



NIFHA Response to Consultation

Date: 23 August 2013
Consultation: Supporting People Guidance Framework
'Principles of a Person's Own Home'

The Northern Ireland Federation of Housing Associations (NIFHA) represents registered and non-registered housing associations in Northern Ireland. Collectively, our members provide around 40,000 good quality, affordable homes for rent and shared ownership, alongside a wide range of care and support services. Further information is available at www.nifha.org

Introduction

Northern Ireland's housing associations and their partners within the voluntary sector are major providers of housing related support services funded through the Supporting People programme.

The programme has been a great success, helping many vulnerable people to live as independently as possible. The contribution that our members make to this programme reinforces the impact of this investment by government. The housing association movement recognises and supports the continuing successful partnership with NIHE, DSD, and service providers in delivering the Supporting People programme.

Development of a regulatory framework for Housing Related Support Services

NIFHA supports the effective regulation and oversight of Supporting People services. This is important in helping ensure good services are consistently delivered to users, many of whom are highly vulnerable.

We believe that any changes in the regulatory regime should be guided by the 'Better Regulation Principles'¹ (also known as the 'Hampton Principles'). These confirm that the most effective regulation is risk-based, proportionate and independent. Any changes to the regulatory and oversight regime should take account of the type of service delivered and the risks and costs associated with its provision.

Services funded by the Supporting People programme are already subject to rigorous quality monitoring through the Quality Assessment Framework (QAF) run by the Northern Ireland Housing Executive (NIHE) Supporting People team. This includes detailed monitoring of costs and thorough scrutiny of contract management processes.

¹ See Better Regulation Delivery Office website
www.bis.gov.uk/brdo/resources/knowledge/better-regulation-principles

Those schemes that have an element of both housing support and care, funded through the Health and Social Care Trusts (HSCT), are subject to regulation by RQIA for the care element. This means that where housing support and care are delivered together, there can be overlap, duplication and inconsistencies in the approaches of different regulators. This leads to staff resources being diverted from delivering frontline services to fulfil the significant administrative requirements of the various regimes.

NIFHA therefore welcomes the work that is ongoing towards a more co-ordinated approach for regulation. The consultation document (para 1.4) states that the 'relevant authorities' with 'responsibility for oversight' of Supporting People services include the Department of Health and RQIA. This is not our understanding. Supporting People funds housing support services for which Health has no responsibility; rather it funds, and (through RQIA) regulates, the health and care that is often provided alongside housing support. This distinction is important.

Supporting People services are delivered overwhelmingly by non-statutory organisations. Therefore we are very concerned that the consultation document states that the new regulatory framework will be developed only by the relevant public bodies (paras 1.4 & 2.8), with no apparent role for providers. Housing associations and their managing partners have much valuable expertise accumulated over many years of delivering Supporting People. Their insights on the strengths and weaknesses of the current regulatory regimes and the 'workability' of potential new approaches should be central in the development of the new system. Service users also have a valuable role to play. The merits of a co-regulatory approach (enforced self-regulation) should be seriously explored, especially in light of the fact that many of the potential options could be very expensive to implement.

One of the Hampton Principles is that 'no new regulator should be created where an existing one can do the work'. Supporting People funds *housing* support services, so any new regulatory regime should be run by a public body with a relevant housing responsibility. If the fundamental reforms of social housing establish an independent housing regulator, as we believe they should, this is an obvious place for the regulatory regime for Supporting People to reside.

In the meantime, as NIHE administers Supporting People and is responsible for the QAF, it is the most obvious organisation to be responsible for regulation of these services in the short to medium-term.

Principles of a person's own home

The principles of a person's own home set out in the document are essentially those that are being used by RQIA for their domiciliary care services inspections. We support these as guiding principles. As the consultation document notes (para 4.2), there will always be some constraints in choice, particularly in the availability of housing.

Many supported housing schemes help tenants acquire the skills necessary to live independently and move on to other types of accommodation to facilitate that. Therefore supported housing may in many instances, through the client groups accommodated within it, most appropriately be a temporary solution to fulfil specific and time-limited needs. Homeless hostels are an obvious example of such provision. This will have to be borne in mind when considering the appropriate and realistic exercising of the rights listed.

The paper states that service users should be able to 'choose who provides services.' If this refers to the right to choose which organisation, as well which individuals, provide care and support, it will require changes to commissioning processes to work effectively.

Currently Supporting People long-term accommodation services (including jointly commissioned care and support services) are commissioned with a direct tie to the accommodation (i.e., if there are a certain number of units of accommodation then SP has an annual contract which is then divided weekly and sub divided by number of units to arrive at a weekly unit SP rate). Therefore if an individual decides that they wish to have their housing related support provided by an alternative provider, and remain in the accommodation, the current financial structures are not flexible enough to enable this to work effectively.

If in supported living schemes a significant number of service users decided to move to alternative providers, this could undermine the financial viability of the services for the main provider and thus threaten services' future.

NIFHA recommends that there should be greater clarity around the definition of supported living for the purpose of this guidance. The types of housing support services that are provided under the legislation are contained within the Housing Support Services Regulations (Northern Ireland) 2003. These are further augmented by the DSD Supporting People Guidance (2012). The relationship between the legislation and this new guidance document needs to be clearly defined. It is unclear whether or not the document will be supplementary to the legislation, and the guidance that has already been provided by DSD.

Supported living is not the same as supported housing and the differences between them need to be clearly outlined. Accommodation such as homeless hostels is not normally considered or intended to be a person's own permanent home (although housing associations try to provide a home-like environment). Indeed if it were considered as such, people resident within them would lose their full duty applicant, homeless status and their associated additional housing selection scheme points. This would therefore not support their housing rights as it would have an adverse impact on their being re-housed into a permanent home.

Tenancies

There are a number of tenancy and licence agreements in use by housing associations in Northern Ireland. These are normally based on the needs of the residents in supported housing schemes. The DSD Housing Association Guide Part 5 for Supported Housing expects associations to provide tenants with as much security of tenure as possible and it is considered that this should normally be in the form of a secure tenancy. The Guide does however recognise that in some circumstances this may not be appropriate and housing associations provide conventional tenancies where these are suited to the needs of the residents.

The paper states that 'some individuals in supported living schemes may only have a licence to occupy and do not hold a tenancy agreement.' NIFHA has received authoritative legal advice from senior counsel that a licence can indeed be considered a form of tenancy in law. This should be clarified as we move forward (we recommend reference to the 2002 CHNI publication 'Rights and Responsibilities: Guidelines on the use of Leases and Licences in Special Needs Accommodation.')

The paper also refers to 'valid' tenancy agreement. In self contained supported living models, secure tenancy agreements may be most appropriate. However, 'secure tenancy' agreements are not always the most appropriate, for example in shared supported house accommodation.

In balancing the need of landlords to make best use of stock with the need to 'ensure individuals within long term supported schemes will have the same rights and conditions as persons living in private rented accommodation', it may be that we need to consider the use of short-hold tenancies. We understand that for some years it has been legally possible for registered housing associations in Northern Ireland to use these, but DSD has yet to issue guidance on their use.

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