with a range of housing options and opportunities.

**Contact Officer: John Urwin, Manager, Housing Needs/Your Choice Homes  
March 2009**