

# **Joint working for inclusion in housing**

## **Acknowledgements**

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## **1. Introduction**

### **1.1 Purpose of the research**

Exclusion from social housing has been identified as an important factor contributing to homelessness (Kent 2001, Homelessness Commission 2001). The Assembly Government's National Homelessness Strategy action plan 2006-2008 says that

‘Once a homeless person is excluded [from social housing], they are likely to find it very difficult or impossible to find housing in an area where they are likely to have family or other connections. They will often remain in the area even if this means they are homeless or inadequately housed.’

In order to gain a better understanding of the issues facing social landlords and partners in maximising inclusion in access to social housing, and to identify the barriers to and success factors for effective partnership working in this area, the Assembly Government has undertaken this small-scale research study. It aims to learn from current thinking and examples of good practice in joint working in Wales and elsewhere in the UK. In particular it looks at the arrangements in Cardiff for joint working to plan for housing inclusion, such as the Common Exclusion Policy and Exclusions Panel.

The research aims are to:

- Provide an overview of current thinking in the UK on good practice in joint working to minimise exclusions from social housing;
- Establish a broad picture of current practice in Wales;
- Investigate and assess joint working arrangements in Cardiff; and
- Make recommendations to form the basis of guidance for local authorities and their partners on arrangements for reviewing the needs of excluded individuals, reducing levels of exclusion and providing support to excluded individuals to work towards re-inclusion.

### **1.2 Scope of study**

In this study, exclusion refers to applicants' lawful non-admittance to a waiting list or housing register, or being given no priority or preference on the basis of the test of unacceptable behaviour, whether temporarily or permanently. In practice this is often referred to as 'suspension', as most exclusions are time-limited. It can also be referred to as 'non-admittance to' or 'removal from' a

housing register or waiting list. The two main reasons for exclusion are anti-social behaviour and non-payment of rent arrears.

There are other practices that are contrary to law, guidance or best practice, through which individuals can effectively be prevented from receiving an offer of social housing, despite appearing on a waiting list or register. These include:

- 'deferment' whereby individuals are formally included on the waiting list but not considered for housing until, for instance, arrears are cleared;
- secondary assessment criteria such as local connection or age restrictions being used in ways which negate primary assessment criteria linked to determining housing need; and
- different exclusion criteria in local authorities and the housing associations to which they nominate housing applicants.

In addition, there may be instances of informal pre-application screening which deter or exclude applicants before they make a formal application. The study refers to these practices but cannot establish their prevalence, which would be a matter for regulatory audit.

Local lettings policies can involve the use of exceptional criteria to address issues of sustainability or to tackle social decline. Such local schemes developed to address specific issues are beyond the scope of the present study.

The study does not address in any depth issues of housing supply - that is, whether sufficient suitable accommodation or housing-related support is available in each area for each household type. This can in practice constitute a barrier to maximising housing inclusion.

The study looks only at households that apply for social housing, not those who might be deterred from applying for some reason, such as the perception that they will be excluded or that suitable accommodation in right area will not be available.

### **1.3 Method**

The study involved :

- Familiarisation with Welsh legal and policy context;
- Brief literature review covering position in Wales, Scotland and England;
- Survey of local authorities in Wales covering joint-working arrangements, exclusion policies and practices, monitoring arrangements and evidence of impact; and
- Cardiff case study.

## **2. Background**

### **2.1 Policy, legislation and guidance in Wales**

In 2000, the newly established National Assembly appointed a Homelessness Commission to advise it on the scope, nature and causes of homelessness in Wales, and to make recommendations on how the issue might be tackled. The Commission considered evidence, including the Kent Report (Kent 2001), indicating that exclusion policy and practice by social landlords was inconsistent and often inappropriate, and had a direct impact on levels of homelessness. The Commission endorsed the recommendations in the Kent report, and made five further recommendations in this area.

The key messages about exclusion from the Kent report and Homelessness Commission were that:

- exclusion should be very much a last resort in exceptional individual circumstances;
- agencies should work proactively towards re-inclusion of individuals by addressing their specific needs;
- multi-agency working was needed to be able to meet the needs of applicants who might otherwise be excluded; and
- 'trust, excellent working relationships and communication networks' were necessary for partnership working to be successful.

The National Homelessness Strategy that built on the work of the Homelessness Commission, and its successor strategy for 2006-2008, endorsed these messages. The action plan of the 2006-2008 Strategy says that local authorities should only exclude homeless people from social housing where it is permissible under s160A(7) of the Housing Act 1996. It encourages housing associations to take a similar approach (although they are not covered by the Act). It says that social landlords should give people clear information about the reasons for their exclusion, the actions they can take to become eligible, and how they can access support if needed. The action plan also makes a commitment that the Assembly Government will:

'Promote multi-agency arrangements which review the circumstances of excluded people and provide support to enable them to be reconsidered for social housing'.

The current study aims to strengthen the evidence base relating to good practice in this area, enabling the Assembly Government to promote such arrangements.

Local authorities and housing associations in Wales can exclude individuals from their own stock of social housing. Legislation and regulation setting out the circumstances in which the two types of social landlord may exclude individuals are set out separately.

The Code of Guidance for Local Authorities on Allocation of Accommodation and Homelessness (the 'Code of Guidance') (sections 3.14-3.26 and 4.15-

4.19) sets out the ways in which local authorities may exclude individuals. This is either as permitted by s160A (7) of the Housing Act 1996 (as amended by s14(2) of the Homelessness Act 2002) by treating them as ineligible on the basis of unacceptable behaviour on the part of the applicant or a member of their household, or as permitted by s167(2B) and (2C) of the 1996 Act as amended by s16(3) of the 2002 Act by awarding the applicant no preference for allocation. In either case, the test of unacceptable behaviour must be applied. This test is in three parts and requires that:

- There is evidence of unacceptable behaviour serious enough to have entitled the authority to obtain a possession order;
- That the behaviour is serious enough to render the applicant or a member of their household unsuitable to be a tenant; and
- That the behaviour is unsuitable at the time of the application.

The applicant does not need to have actually been a tenant of the local authority at the time of the unacceptable behaviour.

All cases must be treated on their individual merits, and in addition to the three part test, the local authority must act reasonably, including:

- Taking into account any special circumstances of the applicant or a member of their household;
- Taking into account any change of circumstances;
- Trying to secure arrangements to meet identified support needs.

Where a decision is made to exclude, the guidance states that this should be temporary, for a set period, with criteria for re-inclusion that relate to issues the individual can resolve. The decision should be clearly explained to the individual, with a clear indication of how the applicant can demonstrate that they should have the decision reversed (e.g. a payment schedule for rent arrears). The applicant has a right to appeal against the decision.

The Code of Guidance emphasises the value of joint working between agencies and parts of authorities in ensuring the best outcomes for applicants.

The ability to exclude from housing association accommodation is reflected in Key Expectation 1.3 of the Regulatory Code. For instance, Key Expectation 1.3.1 states that associations should 'ensure that people in housing need are aware of and have access to the association's housing'. Associations should keep exclusions to a minimum and decisions to exclude should be made only in accordance with Assembly guidance. The Assembly Government is in the process of introducing new Regulatory Guidance (previously called 'circulars') for housing associations on restricting access, to ensure that it mirrors the provisions on exclusion set out in the Code of Guidance, and to promote more consistent treatment of applicants for all social housing.

Local authorities have statutory duties towards homeless people that are not shared by housing associations. Where an applicant is deemed to be unintentionally homeless and in priority need, the local authority may exclude them from their own housing stock, but retains a statutory duty under the homelessness provisions to secure suitable accommodation. As the housing authority in an area, the local authority also has a strategic role in ensuring as

far as possible the provision of suitable and adequate housing for all people in its area.

The Assembly Government encourages local authorities to work with all relevant partners in its strategic role and in the exercise of its specific duties under the homelessness provisions. It requires housing associations to work in partnership with local authorities in the allocation of social housing, making formal nomination agreements to help councils meet their statutory duties and local strategic objectives, such as housing homeless or vulnerable people. The Assembly Government also advocates the development of common housing registers and common allocation and exclusion policies. Progress reviews by the Assembly Government of local homelessness strategies indicate that a number of local authorities report difficulties in securing acceptance of nominations by some housing associations of people who have a problematic profile, whether or not they are formally excluded.

Some individuals at risk of exclusion from social housing may represent a danger to the community. The Code of Guidance expects criminal justice agencies, local authorities and housing associations to work within revised guidance on Multi-Agency Public Protection Arrangements (MAPPA) in respect of people who may pose a significant risk to the public, in considering their options for rehousing. The arrangements have the two aims of aiding re-integration of potentially dangerous or sex offenders into the community, and minimising the risk posed to the public. The MAPPA annual report 2004-2005 states 're-integration into the communities is known to be the most effective way of managing offenders. With careful monitoring most offenders present little risk'.

The two major grounds for eviction and exclusion from social housing are rent arrears and anti-social behaviour. In each of these areas there exists a well-established body of literature and guidance. The Audit Commission and Assembly Government collaborated to produce *Closing the gap: Working together to reduce rent arrears* in November 2002 - a practical guide for operational managers and staff in councils and housing associations on how to prevent and manage rent arrears, including how to work more closely with Housing Benefit services. This was followed in May 2004 by the themed paper *Tackling Rent Arrears in Wales*. To help address anti-social behaviour the Assembly Government has published (June 2005) a Code of Guidance for social landlords on the development, implementation and review of policies and procedures as required under the housing provisions of the Anti-Social Behaviour Act 2003. The Code advocates a multi-agency approach, and emphasises the importance of rehabilitation and support policies for perpetrators, alongside measures for prevention and enforcement.

There is some evidence that preventing exclusion from housing saves public money (see below on policy and practice in England). In Wales, a recent report carried out for the Assembly Government by Matrix Consulting on the costs and benefits of the Supporting People programme in Wales demonstrated that housing-related support services to homeless or potentially homeless people reduced the need for other more acute services.

## 2.2 Policy and practice in England

In November 2004 the ODPM, Housing Corporation, National Housing Federation and Local Government Association jointly published a guide on 'Effective Co-operation in Tackling Homelessness: Nomination Agreements and Exclusions'. This was the start of a programme of work to identify and promote good practice in co-operation between local authorities and housing associations in England to reduce homelessness and create sustainable communities. It was envisaged that in due course it would include discussion of 'housing management and care and support approaches that help people to sustain tenancies, reduce evictions and abandonment, and prevent homelessness'.

The guide on Effective Co-operation was in part a response to concerns expressed by a number of bodies, including local authorities and housing associations themselves, about the effectiveness of their co-operation in tackling homelessness. An evaluation of the homelessness strategies of all local authorities in England by Housing Quality Network Services noted the importance of partnership working but found that there was not always good evidence of this happening. It recommended that authorities and associations should jointly consider how nomination agreements, exclusion criteria and tenancy sustainment measures are currently working at a local level, and should undertake joint monitoring of these. The DCLG Code of Guidance to Local Authorities on Homelessness (2006) emphasises the value of joint working between agencies and parts of local authorities to ensure the best outcomes for homeless applicants.

The Housing Corporation's Regulatory Code (Jan 2002) says that housing associations 'must work with local authorities to enable the latter to fulfil their duties to the homeless and people in housing priority need and to the vulnerable and those covered by the Government's Supporting People policy'. About exclusions it says 'applicants are excluded from consideration for housing only when their unacceptable behaviour is serious enough to make them unsuitable to be a tenant and only in circumstances that they are not unlawfully discriminating'. As in Wales, the regulation for housing associations aims to mirror the legislation for local authorities (Regulatory Circulars 02/03 and 07/04).

In April 2006 CIH and the Housing Corporation published *Homelessness Prevention and Housing Associations – Contributing to Efficiency*, part of which set out the importance in efficiency terms of housing associations partnering and supporting local authorities in homelessness prevention. It notes that where effective partnerships are developed, joint monitoring can help raise each partner's awareness of the impact of interventions. It reviews the evidence that preventing homelessness saves significant amounts of public money on other services. This evidence is contained in ODPM's 2004 study of the benefits of the Supporting People Programme in England, and its working papers on single homeless people (working paper 2) and homeless families (working paper 7). A report by Crisis in 2003 - *How many, How*

*Much? Single Homelessness and the question of numbers and cost* – looked at the costs of wider social and economic impacts of single homelessness.

A recent survey of local authorities in England showed that improving nomination agreements with housing associations was ranked as the third most significant out of six approaches to reducing the use of temporary accommodation, and that improved partnership working was seen as a significant approach to authorities achieving efficiency savings. (Survey of Local Authorities about Homelessness: Policy briefing no 13 (ODPM 2005).

As in Wales, there is a sound body of existing guidance on strategies for preventing and managing rent arrears and tackling anti-social behaviour. The CIH and Housing Corporation publication *Life After debt: residents, social landlords and financial inclusion* (Feb 2006) builds on their earlier report *Breaking Free: financial awareness and the role of social landlords* (CIH/HC 2003). It sets out the growing role of housing associations in helping to tackle financial exclusion, and describes some initiatives being undertaken by social landlords to help tenants to manage their money, to prevent debts building up, and to save. It finds that most landlords already work to help tenants maximise their income, and refer them to money advisors as necessary. This helps with prevention and recovery of arrears, and the report concludes that it also helps to create sustainable communities. The main activities by social landlords are provision of advice on benefits and debt, advice on money management, offering low-cost contents insurance, and measures to address fuel poverty. The work is undertaken by specialist staff, partner organisations or through referral arrangements, or in some cases by generic staff. The report makes recommendations for developing the landlord role, including better evaluation, wider access to money advice (not just for those in serious difficulties), better relationships with specialist organisations, and more training for staff. The Housing Corporation launched a Money Access Programme in November 2005 to help social landlords tackle financial exclusion. CIH and Shelter launched 'HomeSave' in June 2005, aiming to help social housing tenants to save and to own housing assets.

However, there is evidence that rent arrears are still a significant factor in exclusion. ODPM's commissioned Good Practice Guide, *Improving the Effectiveness of Rent Arrears Management*, draws on the findings of a study carried out by the Department of Urban Studies, University of Glasgow and the School of the Built Environment, Heriot Watt University on the use of possession actions and evictions by social landlords. It highlights the increase in possession actions in the decade to 2003 (resulting in 2002-3 in the eviction of around 26,000 tenants annually), and identifies the link between possession actions and evictions (mainly on rent arrears rather than ASB grounds) and later exclusion: 'Vulnerable tenants - people with support needs, including those with mental-health problems and those with alcohol and drug misuse issues are thought particularly liable to accumulate arrears. Once evicted, former tenants are often disqualified from social housing.'

The Guide sets out clearly the ODPM (now DCLG) view, supported by Housing Corporation regulatory guidance, which emphasises that social

landlords should seek to maintain and sustain tenancies, rather than terminate them and that eviction should only be used as a last resort. The guide highlights the following:

- the need for a strategic approach to prevent and manage rent arrears;
- the importance of organising rent collection to maximise effectiveness of arrears management;
- the value of using a range of preventative measures to help sustain tenancies and minimise the use of possession action.

### **2.3 Policy and practice in Scotland**

Different legislation and policy applies in Scotland to that in force for Wales and England. In general in Scotland a single body of legislation and guidance applies to all social landlords.

Communities Scotland states that it expects councils and housing associations to provide fair and equal access to their housing lists. Anyone over 16 has the right to be admitted to a housing list, as set out in Section 19 of the Housing (Scotland) Act 1987 (as amended by section 9 of the Housing (Scotland) Act 2001). Applicants can apply at any time. A landlord can only exclude or cancel an application for housing where the applicant:

- has requested to be removed from the list;
- has died; or
- has repeatedly failed to respond to correspondence, including any periodic review of the housing list.

Landlords can define circumstances when they will suspend applicants from receiving offers of housing. There are factors that they should not take account of in decisions about suspensions (e.g. age, income level, property ownership, local connection and types of tenancy debt), and these are set out in subsection (2)(a) of section 20 of the 1987 Act. They cannot use suspension policies where they have a duty to provide permanent accommodation to homeless people (section 31(2) 1987 Act or section 5 of the 2001 Act). The CIH and Scottish Executive have published guidance for housing professionals on the use of suspensions from housing lists.

Landlords can take account of applicants' anti-social behaviour or poor conduct of current or previous tenancies when selecting tenants for their accommodation. That is, under the legislation landlords must admit such applicants to their housing lists, but they are not prohibited from suspending them from receiving offers of housing. They should explain the basis for suspensions in their published allocations policy, carry out regular reviews of suspensions, and inform affected applicants that they have a right of appeal.

Good practice guidance supports the legislation, arguing that exclusions should never be permanent or irreversible. Ineligibility on the grounds of rent arrears should be cancelled out by honouring an agreement for staged repayment or, at least, by clearance of the debt. Exclusion on the grounds of anti-social behaviour should be subject to a time limit and/or an opportunity for the applicant to demonstrate a change in their behaviour. It is therefore



considered more appropriate to suspend or defer applications than to disallow them from registering. A suspended or deferred registration can be transformed into a live application after a given period, when circumstances change, or when evidence is received indicating a change in behaviour or residence.

Subsection (1) of s20 of the 1987 Act, as amended by s10 of the 2001 Act says that landlords should consider alternatives to suspension, particularly where the applicant is a person who falls into the reasonable preference categories, i.e. people:

- occupying houses that do not meet the tolerable standard;
- occupying overcrowded houses;
- with large families;
- living in unsatisfactory housing conditions; and
- who are homeless or threatened with homelessness.

An alternative to exclusion is the provision of a Short Scottish Secure Tenancy (SSST), as provided for by s34 and paragraphs 1 and 2 of schedule 6 of the 2001 Act. An SSST can be offered to an applicant who has previously been evicted for anti-social behaviour, or where a court has granted an Anti-Social Behaviour Order against a tenant or member of their household. In the latter case it is possible for a Scottish Secure Tenancy (SST) to be converted to a Short SST for a limited period. During this period the landlord must ensure that housing support is provided to the tenant to help them convert to a full tenancy. The SSST will automatically convert to an SST at the end of 12 months, unless the landlord has served a notice of repossession.

Communities Scotland, which is the regulator for both local authorities and housing associations in Scotland, considers how individual landlords operate suspensions in the course of their inspections. The published inspection reports include figures on the numbers of suspensions, assessment of policy and practice, and recommendations. The expectations for the performance of all social landlords and homelessness functions are set out in Communities Scotland's 'Performance Standards', including the following Activity Standards:

- **AS1.1 Access to housing** We ensure that all people have fair and open access to our housing list and assessment process. We work with others to maximise and simplify access routes into our housing.
- **AS1.2 Lettings** We let houses in a way that gives reasonable preference to those in greatest housing need; makes best use of available stock; maximises choice; and helps to sustain communities.
- **AS1.9 Antisocial behaviour** We deal appropriately with antisocial behaviour. Where appropriate, we work in partnership with others to manage such behaviour.
- **AS4.8 Quality of accommodation** We expect landlords to have clearly stated policies and procedures for excluding people from temporary accommodation. In addition there should be reasonable grounds, appropriate notice periods and recovery procedures.

A Review of Progress in good practice in housing management, carried out by the Scottish Executive Central Research Unit (Scott, S. et al 2000), indicates that at that time, significant proportions of local authorities and RSLs excluded certain categories of applicants from the prospect of rehousing by denying them the right to register an application, rather than by holding their application in suspension. Notably, more than a third of RSLs disallowed applications from people previously evicted for anti-social behaviour, whilst over a fifth apply the same sanction to tenants with outstanding rent arrears.

As in Wales and England there is strong recognition of the link between evictions, management of rent arrears, and exclusions. The Communities Scotland Thematic Study of Evictions in Practice notes that eviction 'may well lead to homelessness or repeat homelessness', and sets out recommendations for improving practice, particularly in terms of joint working and early proactive intervention to sustain tenancies. Thematic studies on anti-social behaviour and housing ex-offenders are planned for the future.

Councils in Scotland have duty to secure permanent accommodation for homeless people in priority need either directly or through nomination and/or s5 referral arrangements with RSLs. s5 of the Housing (Scotland) Act 2001 requires RSLs to comply with such local authority requests. If an applicant is deemed to be intentionally homeless and in priority need councils can provide a short Scottish Secure Tenancy (SSST) instead of a full Scottish Secure Tenancy (SST). However, if the applicant had an SSST that ended in the previous 12 months; or the applicant or members of their household have been evicted for ASB in the last 3 years or are subject to an ASBO, a council can decide not to provide an SSST. In this case it must secure alternative accommodation in a hostel or other short-term accommodation. RSLs can only refuse a s5 request where they are unable to make appropriate accommodation available within 6 weeks of the request or the only accommodation available is of a particular nature (e.g. sheltered housing) and this is not appropriate for the applicant (Scottish Executive 2002). Where a council and RSL cannot agree there is provision for arbitration. The implementation of the Homelessness (etc) (Scotland) Act 2003 is phasing out the use of priority needs categories and gradually increasing the scope of duties owed by Scottish local authorities to homeless people.

### **3. Current practice in Wales**

A survey of local authorities was carried out for this study to establish a broad picture of current practice on joint working for housing inclusion by authorities and their partners. Cardiff was not included in the survey because it was the subject of the case study. Of the other 21 local authorities in Wales, 13 responded to the survey. This section reports the findings of the survey and provides a commentary on the findings.

#### **3.1 Joint working arrangements**

The survey asked about local authorities' joint working arrangements with housing associations and other partners.

##### ***Common housing registers***

Of those that responded, 3 authorities had a common housing register in place with all of the housing associations operating in their area, 1 had a common housing register with some associations, and 1 was considering the idea in relation to some local associations.

Of the three authorities with comprehensive common housing registers, 2 had common allocation policies with all housing associations, but the other did not have a common policy with any. Again, 1 authority was considering introducing common allocation policies with some associations.

The survey supports the view that most authorities in Wales still operate separate housing registers or waiting lists and use separate allocation policies from those of the housing associations working locally. This is despite Assembly Government encouragement of the development of common registers and lettings plans, and the availability of Social Housing Management Grant funding for this purpose, over a number of years. It means that households seeking social housing in most areas of Wales have to make a number of applications and get to grips with several different sets of access criteria if they wish to access housing association as well as local authority stock. For households at risk of exclusion, there is a danger that there will be a lack of consistency in the way their applications are handled, and a lack of clarity about what is required of them to ensure eligibility or maximise the chance of allocation.

##### ***Nomination agreements***

For authorities and housing associations, the risk posed by not having common registers or policies is a lack of coherence in ensuring that housing need is met, that all social landlords contribute fairly to the challenge of housing households with particular needs or histories, and that the local authority's strategic role and homelessness duties are fulfilled. These risks can to an extent be offset by having effective nomination agreements and protocols on information to be supplied with nominations, for instance to ensure that information about challenging behaviour or payment history is properly shared. Of authorities responding to the survey, the majority (9) had nomination agreements with all associations, and of these 5 had a protocol on

information to be supplied with nominations. One authority had common application arrangements which rendered nomination agreements and protocols unnecessary. Over three quarters of authorities thus had reasonable assurance of a coherent approach.

Two authorities had nomination agreements with some associations, and one of these had a protocol on supply of information. One had no nomination agreements or protocols in place at all. It would appear from these responses that some of the associations in these areas were not meeting the requirements of the Regulatory Code to work in partnership with local authorities in the allocation of social housing, and to have formal nomination agreements with them.

### ***Common exclusion policies***

The survey found that only 3 authorities had developed a common suspension/exclusion policy with all associations in their areas. Two of these policies were very new, one being a pilot for 2007 and the other having started in 2006. In all three cases the policy involved joint working arrangements to consider applicants at risk of exclusion from housing and joint working arrangements for assessment or review of the needs of applicants for housing. The details of the arrangements in each of these authorities are set out at the end of section 3. One other authority currently did not exclude any applicants from its register, but was in the process of reviewing this policy, with the aim of having a new approach in place by summer 2007. Subject to consultation it was anticipated that the new approach would involve provision for exclusion, with arrangements for appeals by a review board.

One other authority, although having no joint exclusion policy or joint arrangements for at risk households, did have joint working arrangements with some associations for assessment or review of the needs of applicants for housing.

The great majority of authorities (8) however had no common exclusion policy or joint working arrangements with any associations, and did not state any intention to develop these.

## **3.2 Exclusion policies and practice**

The survey asked about other aspects of the approach to exclusion in each local authority area. It did not require authorities to state whether the practices noted were their own or those of their RSL partners. Twelve authorities answered this part of the survey.

### ***Test of unacceptable behaviour***

All but two authorities said that all decisions to exclude/suspend an applicant from social housing (i.e. refuse access to any list) were informed by the test of unacceptable behaviour. The other authorities considered that exclusion decisions were sometimes but not always informed by this test – one other ground given was the refusal of two reasonable offers of accommodation. Although these responses are in the minority, they represent a significant

concern, given the requirement in law and guidance that this stringent test should always be applied.

### ***Fixed periods and review arrangements***

In several other respects however, reported practice was good. In every area there were arrangements for appeal against exclusion decisions. In no area were open-ended exclusions operating without review. The arrangements for ensuring this varied from fixed periods of under 12 months (the majority practice); fixed periods sometimes exceeding 12 months (two areas); open ended exclusion but with arrangements to resolve within 12 months; or indefinite exclusions but with the facility for review at any time on request. All authorities said that in cases of exclusion they always or 'sometimes as appropriate' made referrals to support or advice services. Only one authority was aware of the involvement of elected members as a factor in the allocation or exclusion from social housing in their area.

Reported practice was generally good in setting clear conditions for re-inclusion, with all but two authorities responding that this was always the case, and that the conditions always related to issues the individual could themselves resolve. One other authority said that clear conditions were sometimes set for re-inclusion. One authority however acknowledged that conditions were never set, and one other authority acknowledged that conditions did not always relate to issues the individual could themselves resolve. These isolated instances of poor practice would render some individuals or households powerless to take control over their housing position.

### ***Rent arrears***

One authority stated that it never excluded housing applicants on the basis of rent arrears. In the other areas, where rent arrears were a ground for exclusion, only two authorities considered that in their area there was always a schedule for repayment. Schedules were sometimes set out in eight areas, and never in one.

### ***Other excluding practices***

The survey asked about practices that effectively exclude households from consideration from social housing, other than through the normal application of the test of unacceptable behaviour. One is the use of other grounds, such as the 'refusal of reasonable offers' noted above. Another set of practices that are contrary to law and can lead to exclusion, are types of pre-application screening or processes that divert applicants before they make a formal application. Two authorities said that they were aware of the existence in their area of such practice. Two were also aware of the practice of enabling people to access the list or register, but giving 'no preference' for reasons of behaviour or rent arrears, without reference to the test of unacceptable behaviour. Giving 'no preference' can include deferring an application or placing it on an inactive list, so that it will only be considered for allocation when certain conditions are met, for instance arrears are cleared. Finally, there is the practice of enabling people to access the list but adjusting their priority for housing for reasons of behaviour or rent arrears, for instance by

deducting points on a traditional points-based allocation system. Two authorities acknowledged this as standard practice, and one said that it sometimes happened.

Overall, practice was said to be in line with the requirements of law and guidance. But the examples of practices set out above were clearly counter to the letter or spirit of the law and could lead to exclusion from social housing other than on the grounds set out in legislation and regulatory guidance. In all cases above, authorities were deliberately not asked whether it was their own practice or that of partners associations that they were citing when they raised cases of poor practice. Therefore, in the small but significant number of areas where there were examples of poor practice cited, it is not possible to conclude whether the authorities themselves were failing to observe guidance or best practice, or whether they simply had concerns that this occurred in other settings.

### 3.3 Exclusions data

The survey sought local authority data on exclusions from social housing in each area. However, there was very little hard quantitative data available. Only 6 authorities recorded such data, and 2 of these had only just begun to do so and were not yet able to provide useful data sets. The lack of data on exclusions is surprising, as it would seem reasonable to expect local authorities to know how many exclusion decisions they have made in respect of their applicants, even where there is no sharing of such data with partners. It is not known what data is kept by housing associations.

The 4 sets of data that were provided illustrated a variety in approaches recording, but also indicated significant variation in practice of assessment and exclusion.

One authority assessed all new applicants, amounting to 1485 assessments in a single year, whereas another only actively assessed 34 households. The number of excluded households varied from 2 to 86. In one area, the data provided seems to indicate that most exclusions were due to factors other than the test of unacceptable behaviour (for instance refusal of reasonable offers), which raises serious concerns. In all the others exclusions were only on grounds of behaviour (including rent arrears). Three authorities had only excluded between 2 and 4 households on grounds of anti-social behaviour, the other had excluded 61.

#### *Households excluded in most recent year for which data available*

	Total excluded	Excluded on grounds of behaviour	Of those excluded due to behaviour:	
			Rent arrears	Anti-social behaviour
LA1	174	86	25	61
LA2	42	24	20	4
LA3	26	26	23	3
LA4	2	2	0	2

### **3.4 Factors impacting on levels of exclusion**

The survey asked authorities to identify the factors that were acting as barriers to maximising housing inclusion. There was overwhelming consensus on this issue, with three key factors being identified by all or almost all authorities.

These were:

- the availability of suitable housing;
- the availability of suitable support or advice services; and
- concerns about risks to or impact on other tenants.

When asked what single factor would improve the situation, of the 11 authorities responding, 9 stressed the first two points, several citing the need for more specialist provision in terms of accommodation and support for those with high-level needs or who are at risk of exclusion. In particular, more support services were said to be needed to help with anti-social behaviour, offending, substance misuse and debt. One authority simply noted the need for more funding.

The other key factor which the majority of authorities considered to have potential to improve the situation was communication and joint working. Comments took several forms, but most authorities advocated better partnership working, ensuring that partner agencies have common clear objectives, and co-ordinating existing resources, for instance by pooling budgets and staff. One authority considered that the introduction of a joint allocation scheme would be the single most helpful move. Another explained the problem as a 'potential divergence in the agendas of the local authority, which has a statutory duty to those with acute housing needs, and housing providers, who generally do not have the capacity and expertise to manage and support people with diverse and often complex needs'.

Authorities also noted the following factors:

- The limited range of sanctions available on anti-social behaviour or arrears (2 authorities);
- Constraints due to the governing instruments or eligibility criteria of housing associations (2 authorities);
- non-joined up or contradictory government policy (1 authority);
- the under 25s housing benefit rule (1 authority).

### **3.5 Positive practice**

Most authorities provided examples of effective or positive practice. These centred on various aspects of joint working with partners, especially housing associations, through the use of common registers, joint allocations policies and joint exclusions policies, or in areas without this level of development, the use and shared management of comprehensive and detailed nomination agreements. The other main principle cited was that of keeping exclusions to an absolute minimum, by excluding applicants only in extreme cases, and not for arrears. Specific initiatives that were considered to be effective included an approved landlords project, a youth homelessness outreach worker, the use of choice based letting, and a move-on strategy.

### **3.6 Examples of joint working arrangements**



## **Bridgend**

Bridgend Common Inclusions Partnership joins Bridgend County Borough Council in partnership with Valleys to Coast, Wales and West, Hafod and Linc housing associations. The partnership arrangements and policy are very similar to those in Cardiff (below). The partnership agree that they should do all they can to ensure that people in Bridgend have access to quality accommodation where they can live safely and peacefully within their communities. Suspensions from the housing register should be to this end and should be for a specified period. Suspensions can be made where someone is deemed to have broken a previous tenancy agreement for neighbour nuisance, anti-social or destructive behaviour whether this has resulted in the loss of their tenancy or not, or who have been convicted of specified conduct or offences. Suspension can also apply where there has been a clear attempt to obtain accommodation by deception, by making a false statement, withholding information or failing to notify changes.

Exceptions to the policy are made where individual circumstances indicate there is no risk or a reduced risk in providing accommodation (for instance where behaviour has improved, the individual who was responsible for the behaviour no longer lives with the household, or where with suitable support it is considered that the behaviour will not be repeated). In line with the South Wales Police protocol for serious offenders, where a formal assessment finds that the repeat behaviour will be significantly reduced or better managed by rehousing the offender, members of the Inclusions Partnership will consider the recommendations of the risk assessment.

Suspensions are for 12 months from the date of application for housing. Applicants can re-apply at the end of the 12 month period. Lesser terms of exclusion are considered such as exclusion for 6 months where there is evidence of effort being made, or disqualification from housing in specific areas or types of housing or from housing near certain types of facility such as parks or schools. The applicant can request a review of any type of restriction or suspension.

A confidentiality protocol is in place and applies to all members of the partnership. Information is kept secure and confidential and shared only in accordance with the protocol and the Data Protection Act.

Accommodation is normally not offered to applicants with former tenant arrears owed to any partner agency until adequate arrangements are made to reduce the arrears and the applicant has demonstrated a commitment by making regular payments. However, there are exceptions, and each case is considered on its merits.

The Council has to take into account considerations and duties under the terms of the homelessness legislation and the Children Act. However, neither of these is considered to require the council to provide accommodation in contravention of the inclusions policy.

The policy allows for requests for rehousing of serious offenders to be considered through the MAPPA process, whether or not the offender has previously been suspended from the register

### **Pembrokeshire**

Pembrokeshire County Council, Pembrokeshire Housing, Cymdeithas Tai Cantref and Cymdeithas Tai Dewi Sant manage the Choicehomes@ Pembrokeshire register as a joint partnership, with a single application form. Each of the partners has its own tenancy agreements and conditions. The system is part of the choice based lettings approach used in the area, whereby applicants bid for available housing.

Individuals awaiting a MAPPA assessment may not be able to join the scheme until the assessment is made and any recommendations adhered to.

Other eligible applicants may be given no preference under the allocation scheme if there is evidence of a breach of tenancy conditions or a relevant court order has been issued against a member of the household (for instance neighbour nuisance, harassment, drug dealing or causing damage to the property).

Applicants may have their application suspended from the register for 6 months, or as a last resort excluded from the scheme, on the test of unacceptable behaviour or through violence or threat of violence against partnership staff. Suspension is open to review during the 6 months if there is a change of needs or circumstances. Where the behaviour is not serious enough to make the customer unsuitable to be a tenant, they may be allowed to join the register but have their priority reduced until they are able to prove that their behaviour is no longer likely to cause a nuisance.

There are arrangements for appeal against suspension, removal from the register (i.e. exclusion) or reduction of priority for reasons of behaviour.

## **Carmarthenshire**

In Carmarthenshire the Housing Choice Register Group, comprising the local authority as the lead organisation and partners Bro Myrddin Housing Association, Family Housing association, Cymdeithas Tai Cantref and Tai Cymdogaeth, manages a common allocation policy which includes a common suspension policy. The authority notes that the joint approach affords more clarity for applicants, through the use of a single gateway to social housing in the county and effective administration of a single allocations policy.

Applications may not be accepted onto the register if one of the following applies to the applicant or a member of their family:

- Serious, continuous problems paying rent in the past;
- Provision of false information in application;
- Anti-social behaviour.

Applicants can also be taken off the register for not providing information asked for, not notifying of change of circumstances or not renewing an application on request. Those moving from one social home to another may be removed from the register for non payment for repairs. Applicants can also be suspended from the register for 6 months for refusal of an offer of accommodation without acceptable reasons. Refusal of two reasonable offers (as defined by the policy) within 12 months also leads to suspension for 6 months.

Removal from the register can be for up to two years on grounds of behaviour and giving false information, or up to one year in other circumstances. Individuals are informed of the decision in writing with an explanation of how to get back on the register and how to appeal against the decision to the Housing register Suspension Appeals Panel. Cases are reviewed anyway after the suspension ends.

Acceptance of tenancy support can be a condition of an offer of accommodation.

## **4. CARDIFF CASE STUDY**

Cardiff was chosen as the main case study in the light of anecdotal reports that its policies and arrangements for joint working were seen as groundbreaking and effective in maximising housing inclusion. In 2005 Cardiff City Council had submitted a bid under the Assembly Government's New Ideas fund (for small research projects in the social justice and regeneration portfolio) to evaluate its inclusion arrangements. The bid was considered worthwhile, and an evaluation timely, given that the arrangements had been operational since 1999. However, due to the very competitive nature of the fund the bid was not approved for funding. The Assembly Government has now instead worked with the Council and others to carry out this small in-house research study.

The case study considers the experience of participating organisations of the joint working arrangements, and assesses the monitoring and impact data available. There was no contact with individual clients. The method was:

- Examination of policy and procedure arrangements and documents including minutes of meetings;
- interviews with 6 key partners, on their experience of joint-working, of the policy and of outcomes;
- identification and analysis of existing quantitative performance indicators and monitoring information;
- Observation of a panel meeting.

### **4.1 Common Exclusion Policy and Common Exclusion Partnership**

The 1996 Housing Act gave local authorities the right to exclude applicants from housing, and Cardiff decided that it would use this power. The intention of the first exclusion policy in 1998-9 was simply to focus on housing-related anti-social behaviour and to avoid re-housing any individuals who had recently been evicted on housing management grounds. However, the scope of the policy rapidly grew to encompass all offending and anti-social behaviour issues, including those related to dangerous and sex offenders.

In October 2004 the local authority housing department piloted a Common Exclusion Policy, largely based on its existing policy and procedures, but working in partnership with Cardiff Community, Cadwyn, and Taff Housing Associations. These were chosen because they did not work across county boundaries and could more easily align their policies with those of a single authority. In October 2005 the partners invited the other housing associations operating in Cardiff to join an extended pilot (Glamorgan & Gwent, United Welsh, Wales & West and Hafod). As a result, a formal Common Exclusion Policy was agreed and a Common Exclusion Partnership established by April 2006. Aelwyd Housing Association is also involved, but less formally, because of its smaller size.

The council does not yet have a joint waiting list or application form with all associations, but with Assembly Government funding is developing a common register. To date it has a common register with Cadwyn, and agreement in principle from others.

The local authority is the lead organisation in the Partnership, which is managed by the Housing and Safety Unit within the Housing Department. The Unit manages each case through the investigation process, gathering information, liaising with all partners and interested agencies and managing the Exclusion Panel and its meetings.

The Partnership's decision-making involves the following parties:

- The housing associations;
- other parts of the housing department such as the Tenant Support, Homelessness, Allocations, and Housing Management and Supporting People Teams;
- other local authority departments such as social services (Adult Services, Children's Services, and Youth Offending Team);
- The Police Service;
- The Probation Service;
- other agencies, such as mental health teams.

There is occasional input from others, notably support workers and voluntary sector agencies including hostels. Some partners such as social services or mental health teams attend only where they have a specific interest in a case.

The overarching aim of the policy is to help people in Cardiff 'to live safely and peacefully within their communities'. More specifically, the policy sets out how to consider housing applications from individuals with a history of anti-social behaviour or who may be considered a risk to the community. This includes individuals who are deemed to have broken a previous tenancy agreement through neighbour nuisance, anti-social behaviour or destructive behaviour, whether or not this resulted in a loss of tenancy.

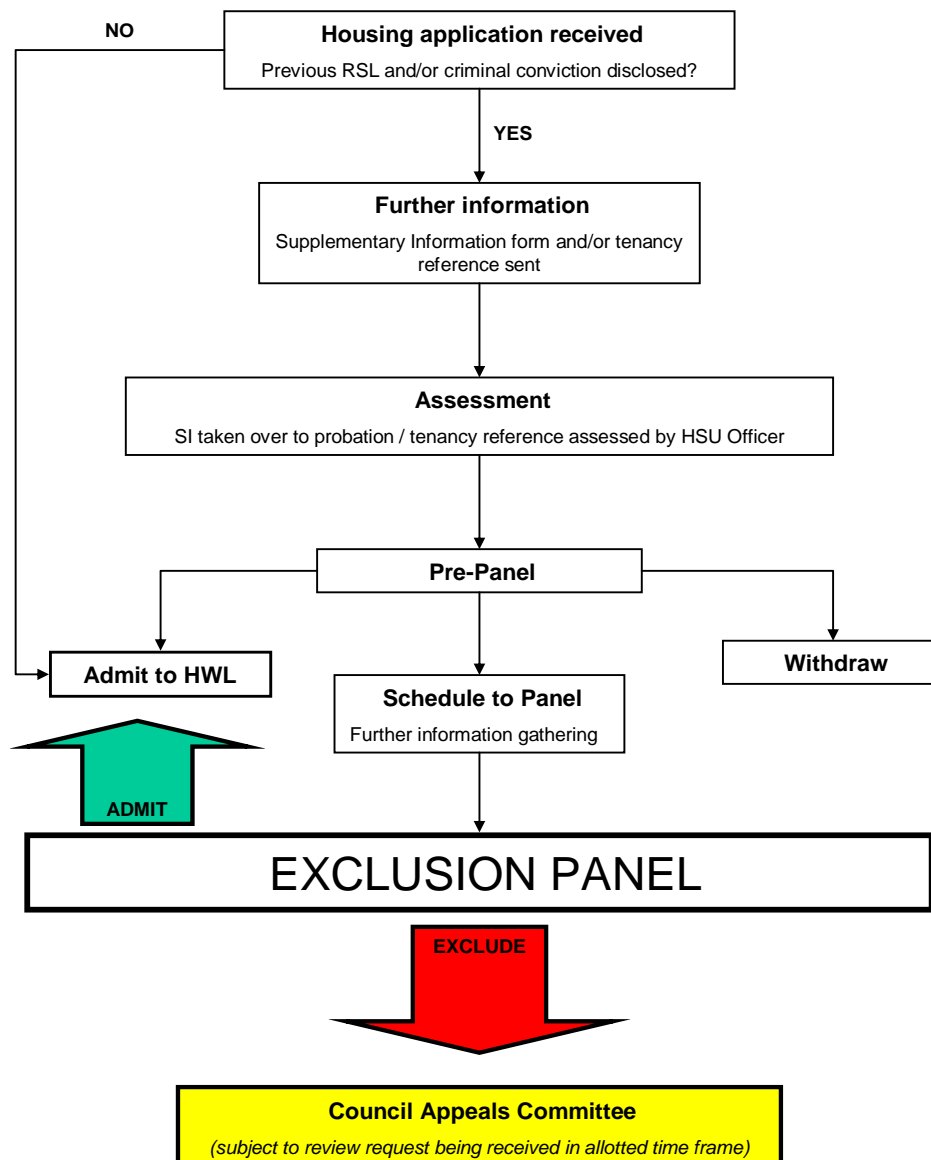
The policy recognises that convicted dangerous and sex offenders need to re-integrate back into the community, and works closely with MAPPA processes, although it pre-dates the introduction of MAPPA in Cardiff. The process is used for consideration of formal requests made under MAPPA to house dangerous offenders, and the partnership will also refer cases to MAPPA where the risk is considered too high for normal housing and support services to manage. The Partnership provides the input on housing issues to the strategic framework for the 'management of potentially dangerous and sex offenders' under MAPPA.

The partnership also works closely with the Taff Forensic Scheme which provides 'high risk, high intensity' support, managing and monitoring offenders with significant support needs and mental health issues.

## 4.2 The process

The process is set out in the flowchart below

### Summary of Exclusion Procedure



### ***Initial screening***

All applicants for housing are asked about previous social housing tenancies, and references are taken up from these landlords. No information is sought about private sector tenancies.

All applicants are asked about criminal convictions. If any are reported, the individual is asked for further detail, including background and any mitigating circumstances, and this is checked for accuracy with the Probation Service.

Any applicant with an adverse tenancy reference or offending history, including ASBOs, is subject to the exclusion process.

An exclusion 'pre-panel', which includes housing association representatives, meets weekly and is able to clear the majority of cases for inclusion on the housing waiting list. Information is shared electronically between organisations in preparation for meetings. This system fast-tracks those applicants without significant issues. Where the pre-panel has doubts or considers that more information is needed, the case goes to the full Exclusion Panel. This initially met about every 6 weeks, but is now running every two weeks as part of the Housing Department's performance indicator plan – the more frequent meetings ensure a steady flow of cases through the unit and helps to meet homelessness decision deadlines.

### ***The Exclusion Panel***

Housing officers stated that the aim of the Exclusion Panel is 'to find a way of enabling the applicant to be housed - assessing risk and housing people appropriately is what [panel meetings are] all about'. Having assessed the risk, the Panel decides whether the applicant can be housed and whether there are any specific accommodation needs. A support assessment is carried out and an appropriate support package made available.

In general, a decision not to exclude is a decision in principle that any partner would be prepared to house the person, subject to normal nomination procedures and availability of suitable accommodation. Occasionally, a particular landlord might agree not to exclude, but record that they would not be prepared to accommodate the person, for instance where they had done so before and relationships had broken down.

Some applicants are placed on the waiting list with a condition that they will be screened again at the point of allocation, for instance to check for further offences. It is felt that this knowledge of future screening might in itself act as a deterrent to offending.

Inclusion is never conditional on the applicant's behaviour or acceptance of support. It is felt that this is unenforceable in Court, and that applicants might agree to conditions to secure housing, without being properly motivated to engage with support.

### ***Exclusion decisions***

If all avenues are exhausted or it becomes apparent that an individual will continue to pose an unacceptable risk to the community, the applicant may be excluded from the waiting lists of the Partnership, always on the legal basis of the test of unacceptable behaviour. Officers could only recall one instance of non-unanimity over an exclusion decision, and this disagreement was recorded.

When an exclusion is made, the council sends a letter explaining this to the applicant. Officers acknowledged that it is not a user-friendly letter but stated that it was drafted to fulfil legal requirements. It does include an explanation of why the person has been excluded. Where the Panel thinks it possible that the person could work towards re-inclusion the following year it will 'try to put a positive spin' on the letter, although without setting out criteria for re-inclusion. It is felt to be too much of a hostage to fortune to offer re-inclusion on set conditions, as circumstances or behaviour can change in unexpected ways. Exclusions can refer to specific areas of the City.

Exclusion is for a maximum of 12 months, but is referred to as 'exclusion' rather than 'suspension' on the basis of legal advice. Cases are not automatically reviewed at the end of the exclusion period but individuals can ask for a review or make a fresh application at this point. The Panel then takes into account any change in behaviour or circumstances since the exclusion. A further exclusion of 12 months can be made.

Interviewees stressed that exclusion is not seen by those involved in the process as 'the end of the story'. Where an individual is excluded, the Panel discusses other options for accommodation such as temporary accommodation or a hostel. In approximately half of these cases, the local authority owes a duty to secure accommodation under the homelessness provisions or the Children Act. It was reported that many excluded individuals are actively managed and monitored by the authority or other organisations. However, where MAPPA rules do not apply to an individual there is no formal system for ensuring any level of engagement or tracking.

### ***Rent arrears***

The policy does not apply to rent arrears, and formally the Partnership does not exclude people on the basis of arrears, partly because as a policy officer noted, 'you never get your money back'. However, there is a system of deferment: admittance to the list, but with offers only being made where a payment schedule is agreed and is being followed. This may be contrary to current guidance and appears to amount to exclusion by another name.

### ***Appeals***

Applicants can appeal against exclusion decisions to a committee made up of elected council members. The appeals committee has set criteria for its deliberations. Where fresh information is available at appeal stage, the case can revert to the Exclusion Panel. After a formal appeals committee decision however, no change can be made. In 2005-6 15% of exclusion decisions were taken to appeal (11 cases).



Council officers reported that it would have been constitutionally 'difficult' and bureaucratic to delegate the appeals process to a non-council body, but that they had welcomed housing associations' ready agreement to the use of elected members. They felt this was because councillors were seen as independent representatives of the community.

The appeals committee has at times been a different group of councillors from one meeting to the next, and has varied in size, but is now a stable group of 8 or 9. It was felt that a smaller and more stable group worked better.

Housing officers felt that the committee 'naturally comes at [exclusion] from a very different angle' from that of the housing department. However the monitoring statistics show that the committee has in general upheld Panel decisions to exclude, although it has sometimes increased or decreased the period of exclusion. Between November 2005 and October 2006, the committee heard 11 appeals, of which it overruled one decision to exclude, increased two exclusion periods and decreased another two periods.

Initially there was no training or awareness for members on process, legislation or policy, and decisions could be 'off the cuff'. It was reported that over time the awareness had got much better, especially as some councillors had attended MAPPA training.

### ***Exclusion Steering Group***

A Common Exclusion Steering Group, with representation from each organisation, meets quarterly. Its work is separate from that of the Panel, and it looks at the bigger picture, setting out principles and providing an opportunity for members to share experiences, concerns, or examples of good practice from elsewhere. Attendance at steering group meetings is good. The Group has identified fewer difficulties than anticipated, with 'no real problems or sticking points, just a few tweaks to the system'. However, it had been useful in considering wider issues and was instrumental in prompting the Council to consider the merits of the 'Bolton model' (see below), and in identifying a need for training for housing officers in associations and the local authority on housing dangerous offenders. The Group is considering the application of the exclusion policy to requests for housing exchanges, which are currently outside its remit.

### ***Related initiatives***

The tenant support team maintains a number of units of general accommodation for letting under licence to people at risk of exclusion, where intensive support is offered initially and gradually tapers off. The unit can be transferred to a standard tenancy where intervention is successful. This is reported to have worked well in several cases where people would otherwise have been in long-term temporary accommodation.

The council has a 600 place tenant support scheme, with sub-contracted support from the voluntary sector, which can assist with keeping track of some excluded individuals.

The Bolton model currently under consideration by the Steering Group is an agreement between the local authority and the Police and Probation Services to add conditions to tenancy agreements in respect of 'very high risk' offenders such as some sex offenders. Additional conditions include allowing monitoring visits by housing officers, probation or police officers, or non-participation in tenant participation groups and activities (which some offenders might abuse for grooming). Cardiff Council's legal department considered that the conditions could be included but that their breach would by itself be insufficient grounds for eviction. The model is likely to be implemented, and to be used as a warning and indication to the offender that they are being monitored, and as a 'hook for discussion' between tenant and housing officer.

The Partnership has established a training course, run by the Housing & Safety Unit Manager working with the manager at the Cardiff Accommodation Unit of Tai Trowthy and the National Probation Service. Take-up was high and feedback was reported to have been very positive. Interviewees who had experience of the training also praised it, for instance describing the training as 'eye-opening, dispelling myths and changing perceptions'.

#### **4.3 Experience of the Partnership**

The policy and process has developed over time. Although it has been consciously managed, there was no 'great plan' at the outset, and lessons have been learnt. All interviewees were generally happy with the partnership. All associations had needed to clear the policy with their Boards but none had encountered constraints from governing instruments or differences in culture. All felt they had participated fully and equally.

It was reported that the Cardiff approach was regarded by colleagues in other authorities as an excellent model of practice - 'the reputation has spread through word of mouth', and one housing association partner with experience of working in other authority areas felt that the Cardiff model was 'the best around'. Several other local authorities in Wales and England have visited Cardiff to learn from the Partnership, and there have been moves towards establishing similar models in other local authority areas.

#### ***Trust and co-operation***

One of the clearest and most consistent messages from the interviews was that trust and co-operation are crucial, and that 'paperwork and policies' alone will not be effective without building sound relationships.

Interviewees felt that trust had grown over time, with greater understanding of the constraints under which each organisation works, and the fact that objectives are shared: 'You have to know where the common ground is...there's no point shouting at someone who is saying what their only possible option is. Everyone finds no-one is trying to con them'. Another officer remarked 'We didn't know each other before. Soon we found that the common concerns are common across subject divisions, worries about the unknown, [we are] all struggling with our various pieces of legislation and [it is]

amazing what each agency can do when you work together'. Another felt that 'before we used to say we have different legislation and work on different scales so we must be different...but we found we're all housing professionals with the same skills and concerns.'

Council officers recalled their preconception that it would be 'difficult to get housing associations on board because they would cherry pick', and a view that housing associations had not previously fully understood the local authority's statutory duties or the constraints these imposed. They felt that the early meetings were 'eye-openers' for housing associations who saw the number of serious cases dealt with by the council and discovered that rather than being an occasional exception these were 'normal business'.

Conversely, housing associations had been concerned that the council would 'dump on them' through nomination processes, but had found that 'it's not the council trying to force through what it wants' such as nominations of unsuitable homeless tenants. Having had previously to take difficult decisions with little support or information, they had welcomed the opportunity to share information and responsibility through the formal processes of the Partnership.

Trust between the housing department and other agencies such as Police and Probation has also improved – 'the Probation Service will now say when an individual is not ready for a tenancy'. Understanding the steps the Probation Service takes to tackle offending behaviour is useful. Council officers felt that MAPPA had worked well in Cardiff because all the arrangements, structures and relationships between organisations were already strong due to joint working on the Common Exclusion policy – 'we were having meetings that were MAPPA meetings before MAPPA came along'.

The Council reported initial hostility from some voluntary sector support and advice providers to the concept of excluding any applicants from social housing. Exclusion was seen as a refusal to help or house people – whereas it was seen by the Partnership as a way of managing stock, looking at difficult cases and housing them appropriately. The level of trust had improved, with more voluntary sector workers now appearing to be happy to work with the policy, but it was noted that some still had 'hang-ups' about exclusion in any circumstances. Council officers felt that people became more comfortable with the process as they engaged and became more familiar with it.

Many cases of families with children involve a social worker. It was noted that the stereotypical relationship between council housing and social services departments was one of non co-operation and non communication, but that in Cardiff the relationship had improved in relation to families at risk of housing exclusion since the introduction of the exclusions process. Early in the history of the policy, it was felt by housing officers that social workers would give recommendations about the suitability of a tenant for housing and make undertakings about support available, to 'get them over the hurdle' of exclusion, but 'that would be the last you saw of them'. The introduction of the common exclusion policy and panel had ensured that social workers were now more involved in the long term in support and could see their input as part of a package. Housing officers felt that they had developed a better

understanding of social services duties, for instance under the mental health provisions. Housing association interviewees were less aware of social services involvement in the panel processes.

### **Success in joint working**

Interviewees felt that the keys to success were clarity about common objectives, and the style and culture of meetings and communication. Relationships were characterised by genuine partnership, open dialogue and as one association noted 'the honesty of the set up'.

The key lessons learnt from the process about building the relationships were that 'you need to drag the right people into a room to talk to each other, and you need dedicated resources'. On a day-to-day level, individuals have had regular contact with a greater number of colleagues in partner organisations, and have worked through difficult cases together - 'and everyone is in the room when the decision is taken'. The local authority and housing associations now have to reach a joint decision to house an individual, with the understanding that any single partner could be called upon to do so through nomination arrangements. Nomination processes had become more straightforward as a result.

### **Decision making**

It was felt by all interviewees that the partners found it relatively easy to reach unanimous decisions, largely because of the considerable pre-panel research and report writing and the level of pooled information. Over time, the process had become easier as all parties became more aware of the information needed and how to assess risk. Resulting decisions were felt to be more rounded, better informed and more consistent than before the policy was introduced. Discussions about support needs were part of the process. Where there is insufficient information to make a decision but concerns remain, an interim arrangement is made (eg temporary accommodation) and monitored and a full decision deferred.

### **Information sharing**

Information sharing was also made possible by the high level of trust and good working relationships. It was reported to have worked well with the Police and Probation Services, despite the fact that these Services had to be very careful with data protection and that there was no written protocol for information sharing under the exclusion policy. The only formal agreement is the MAPPA Memorandum of Understanding. Housing associations are joint signatories to the MAPPA arrangements and information sharing with these is not problematic. The Housing & Safety Unit has well-established links with the National Probation Service for carrying out criminal record checks. However, there are some concerns for the future and reservations about the possibility of developing such good relationships in other areas (see below).

There is now a jointly located office in the central police station incorporating housing, health, probation, and police IT systems. The Housing department may soon have access to VISA (Violent and Sex Offender Register) and

CRAMS (Criminal Records Administration Management System), with permission to update entries.

Within the local authority, there had been a move from the assumption that confidential information was available to all housing officers as long as it remained within the department, to a need-to-know basis. Only two members of the Housing and Safety Unit keep information from the Police and Probation Services, and this is kept securely. Housing officers can ask specific questions but not receive wholesale information.

### ***Risk management***

During the development of the Policy there has been a change in culture from a social work to a risk management model. One housing officer remarked that 'ten years ago we thought it was rude and illiberal to ask people if they had any offences.' Interviewees consistently stressed that the aim is to assess and manage rather than avoid risk, and that the ability to avoid excluding individuals is largely based on access to sufficient information to understand what risk they might pose and agreement on appropriate placement and support to manage this. Assessment of individuals at the point of application gave time for agencies to put support in place and for applicants to demonstrate suitability for a tenancy.

One unforeseen implication of information sharing between agencies was the increased need for internal risk management systems in each organisation (for instance in terms of health and safety of staff) as more risks become known by more people. 'This turned out to be a surprisingly big job.' Council and housing association housing management teams were considered by interviewees to have better information and ability to assess risks to their staff, but it was noted that this could pose a capacity issue, for instance to ensure doubling up on visits to dangerous offenders.

For safety reasons, the council does not give names of officers involved in the exclusion process, and does not put individual names on letters. All paperwork is anonymised, and the council uses a PO Box. Normal requirements for open government are felt to be outweighed by the need to protect staff. Referral to an anonymous exclusion officer can help front line homelessness staff. There is no use of agency staff, all those involved have CRB enhanced level clearance, and no staff are required to be involved with the high risk cases if they do not feel comfortable with or suited to the work.

Applicants are not interviewed at any stage of the exclusion process (although they can be represented at appeal). This is mainly for security reasons, but also due to resource constraints.

### ***Resources***

Cardiff has four full time staff working on housing and safety – officers suggested that this was probably the highest level amongst councils in Wales. They felt that their success was partly due to having adequate dedicated resources within the housing department. Other partners did not have staff dedicated to the role, and several noted that the workload involved, including

fortnightly meetings, could be considerable. Nevertheless, all felt that the process was a sound investment of staff time. The increased level of trust between partners also meant that housing associations were able to work to some extent on a rota basis, relying on each other to represent the sector.

It was clear that a small number of very difficult cases ('the critical few') required a disproportionate amount of resources and presented a very high level of risk.

Although there is considerable pressure on housing supply for families in Cardiff, this was not felt to be a factor contributing to exclusion. For single people, there was no reported problem with supply or quality of accommodation or support. Although it was acknowledged that there was more variety of provision in Cardiff, the council questioned whether total supply was the key issue anywhere in Wales, suggesting that reconfiguration of existing stock could go a long way towards solving this issue. In Cardiff it was reported that homelessness cases could usually be provided with at least temporary accommodation, although waiting list applicants could wait a long time for housing if they wanted a specific popular area.

### ***Reliability of self reporting of offences***

Experience is that many applicants understate their offences – for instance only giving the latest offence or the least serious offence. Officers felt that given the resources they would ideally check every application with the Probation Service. However, a one-off exercise that checked 100 randomly chosen applications found very few instances of applicants with an offending history who had not declared this, and no instances of unreported serious offences.

### ***The basis for exclusion decisions***

It was reported not to be possible to decide all cases on the same basis, as some individuals will be owed a duty under homelessness provisions, and many care leavers will be owed a corporate parenting responsibility by the Council, and will therefore have to be secured accommodation by the local authority even if excluded.

Homelessness cases, which make up about one third of all those considered, are separated out and dealt with first at panel meetings, and there can be a 'tendency to be more generous' in these cases. The council speculated that the tendency might be even more marked in other local authorities than in Cardiff, with its high level of provision of temporary accommodation providing an alternative to housing statutorily homeless people through the housing list.

Families with children were the other group where the panel 'tried to be more sympathetic' to the needs of the children, and not exclude, even where there were significant problems with anti-social behaviour.

Where good engagement with support can already be demonstrated, this works in favour of inclusion as it is clear what the needs are and how they can

effectively be addressed. Conversely, where people have previously refused to engage with support, this increases the likelihood of exclusion.

It was stated that if the panel is persuaded that housing is a significant factor in offending behaviour, and that offering a tenancy can help reduce offending, they will not exclude.

A senior officer involved in exclusion decisions characterised the majority of people who were excluded as either young single people with multiple offences 'who are not ready to settle down' or people 'with horrendous track records of anti-social behaviour or violence'. The other significant group was people who have just left prison or another institution and where there is an assessment of significant risk but insufficient evidence for a decision either to exclude for 12 months or to offer a tenancy (even an introductory tenancy). In these cases the Panel may wish to see how an individual behaves over an initial 6 month period. It was noted that previously such cases were deferred (with no right of appeal), whereas under the Common Policy they can be excluded for 6 months (with a right to appeal), assuming the test of unacceptable behaviour applies. They are usually then offered temporary accommodation in an area where they might be likely to settle, with a view to converting to an introductory tenancy after 6 months. Temporary accommodation is used initially to retain some flexibility for the local authority to move people without a requirement for court orders.

Discussions of risk and consideration of the desirability of excluding or not excluding an applicant are not conducted on the basis of the test of unacceptable behaviour, but the decision must legally be made on this basis. This tension is discussed below.

#### **4.4 Barriers to effective working**

##### ***Test of unacceptable behaviour***

This test was seen by the local authority as 'part of the problem', 'frustrating' and 'a constant irritant'. Discussions of risk focus on current behaviour (in line with current thinking on best practice), but the legal test of unacceptable behaviour, that must be applied before an exclusion can be made, depends on evidence from past social tenancies and offending history. Individuals with no social housing history or no offending history cannot be excluded, whatever the assessment of current risk. It was reported that 'you can be not able to exclude some really dangerous cases', and that in theory many people could be excluded who are not a current risk. It was felt that one of the 'biggest single factors that could improve the situation' would be to allow exclusion on the basis of current risk. It was considered that in most cases, where the council has a duty to secure accommodation, the effect of exclusion would be to retain more control (by placing them in selected temporary accommodation) than if the individual were placed in general housing.

##### ***Requirement to rehouse all homeless offenders***

Another perceived legislative anomaly was the duty to rehouse all homeless offenders under the priority needs provisions. Officers understood the general

policy in relation to offenders and homelessness, but cited instances of unrepentant offenders 'who as soon as they are released say they will re-offend' or refuse to discuss their offending, but know that they have a right to be re-housed.

Officers reported that they would accommodate any offender where housing may be a factor in their offending, where there was some co-operation and the risk was manageable, or where suitable housing could reduce the risks to others. However, they felt that in some cases re-housing 'just makes re-offending easier and more likely', at the same time as reducing the resources available to accommodate others.

In particular, it was felt to be 'madness that there is a duty to rehouse perpetrators of domestic violence on release from prison', where the previous tenancy was lost through a domestic violence offence. The provision of housing 'makes it easier for them to get a new partner'.

Offenders' awareness of their rights was thought to remove any incentive for them to co-operate. Experience was that there was also more incentive for other agencies to co-operate to avoid exclusion before the introduction of the Priority Needs Order. Anecdotally, it was reported that authorities in England, where the Priority Needs categories did not include all offenders, were no less likely to accommodate very risky offenders than those in Wales.

### ***Local connection***

Cardiff has more temporary and emergency accommodation than most areas in Wales, and also has an approved premises (bail hostel). Housing officers reported that only half of the residents in Cardiff hostels have a prior local connection. They considered it unreasonable that the authority should have to house the other 50%. They noted that it was only necessary to 'get a job or partner to get local connection'. They acknowledged 'some tension' between the authority and the voluntary sector over this issue.

### ***Funding for intensive support***

Partnership members considered that there was no adequate funding framework for intensive support for very high risk offenders. They suggested a new high-end tariff within the Supporting People programme. The workforce skills and capacity were reported to exist, at least in Cardiff, although they could not necessarily be provided in-house by the authority, but through contractual arrangements and partnerships with mental health and forensic teams.

### ***Location of MAPPA in community safety***

The Housing Department is a core member of MAPPA. However, the strategic direction of MAPPA is now located with Community Safety in Cardiff, which 'caused problems because they don't really understand it', and because they were seen as the representative of the whole local authority, replacing the individual departmental interests previously represented. Specialists from housing or social services still have to attend as needed, so it was not felt that this resulted in efficiency savings.



### ***Residual resistance to information sharing***

Gathering information needed to assess risk can be difficult. In particular Council officers reported that support workers (including workers in drug or alcohol units as well as those working through the Supporting People framework) were often hostile to the concept of exclusion and either gave little information or only gave information where it could be positive. It was said that 'some see themselves as advocates for all homeless people and might not discriminate between them'. The situation was gradually improving over time, especially through inviting support workers to the exclusion panel meetings. It was reported that support workers were increasingly taking up offers to talk to the panel about their case, particularly where a hostel considers that an individual is ready for move-on and is blocking a place.

Partnership members do not always share information with hostels where risky offenders are living, because the hostels are not MAPPA signatories and the culture of control over shared information might not be strong enough. However, it is recognised that these hostels often end up taking the most dangerous cases.

Another barrier to full information is that only offences that are not spent can be taken into consideration, but many young offenders over 18 have a large number of offences that are spent purely by virtue of their age.

There was an isolated but recent example of an association failing to disclose to another a history of violence on the part of an applicant for a tenancy exchange.

### ***Housing exchanges***

Council tenants have the right to exchange properties. This can be refused only on strictly defined grounds that do not include having a high-risk offending history. It was reported that it is possible to lose track of people this way because exchanges are not caught by the exclusion system. The Partnership members can only ask the police to try to dissuade individuals from moving, especially where there is a relevant condition of a licence or of the sex offenders register. The Partnership Steering group is considering this issue, but is constrained by the legislation. Transfers between housing associations and the local authority are treated as new applicants and so are subject to the exclusion policy.

### ***Concerns for the future***

Some interviewees expressed anxiety about future funding, especially for Supporting People services, and the impact of any feared cuts on the current arrangements.

Future access to CRAMS and OASIS information systems was felt to be under threat. It was said that the Probation Service needed to take a view at a high level on access to this information and to ensure that the relevant information was available to social landlords through the Panel. This issue

would be more challenging in other areas of Wales where the long-standing relationship of trust was thought to be less strong.

#### **4.5 Impact**

##### ***Spin-off effects of improved working relationships***

Both council and housing association officers felt that they now had better relations in areas such as community housing agreements, a housing management forum, and joint working on homelessness and resettlement issues. It was suggested that the progress being made towards a common register would not have happened without the Common Exclusion Panel. It was reported that housing association officers sat on interview panels for relevant Council posts. Officers also observed that having housing associations and the council working together with differing stock profiles widens housing options for applicants. Improved communication between landlords and the Probation and Prison Services had improved the ability to maintain tenancies of tenants on remand.

##### ***Impact on number of exclusions***

It is not possible to establish what impact the policy has had on the number of exclusions. Before its introduction exclusions were not recorded by either the local authority or individual associations. Changes to the legislation, notably the Priority Needs Order, and changing terminology would anyway hinder comparison of like with like.

The impression of some interviewees was that fewer people were excluded under the Common Exclusions Partnership. Some housing associations tended to the view that with the exception of very high risk offenders, they had always housed many 'difficult' tenants, but without the benefit of full information and risk assessment. Others felt that they were more ready to take difficult cases under the current arrangements and that some applicants who would have 'been left in limbo are now taken on', largely because there is no feeling that anyone is 'trying to fob off dodgy tenants' on anyone else. A view from the council was that housing associations had previously had to exclude people because they were 'not in the loop' with the Probation and Police Services and therefore had inadequate information.

An alternative interpretation is that the key moment of change was the introduction of the duty to house homeless offenders, that more applicants were formally excluded before this change, and that there was little follow up or case management of excluded offenders.

Most interviewees felt that the real impact of the Policy was not in terms of the number of applications accepted, but in the appropriateness of allocations, support and supervision, and the improvement in risk management because all the partners are better informed. They felt that fewer people were failing in their tenancies as a result. An illustration of the importance of looking behind the definitions and data was the increase in the use of units designated as temporary accommodation and later converted to a tenancy. Individuals in these placements are formally 'excluded' until the point of conversion, but are nevertheless monitored and supported.

### ***Impact on outcomes for individuals***

Again, there is no hard evidence about the long-term outcomes for individuals re-housed or refused a permanent tenancy through the joint working arrangements, in terms of success of tenancies, other housing history, or offending. Those cases that are excluded but not owed a duty under the homelessness provisions and not subject to MAPPA monitoring, may not be tracked by any agency. Those housed after consideration by the panel are not centrally monitored by it. Interviews showed that individual social landlords had internal systems for identifying those tenants at risk of losing tenancies or needing support, and for monitoring their own tenants, but these did not provide a basis for monitoring or evaluating the whole policy. It should be noted that the Partnership are keen to set up evaluation mechanisms, but have not to date had the time or resources to do so. The original New Ideas Fund bid was partly aimed at setting up evaluation systems. The Steering Group is currently considering options for taking this forward.

Anecdotally, interviewees felt that the exclusions policy required individuals to take responsibility for their behaviour and to engage with support as needed, and that this was bound to have a positive impact on those that did so. In addition, it was felt that the improved sharing of information and risk management meant a better service to existing residents.

There is no data on numbers of individuals applying for or being offered a tenancy after being previously excluded. Interviewees from housing associations felt that individuals could be re-included as long as they could demonstrate a willingness to demonstrate change and where necessary engage with support services.

### ***Data available***

Cardiff County Council has approximately 7500 applicants on its waiting list. It is not known how many applicants to housing associations in Cardiff are also on the local authority list and how many are additional to this number.

The Housing and Safety Unit maintains a database of monitoring information related mainly to the exclusions process and workload rather than to policy factors, although the database fields include ethnicity. Statistics are collated periodically from the database, usually in response to a specific query. The Unit plans to start regular review of the monitoring information shortly and is considering developing performance indicators related to these. Since the start of the common exclusion approach, 1035 cases have been discussed at 49 exclusion panels, and approximately 6,192 cases have passed through the Housing & Safety Unit for assessment on criminal convictions and / or previous tenancies.

The database does not record factors such as type of household (e.g. single person or family), age, gender, whether an applicant is owed a statutory duty by the council (homeless people or care leavers), length of exclusion period, or whether the exclusion is a repeat exclusion.

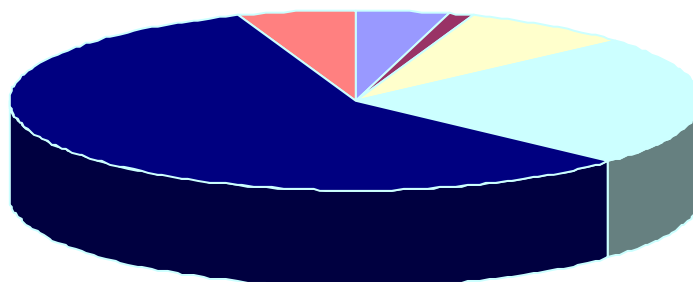
The authority receives approximately 8000 new applications for housing each year. Of these about 2500 are investigated through the exclusions process. Of the applications investigated slightly more are on the basis of previous tenancy issues than criminal convictions (approximately 57% previous tenancy issues, 45% criminal convictions). Of the cases investigated only a small proportion are presented to the exclusion panel (300-400 per year).

Cardiff Exclusion Panel cases April 2006 – April 2007	
No. cases to exclusion Panel	353
No. cases admitted	199
No. cases excluded	89
No. cases 'other decision'	36 (withdrawn*) 13 (until further contact)

\*Cases are often withdrawn if for example the applicant has misrepresented or is back in custody, or agencies have lost contact with the applicant.

### Analysis of Excluded Cases 06-07

■ Violent Offences (4)      ■ Supply of drugs or related (1)      ■ Sex offences (7)  
■ Previous tenancies (21)      ■ Multiple offences (51)      ■ Burglary / Robbery / Theft (5)



Year (April - April)	No. Criminal Convictions investigated	No. Previous Tenancies investigated	Total Excluded	%
2007	1111	1254	87	4%
2006	1120	1064	56	3%
2005	897	1222	76	4%
2004	838	1234	96	5%
2003	698	1223	55	3%
2002	629	1198	74	4%

The Unit is looking at reclassifying the offending categories for 'analysis of excluded cases' in the context of revising the database. It is hoped that this will assist in identifying patterns and show in detail what ASB crimes are being excluded, and reduce the need for the 'multiple offences' category.

## 5. Conclusions and recommendations

## **5.1 Conclusions**

Joint working by a social landlords and range of partner agencies is essential in assessing and reaching decisions about people at risk of exclusion. Sound decisions, based on full information, about housing inclusion and arrangements for managing the risks posed by some individuals will result in better protection for communities, better reintegration of excluded or potentially homeless people, and long-term savings to other public services.

The Cardiff Common Exclusion Partnership is an excellent model of joint working and information sharing. It could be drawn upon in other areas of Wales, with adaptations to suit local circumstances. In particular, smaller authorities may wish to work in regional collaborations.

### ***General practice in Wales***

Progress towards common policies and partnership working on applications, allocation and exclusions is steady but slow, with many local authorities and housing associations still working in isolation from each other.

There is much good practice in Wales in application of guidance to consideration of exclusions. In general there is sufficient and satisfactory guidance and awareness of good practice on treatment of rent arrears and anti-social behaviour.

However there are also examples of poor practice. These include nomination agreements not being in place between some housing associations and local authorities; exclusions being made without clear criteria for re-inclusion; exclusion other than on the basis of the test of unacceptable behaviour and exclusion on the basis of rent arrears without a repayment schedule being set out. In particular there appears to be a need for clarification of the position on treatment of refusal of offers of accommodation as a ground for exclusion.

### ***Cardiff Common Exclusion Partnership***

The Cardiff model represents an excellent example of good practice in joint working to maximise inclusion in housing, balancing the individual needs and rights of applicants with those of the rest of the community. Its co-ordinated action and active risk management approach appear to have lead to more appropriate placements and support and more sustainable tenancies. It provides a sound framework for ensuring consistency with flexibility in decision-making, based on sound evidence and judgement. It provides assurance and support for partners, and a simplified and clear system for applicants and those at risk of exclusion. The keys to success in joint working have been establishing a clear common purpose, open dialogue and genuine equal partnership between independent agencies. The approach is well respected in other areas and already being used as a model by some other authorities in Wales and England.

Possible areas for further improvement of the Cardiff model are:

- Revision of the letter issued to excluded applicants, to use plainer language and ensure that individuals know precisely what steps they need to take to work towards re-inclusion;
- Review of the treatment of rent arrears to ensure that the system of deferment does not amount to exclusion by another name;
- Resolve the question of assessment of applications for transfer within the local authority's or a housing association's own stock;
- Establishment of systems for evaluation of impact of the approach on the sustainability of tenancies, and for monitoring progress of included individuals. Ideally, it would also be useful to track those excluded through the Partnership.

Interviewees were clear that the model was not specific to the circumstances of Cardiff and could work in other areas of Wales. The majority felt that promotion of the model across Wales would be beneficial, and that the principles were universal. Some included the caveat that relationships would have to be developed locally, that no model could be taken 'off the shelf', and that different ranges of housing solutions would apply in areas with fewer accommodation and support options. Smaller authorities could gain efficiencies of scale and learn from each other by working regionally.

## **5.2 Recommendations**

### ***Local level***

There is a strong case for all local authorities working towards a common exclusion policy and partnership with all housing associations operating in their area and with other relevant partners such as the Probation, Prison and Police Services. This work would be most effective if integrated with progress towards joint applications, registers and lettings plans. Many authorities, especially smaller ones, would benefit from working at regional level or adopting a similar approach and establishing communication links across regions or nationally, in order to:

- assist housing associations that work across local authority boundaries;
- avoid placing too great an administrative burden on cross-boundary services such as Probation or Police;
- share responsibilities between authorities and prevent 'off-loading'; and
- facilitate tracking of and information sharing about risky offenders.

In developing such an approach, local authorities and their partners would need to:

- dedicate staff resources to housing and safety issues, and particularly to the treatment of applications for housing by high risk individuals.
- Review the training needs of staff working in this area and of elected members involved in the process
- Establish arrangements for monitoring and evaluating any new approach, including measuring the impact on excluded households
- Ensure that arrangements observe current guidance and best practice, including having a single point of contact for applicants to all social housing, setting out clear criteria for re-inclusion when an individual is

excluded, ensuring that exclusion is always on the basis of the test of unacceptable behaviour, and avoiding exclusion on the basis of rent arrears.

- Continue working to minimise evictions, which can lead to future exclusion and homelessness

### ***National level:***

The Assembly Government will need to consider further how to promote and encourage joint working for inclusion in housing, and common housing registers, exclusions policies and lettings plans at local authority or regional level. It would be helpful to authorities and their partners if the Assembly Government facilitated dissemination of an approach based on that adopted in Cardiff, through workshops, development of guidance or a resource pack or networking. Any new arrangements would need to be developed to suit local circumstances, and it would not be possible to impose a package 'off the shelf'. However, some elements such as a list of potential partners (and parts of the authority), letter templates, information sharing protocols, health and safety checklists might be developed centrally.

Some areas of legislation or guidance appear to be either confusing or frustrating to authorities and/or housing associations. It would be helpful if the Assembly Government addressed the following issues:

- Promptly issue revised regulatory guidance for housing associations on exclusions and suspensions
- Clarify the position on treatment of refusals of reasonable offers of accommodation as grounds for exclusion
- Consider the case for refining or amending the following legislation:
  - the Priority Needs Order in respect of dangerous offenders, sex offenders and perpetrators of domestic violence;
  - the criteria for establishing a local connection;
  - the test of unacceptable behaviour, to allow for exclusion on the basis of current risk assessment;
  - the legal grounds for refusing an exchange of local authority properties between existing tenants, to include behavioural risk factors.
- When next reviewing its guidance, ensure that this acknowledges the challenges posed by the legislation.
- Review its position on the use of licences in general needs accommodation on temporary basis as alternative to exclusion
- Agree and issue guidance on good practice with the National Probation Service the issue of protocols on access to relevant information by local authorities and their partners for purpose of consideration of applications
- Consider the need for a funding framework for high intensity support and supervision of risky offenders, either through the introduction of a high level Supporting People tariff or by other means.
- In taking forward the recommendations of the Law Commission on security of tenure, establish the legal status of 'Bolton model' tenancy conditions and issue guidance to local authorities.

- Support further research, to track outcomes in terms of housing, lifestyle and offending for those considered for exclusion, whether approved for the housing list or excluded
- Support the development and delivery of training in awareness of exclusion issues for statutory and voluntary sector practitioners and elected members, building on the training already developed in Cardiff.



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