

Welcome to the second issue of CT Brief. Aimed at organisations with which we work, the purpose of the bulletin is to keep you informed of work we're doing, trends we see emerging and elements of best practice that come our way.

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## Aspiration to desperation? Home ownership falls

By Andrew Heywood

“The age of aspiration is back!” announced Housing Minister Grant Shapps last June.

Reprising several decades of government commitments to extend home ownership, Mr Shapps set out his intention to assist an additional 1.4 million households into home ownership. But in common with the USA, Finland and Ireland to name but three, UK home ownership is falling.

Home ownership levels in England have been dropping since around 2002 and are now at 1991 levels. Private renting is expanding rapidly.

Why so? Various reasons including:

- ct Long-term affordability constraints, exacerbated by the curtailment of mortgage finance;
- ct Trends such as increased inequality of wealth and income;

- ct Greater mobility of labour and less job security;
- ct Withdrawal of incentives such as mortgage interest tax relief;
- ct Increased longevity combined with poor pension provision at one end of the age spectrum and increased (student) debt at the other, leading to delayed investment in housing;
- ct Increased demands on income and housing equity to fund personal care.

Fundamental factors are tending to reduce owner occupation. On present trends, home ownership could fall to 60% before 2025. The private rented sector may already have overtaken the affordable rented sector as England's second largest tenure.

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Attending the Chartered Institute of Housing Conference in Harrogate 21-23 June? Visit us on stand M279 in the Exhibition.



**HOUSING 2011**  
CONFERENCE

# Home ownership falls (continued from page 1)

Given current public expenditure constraints and the fact that the last government with far fewer constraints could not reverse falling home ownership, Shapps faces a challenge he may not be able to surmount. Continuing falls in home ownership levels may be an inescapable reality.

Falling home ownership levels pose challenges for Government that go way beyond housing policy. Examples include private housing's multiplier role in the broader economy, and the long-term move away from 'tax and spend' towards 'asset-based welfare'. How can welfare be funded by personal housing equity when those least likely to have equity are also those most likely to need assistance?

Affordable housing providers face strategic challenges too:

- Ⓢ Will cross-subsidy of affordable housing from open market sales be viable, particularly as falling home ownership implies weaker demand?
- Ⓢ Has shared ownership a future? Will it still serve the same social groups as home ownership becomes more exclusive?
- Ⓢ As the private rented sector grows, how can affordable providers become involved in ways that promote financial viability but also serve a social purpose?



Andrew's report - The Future of Affordable Homeownership - will be launched by the Smith Institute and Genesis on 15th June. His previous report work for the Institute looked at what lies ahead for social landlords following last year's Comprehensive Spending Review. **Available from [www.smith-institute.org.uk](http://www.smith-institute.org.uk).**

- Ⓢ Will competition from an enlarged private rented sector change the culture of affordable renting management in a more commercial and client-focused direction?

Councils and housing associations need to face the reality of falling home ownership and should plan for a very different future. This will require providers to make hard choices and accept the enhanced risks associated with change. Government is not setting this agenda: providers must set their own.

*If you would like to explore the issues of home ownership further, please contact Sue Harvey on 020 8830 6777, [sue@campbelltickell.com](mailto:sue@campbelltickell.com).*

## Avoiding expensive mistakes in recruitment

CT has a first rate track record in sourcing high quality interim managers, permanent executives and non-executive board members. Over recent years, we have successfully helped more than 200 organisations recruit to over 450 senior or specialist roles. Our recruitment activity has a national spread. The range of organisations we work with encompasses housing associations, councils, ALMOs, care and support providers, and charities.

It is easy to make expensive mistakes in recruitment. Our networks are second to none. Our success rate in helping organisations fill permanent vacancies first time is over 95%. Our first time success rate with filling non-executive board roles is nearly 100%.

**To discuss how we can help meet your recruitment needs, please contact Gera Patel on 020 8830 6777, [gera@campbelltickell.com](mailto:gera@campbelltickell.com).**



# Look both ways

By James Tickell

The Charity Commission's recent warning to charitable housing associations about development of new homes on 80 per cent 'affordable' rents should have come as no surprise. After all, the main point of a charitable association is to make lettings to proper beneficiaries, normally meaning people who are poor. As the guardian of the charitable ethos, the Commission was doing its job, by saying that there are questions to be answered, although they didn't say that affordable rents are necessarily off-limits.

Talk of associations losing their charitable status was of course alarmist. After all, the vast majority of their customers will be on social rents for some time, and are generally accepted to be charitable beneficiaries. But there is a risk that affordable rent activity could be taxed if HMRC took the view that it wasn't charitable? And in any case, it could be ultra vires (beyond the powers of) associations to develop new homes for non-charitable purposes. So what then are the questions that lawyers will need to address?

The first and over-riding question for charities is whether the new affordable lettings will be made to people who are – in some reasonable sense of the word – in poverty. And of course that the letting in

some way alleviates the poverty. That second point should be fairly straightforward, in that the 80 per cent rents are still materially below market level, thus creating an element of charitable giving. It's important

too to remember that poverty does not mean destitution, nor even those in the greatest need – in the housing context, poverty can mean someone on a low or modest income, who cannot provide decent housing within their own means.

What then is a low or modest income? There's no set limit, although the national average wage – at around £26k – is a useful starting point. The further you go above that figure, the harder it will be to make the case for poverty. But in London and the south east, there will be good arguments why a figure of (say) up to £40k or even more could be a reasonable cut-off point for housing poverty. Similar figures have been used to decide whether shared owners are proper charitable beneficiaries.

If it turned out that affordable rents in an area were not accessible to a substantial proportion of people in receipt of

benefits, that certainly would begin to raise serious questions about the charity of the activity. And that would be especially true if lettings were being concentrated on higher income groups. Ultimately, and however much legal advice is obtained, it comes down to the common sense of the boards in question.



James' most recent publication for the National Housing Federation, written with other CT associates. *Leadership and control* is a practical handbook, providing essential reading for board members. Available from [www.housing.org.uk](http://www.housing.org.uk).

## Look both ways (continued from page 3)

My (legally unqualified) guess is that most affordable lettings in most areas will clear the charitable hurdle, but that in a minority of cases, serious doubts will be raised. High cost areas of London may be a particular problem.

The obvious answer in such cases (apart from not developing) is to deliver affordable rents through a non-charitable subsidiary. Most major groups have such a vehicle, although it may not be financially as robust as its charitable counterpart within the group.

The trickier question is whether it is reasonable for a charity to convert its existing relets to 80 per cent of market level, so as then to subsidise further affordable development. Clearly, this would only be possible in cases where the affordable lettings thus procured were already judged to be charitable. It would certainly be ultra vires to use charitable assets to subsidise non-charitable activity.

But even then, the answer is not clear. If existing properties are on (say) 40 per cent of market rents, there is a very substantial charitable benefit (i.e. 60 per cent of market rent) being provided to the tenants. Reducing that charitable giving by two-thirds down to 20 per cent for a relet is not to be undertaken lightly. A careful cost-benefit analysis would be needed, to ensure that the benefits of conversion outweighed the reduction in charitable giving.

Sticking to my example, if each converted tenancy ultimately allowed the production of two or more new tenancies, then the case for conversion would be a good one. The utilitarian view would have it – convincingly – that it may well be better to help three households with a 20 per cent subsidy, than one with 60 per cent. But where the leverage is less convincing, then the case for conversion may be harder to prove.

So where does that leave the boards of would-be developing charitable associations? Well first of all, if it ain't charitable, don't do it. If you do want to go ahead, get any legal advice (if only for later back cover), know your local market, use your common sense, and press on with meeting the nation's housing needs. And look both ways before crossing the road to conversion of relets to 80 per cent of market level..

*For more information on charitable status and governance issues, please contact James Tickell on 020 8830 6777, james@campbelltickell.com.*



You can now follow Campbell Tickell via our LinkedIn Group, which

includes new job vacancies (permanent, interim and non-executive), along with topical discussions and industry news. LinkedIn members can request to join the group via:

[http://www.linkedin.com/groups?about=&gid=3322255&trk=anet\\_ug\\_grp](http://www.linkedin.com/groups?about=&gid=3322255&trk=anet_ug_grp)



CT Senior Consultants  
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### What is Linked In?

Launched in 2003, LinkedIn is a business-oriented social networking site. It is mainly used for professional networking. LinkedIn has more than 75 million registered users.

The purpose of the site is to allow registered users to maintain a list of contact details of people they know and trust in business. Registration is free and easy – go to [www.linkedin.com](http://www.linkedin.com).





# Mediation: a solution each can live with, or risking all to win?

By Roger Levitt and Greg Campbell

Mediation is nothing new. It's been used to settle disputes for a long time. But now we're set to see its use increase significantly.

The courts service faces major cuts, with possibly 25% of county and criminal courts facing closure. Litigation is slow to access and is costly. Mediation is quicker and cheaper than the courts. The Government's recent proposals for mediation to be the first step in matrimonial disputes could be just the start. Some in government circles are proposing making mediation a requirement for all civil disputes worth below say £30k.



## So what is mediation, and how useful might it be in housing?

Mediation is a confidential, voluntary and non-adversarial way of resolving disputes without going to court. A qualified independent mediator helps participants negotiate their own settlements. All parties to a dispute must agree to participate.

Mediation is different from ordinary negotiation. Mediators use practised techniques to develop dialogue and help people reach agreement. Sessions usually take up to a day. The aim is to create a solution acceptable to all parties, which is both cost- and time-effective.

A successful mediation concludes in a resolution that all participants can 'live with'. Paradoxically it's often said the best solutions are where the participants are equally unhappy. A solution that all participants own is not about winning and losing. Ideally, each wins some concessions and gives something up. The parties own

and control their solution. This is often preferable to a court-imposed solution which involves risking all or nothing.

The process is informal and takes place on neutral ground, often three rooms in a mediation suite. This helps participants feel comfortable: neither has a 'home' advantage.

Each participant can bring a solicitor or other companion. Usually, the fewer people present, the smoother it goes. All must agree to complete confidentiality of the process. One person on each side must have authority to settle the matter.

The mediator starts by explaining the procedures. Each participant then makes an opening statement explaining their position and what they hope to achieve.

Sometimes participants respond well to the initial exchange and continue engaging together. More often, they retire to separate rooms and the mediator spends the day going back and forth negotiating terms. The mediator usually asks open questions to focus on the weaknesses in each participant's case. This reality check helps facilitate co-operation and manage expectations.

If a mediator has done a good job, the defendant has conceded more than desired and the claimant has achieved less than hoped. But the participants no longer have to go to court, have helped craft a workable solution that gives each some benefit, and the matter is concluded.

Mediation is capable of resolving a wide range of disputes for housing organisations: tenancy matters, contractual disputes, employment problems and many more. The key is that the participants wish to find a resolution in this way and are prepared to work hard to do so. The potential benefits are clear: savings on time, money and bad blood!

*For more information please contact Greg Campbell on 020 8830 6777, [greg@campbelltickell.com](mailto:greg@campbelltickell.com).*



# Tenancy strategies – what's it all about?

By Jonathan Card and Joanne Drew



The Government is giving 'localism' a big push. The Localism Bill contains a number of elements that will impact critically on the way councils and their housing association partners operate. Decisions taken now will resonate for years to come, not least the requirement on local authorities to develop tenancy strategies.

So is this a real opportunity for local authorities to influence how social landlords operate in their area and help provide the best possible outcomes for local communities? Can the strategy be used to help ensure that housing stock in an area is best used and delivers for the local housing market? What is involved in developing a tenancy strategy? How can LAs work with providers to ensure that strategies support housing goals, bearing in mind that providers are there to meet housing need whilst maintaining robust businesses? What does a 'good' strategy look like – and will it make a difference? How will large housing associations with stock across many authorities – increasingly responsible for the bulk of new lettings – in practice tailor their approach to the local strategy?

**Do local authorities have the resources – both time and expertise – to do justice to this task?**

First, some facts. The timescale requires local housing authorities to publish their tenancy strategies within 12 months of the relevant clause of the Act coming into force. In practice this will mean 2013. The strategy must set out the issues that registered providers in their area must have regard to when formulating policy on:

- ⓐ The kinds of tenancies they will grant;
- ⓑ When they will use each kind of tenancy, and for instance what customer circumstances will determine a lifetime tenancy as the best solution;
- ⓒ The length of any fixed term tenancies;
- ⓓ When such fixed term tenancies will be extended or terminated;
- ⓔ How tenants will be enabled to support other options.

In drawing up a tenancy strategy, the authority has to consult various bodies, to consider their current allocation scheme, homelessness strategy and – in London – the London housing strategy. It will also need to understand the current position sharing knowledge on turnover rates,  
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# Tenancy strategies

(continued from page 6)

underoccupation/overcrowding, numbers of residents affected by welfare caps, levels of mobility, perceptions and means of residents to move out of social housing. At the same time, where several councils in effect 'share' a local housing market, it will be valuable to consult neighbouring authorities, in order to avoid strategies for adjoining areas 'clashing' with one another and potentially distorting the market.

Let's consider what all this means.

- ct As rents set by registered providers in many parts of the country come closer to market levels, authorities need to understand the influence they can have on the housing markets in the future, across different tenures and sectors. If strategies are to be credible, councils need to show they understand these local markets.
- ct Registered providers must 'have regard to' the strategy. This leaves scope for interpretation. But an effective strategy can be a powerful tool in shaping how registered providers work in alignment with the local authority's agenda to support the housing market. Participating actively will make sense for providers, e.g. the more products they provide that are subject to the market, the more they need to understand that market. On that basis, collaboration is likely to be of mutual benefit.
- ct Bids made to date under the new funding regime are at outline level only. Early indications are that bid volumes are low. This leaves scope for a meaningful dialogue with providers – and the HCA – about affordable rent and fixed term tenancies.
- ct Planners play a key role in influencing housing development. Regional strategies are going, and, encouraged by government, local communities may start to flex their muscles regarding the tenures they want to see in their area.

- ct Developing a tenancy strategy offers the opportunity for meaningful engagement with local residents alongside strong community leadership. In the absence of legislative powers, a local strategy will have real influence if it helps local people understand the issues, the options and how proposed solutions can really address local priorities. In particular, the tenancy strategy should help support residents to raise their aspirations and take increased responsibility for meeting their housing needs.
- ct The strategy will also need to be mindful of the need to manage perceived equity and fairness amongst tenants in similar properties but who are on different terms

Taken together, there are opportunities and challenges. We believe that developing a robust but flexible strategy is a challenge that local authorities can and should embrace.

*If you would like to discuss how we can assist you with your tenancy strategy, please contact Greg Campbell on 020 8830 6777, [greg@campbelltickell.com](mailto:greg@campbelltickell.com).*

## CT Favourites Gallery



**No. 1** Our favourite activity – eating cake. From CT bake-off in aid of Haiti 2010'



**No. 2** A favourite scheme we've worked on – the Stonebridge regeneration in Brent



# the strategic choice

We are well known for our governance and strategy work, helping housing associations, councils and ALMOs identify and address the challenges facing them.

We are now delighted to announce that Andy Ballard is joining us as a Senior Associate Consultant. Andy has a national reputation for his work as a senior lawyer and head of practice, advising on a range of matters such as governance, employment, mergers and asset management. Andy will be working with our teams across the country, providing consultancy services in such areas as strategy, governance, mergers and acquisitions, confidential investigations, and employment.

Our services include:

- ⊕ Efficiency review
- ⊕ Business planning
- ⊕ Governance review
- ⊕ Working with Boards
- ⊕ Interim management
- ⊕ Mergers and grouping
- ⊕ Growth options appraisal
- ⊕ Human resources support
- ⊕ Strategic asset management
- ⊕ Executive and non-executive recruitment