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PAWNS IN THE GAME

JOHNSTON BIRCHALL

**Brunel**   
THE UNIVERSITY OF WEST LONDON

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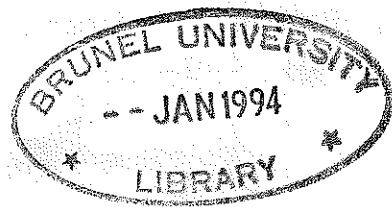
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BRUNEL UNIVERSITY, DEPARTMENT OF GOVERNMENT

WORKING PAPER

**Council tenants: sovereign consumers or pawns in the game?**

**Johnston Birchall**

June, 1991

## PREFACE

This is a longer version of a chapter (with the same title) written for a forthcoming book which I am editing, called Housing Policy at the Crossroads, to be published soon by Routledge. The decision to take a 'rights' approach to the subject of tenant participation had two unforeseen consequences. Firstly, it meant that the research took much longer, and produced much more material, than I had intended; once I had the framework clear, it seemed that suddenly everything that was happening on the housing scene became relevant, but from a consumer point of view. Secondly, the 'rights' perspective meant that my viewpoint on the performance of local authority housing during the 1980s became much more condemnatory than I had expected. This may be because any comparison of performance in the real world with rights in the abstract produces a shortfall in the former and a reification of the latter, so that one has to remind oneself that council tenants have consistently voted to remain with their landlord rather than risk a new one. This may be a sign that their lack of rights has made them ultra-cautious, but it may also be a sign that their experience is not as uniformly negative as the emphasis on rights would suggest; real people in relationships with each other over time often transcend, even if they cannot easily transform, the structures they are working in. For this reason I would welcome any comments or criticisms readers would like to offer.

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## Council tenants: sovereign consumers or pawns in the game?

### INTRODUCTION

From the point of view of the tenant, which we shall be taking in this paper, the structure of public sector housing has always been deeply flawed, because it has always, as a matter of course, excluded the interest of the users. Council tenants are at least as interested as councillors and housing workers in the use value of their homes, and they make a continual financial commitment in rent. It might be expected that they should be largely in control of their own destiny, since "most of the costs and benefits of housing accrue to the user and not to the community at large" (Clapham et al, 1990, p.244). Yet they have traditionally had few rights, and have had to rely on channels of communication and representation designed for citizens in general, rather than for consumers in particular. Housing workers have had their interest protected through trade unions and, more recently, through the power that comes through professional knowledge and training, while councillors have seen their interest as being to represent citizens in general rather than just those who happen to be council tenants, and when there has been a conflict between the two, they have generally chosen to represent the wider interest. How did this 'flaw' in the structure come about?

In the early days of municipal socialism, Sydney Webb argued that multi-purpose local authorities should be created, which would provide a massive, organised and planned response to housing needs. Yet his view of the interests involved in the housing process was simplistic; there was only one interest to be taken into account, that of 'citizen-consumers' (Webb, 1891). Now, as some recent commentators have argued, 'the difference between consumers and citizens is all important' (Klein, 1984, p20), and 'It is necessary to strengthen the position of both in the public services without pretending that they are always necessarily the same' (Deakin and Wright, 1990, p.12). Webb had his critics at the time, notably GDH Cole. But Cole was concerned to stake the claim of the worker interest, and he also ignored the problem of how consumers in particular would be represented in the decision-making process (Cole, 1980). It was left to Beatrice Webb to start from the point of view of the consumer and offer a balanced view of the representation of citizen, consumer and producer interests. She made a fundamental distinction between voluntary and compulsory consumers' associations, arguing that compulsory association is only justified under the following circumstances (Webb, 1930):

- When there is no identifiable constituency of consumers
- Where a service is paid for by all, but only used by a minority at any one time
- Where the services provided are inter-dependent and cannot be separated
- Where compulsory taxation of non-users is required
- Where compulsory regulation is needed of anti-social conduct

- Where there is a natural monopoly over a resource

Clearly, council housing is unlike street lighting or environmental health, because there is an identifiable constituency of housing consumers. It is unlike education or the health service, because the service is not paid for by all but by a minority who use it continuously. This service not only can but, in the views of critics, should be separated from other services, in order to give a clearer housing focus (Audit Commission, 1986). Compulsory taxation of non-users is now only required at the national level (since the ring-fencing of Housing Revenue Accounts), and increasingly in the form of income support through housing benefit rather than through housing subsidy (see Malpass, 1990). Unlike fly-tippers or sellers of faulty goods, council tenants are not an anti-social group who must be compulsorily regulated. Nor is there a natural monopoly, as in gas, water or electricity; there are and should be other providers. It is clear that, given the continued shortage of affordable housing, the compulsory co-operation of citizens might be needed to make land, loan finance and public subsidies available; decisions over public resource allocations and unavoidably political. But, on all the above counts, the voluntary co-operation of dwellers ought to be the method by which social housing is provided. The citizen would, through councillors, have a strategic and local planning role which, where necessary, initiates the formation of consumer organisations such as community housing associations and co-ops, and regulates them to ensure value for money, equal access for minority groups, priority for those in greatest need, and so on. But they would steer clear of the actual provision of housing (see Clapham, 1989).

It is Sydney's, rather than Beatrice Webb's model which has been followed, and the consequences for council tenants have been dire.

#### THE RIGHTS OF TENANTS

An interest implies a right in something. What sort of rights have council tenants had during the 1980s, and what can they expect from the last decade of the twentieth century? A study undertaken at the beginning of the 1980s (to be referred to as the City University study) said:

Traditionally council tenants have had few legal rights, whereas by comparison, their local authority landlords have had the power to impose a wide range of restrictions on tenants' freedoms to occupy and use their homes

(Kay et al, 1986, p.vii).

As we shall see, tenants have gained and lost a few rights since then, but only the 1990s will tell whether their position is more secure at the end of the century than it was, under Sydney Webb's benevolent gaze, at the beginning. The interests of tenants can be seen in terms of fundamental rights in use, which have to be enshrined preferably in law, but at least in good practice which

is backed up by effective sanctions against landlords who violate the rights. Then they have to be communicated to the tenant in a form which is understandable, and be capable of being enforced, with tenants having enough resources to be able to challenge the interests of the landlord if necessary (Kay et al, 1986).

There are individual rights applicable to households, and collective rights applicable to groups of tenants, ranging from estate level to area level, then to the tenants of a particular landlord and even to national-level negotiations. Then there are rights which are primarily concerned with the relationship of landlord and tenant and what can be done about it if it goes wrong, and rights concerned with different aspects of the housing process. The former include the right to security of tenure, a well-defined and equal landlord-tenant relationship as summed up in a contractual tenancy agreement, to information and consultation over housing policies and practices, to negotiation or bargaining over important decisions, to change the relationship by developing various types of joint or self-management, and finally to opt out of it altogether by changing landlords or transferring ownership to a tenant-controlled body. The latter include rights over access to the tenancy, mobility within it, rights concerning rents, management and maintenance, and over the design and modernisation of the home. Both these types of rights will now be considered, beginning with those rights which are implied by the landlord-tenant relationship, and continuing with the rights implied by the housing process.

## **RIGHTS CONCERNING THE LANDLORD-TENANT RELATIONSHIP**

### **1. Security of tenure**

Probably the most fundamental right a tenant can have is security of tenure. Without this there are no other rights, because the rights that remain become conditional on the landlord's goodwill. Yet, until 1980 council tenants were denied a basic right which had been given to most private tenants, and was inherent in the legal status of an owner-occupier. In addition, they were not guaranteed the right as members of a household to succeed to the home; most landlords granted it, but only at their discretion. Owner-occupiers took it for granted that they could leave the home to anyone they chose, while private tenants, at least until the 1988 Housing Act, had the right of two successions for relatives, provided they had been living in the home for at least six months. Yet prior to 1980 all that a local authority had to do to gain possession of a council house was to issue a notice to quit which ended the tenancy 28 days later, then go to court for legal authority to repossess.

The decade started badly for council tenants; the response of landlords to the proposed 'Tenants Charter' of the 1980 Housing Act was almost completely negative. Both the Association of Metropolitan Authorities (AMA) and the Association of District Councils (ADC) were against security of tenure. Firstly, they used the 'democratic accountability' argument, that security was not necessary because local democracy was 'sufficient safeguard against any abuses' (Laffin, 1986, p.194). Yet during the 1970s



there had been several notorious cases where tenant activists had been threatened with eviction by landlords prepared to push their powers to the limit (Ward, 1974). Secondly, the associations used the 'responsibility to citizens' argument, that security would undermine their freedom to manage their property not on behalf of the individual tenant but on behalf of consumers and citizens in general:

The public sector landlord owes a duty not only to the tenant in question but to all his other tenants and to the general public, to see that the best use is made of the housing stock

(quoted in Laffin, 1986, p.202).

The security granted by the 1980 Act was a compromise with the landlord. It forced the housing manager for the first time to prove to a court that a breach of tenancy (such as rent arrears or nuisance) had occurred, but there was still a mandatory ground for possession when modernisation was planned, or when the dwelling became overcrowded. But the tenant was now secure until proved otherwise. The Act also gave one right of succession, to the spouse or another member who has resided in the home for at least 12 months before the death of the tenant. The landlord was given the right to transfer non-spouse successors between 6-12 months from the start of the succession, if they were under-occupying. Difficulties remained, however, for cohabiters, and for those who could not prove they had lived in the home continuously for the 12 months, and if there were more than one claim to succession.

Clearly, landlords were still fully in control of their 'property'. Yet, even so, they were reluctant to ensure that the tenants knew their rights; local authority tenancy agreements often still implied that there was no security, 30% still made no mention of the grounds for repossession at all, and only a third mentioned the four week notice process. More seriously still, 'The majority of authorities failed to explain to their tenants that they could now defend themselves in court' (Kay et al, 1986, p80, figures from a survey of England and Wales). Less than half (47%) of authorities provided an accurate description of the statutory right to succession.

With hindsight, the Conservative government might well regret the granting of even such a basic right as security of tenure. During the second half of the decade, ministers set out to break up council monopolies, and security got in the way. Partnership schemes with private developers began to be held up, and a new clause had to be added to the 1986 Housing and Planning Act, allowing councils who wish to sell estates to evict tenants, offering alternative accommodation. Then they made the fatal error of trying to persuade council tenants to opt for other landlords at the same time as making these alternatives less secure.

Tenants have rejected Housing Action Trusts, and some voluntary or 'tenants choice' transfers to housing associations, partly because they promised less secure 'assured tenancies'. Like the local government associations in 1980, central government in the late '80s has under-estimated tenants need

above all for security, and has in consequence experienced a whole series of setbacks to its housing strategy.

## 2. A fair and equal landlord-tenant relationship

On entering into a contract, both parties usually try to make sure that they know what they are getting into, and that the relationship will be a fair and mutual one. However, most prospective tenants are not in a strong position to argue over the terms of their tenancy, or even to ask for clarification of details; their overwhelming need is to be housed. The result is that 'the provider of housing therefore has a great advantage which he can, if he wishes, exploit' (National Consumer Council, 1976, p.7). During the 1980s, a consensus emerged that tenants should have a clear, simply worded tenancy agreement which sets out the contractual relationship between landlord and tenant, supplemented by further useful information provided in a handbook. The rights and duties of each party should be set out in a fair and balanced way, and there should not be petty restrictions on the tenant, nor an attempt by the landlord to avoid legal responsibilities to repair the dwelling. There should be a clear procedure for dealing with tenants' complaints, arbitration services to resolve disputes, and compensation when damage or delay has been caused by the landlord (cf Housing Corporation, 1989).

Before the 1980s began, there was a well documented critique of the unequal nature of tenancy agreements (Ministry of housing and Local Government 1959, Fox 1973, Housing Services Advisory Group, 1978), coupled with condemnation of the way in which housing visitors were being used as spies to harass tenants into complying (Ward 1974). A National Consumer Council (NCC) study gained much media attention by providing colourful examples of incredibly petty and insulting clauses in tenancy agreements. It found that agreements were generally one-sided, imposing obligations on tenants but not on landlords, and that councils were wrongfully excluding their liabilities in law; 87% did not mention the responsibility for repairs. The pervasive mood of many of the agreements was paternalistic, 'more suited to the last century than this', and they were punitive; 64% said they would terminate the tenancy if agreement were breached, and some implied that tenants would immediately be ejected from the home without notice. Lastly, the agreements were incomprehensible, laid out in legalistic language which tenants could not be expected to understand (NCC, 1976, quote from p.12).

It seems incredible that, despite this accumulation of evidence, the right to a written tenancy agreement was not given to English and Welsh tenants in the 'tenants charter' of the 1980 Housing Act (it was given to Scottish tenants though, who can now challenge their agreements in court, though no-one has yet done so). What was given to tenants in England and Wales was the right to a minimum amount of information on terms of tenancy, which did not include information on other landlord obligations in law, nor on the remedies available to tenants if the landlord breaches the obligations he does have. All that the landlord has to do is to inform the tenant of the new 'tenants charter' rights

under the 1980 Act, and a summary of the repairing obligations under the 1961 Act.

The local authorities' response was slow and grudging. The City University study found that only 70% of them met the time limits for providing information on terms of tenancy, and only 52% on the issue of explanatory information. Most did remove the more petty restrictions, but many examples of restrictive rules remained, such as against hanging out washing or putting nails in walls. 42% were found still to be unbalanced, emphasising prohibitions on the tenant, and a significant minority still failed to mention some of the tenants' rights: the right to buy, to consultation, or to succession. Over half qualified their obligations in some way, in some cases illegally! Only 29% gave a full list of the landlord's obligations, and more than half did not mention that common parts in blocks of flats are the landlord's responsibility. Few local authorities had considered what to do if things went wrong: only 4% offered compensation for failure in services, 9% had an appeals procedure, and only 2% an arbitration panel. The conclusion was that 'authorities have not gone out of their way to provide useful information to tenants beyond that legally required' (Kay et al, 1986, p.67). Nor did the responsible central government body, the Department of the Environment (DoE), go out of its way to provide a model tenancy agreement which might set out good practice in a clear and uncompromising way.

Changes in practice since then have been led by the housing association movement; in 1987 the National Federation of Housing Associations (NFHA) provided a model tenancy agreement, setting out a 'clear, legally correct, comprehensive and workable basis for the legal relationship between the association and its tenants' (NFHA, 1987, p.42), and in 1989 the Housing Corporation published its expectations that associations will comply with a stiff code of practice. Such clear performance expectations for associations call into question the continuing lack of monitoring powers over local authority practices. It may be that, under the impetus of 'tenants choice' and the process of obtaining assent to 'voluntary transfer' of housing stocks, many local authority agreements are also being reappraised. Individual local authorities have begun to experiment with innovative procedures: Southwark Borough Council has instituted independent local arbitration under the Tribunal Act 1974, while Halton Borough Council has an appeals panel which includes tenant representatives (Platt et al, 1990). But information about the global situation is not available; part of the problem is that, because of the lack of central monitoring, and the lack of a survey since the all-important 1988 Housing Act, there is no hard information available on which we can judge current performance.

What, then, should be the role of tenants' organisations in improving and safeguarding this right? In 1980, only 22% of councils involved tenants' representatives in the drafting, and 33% in commenting on the final draft, of the tenancy agreement. Experience from the ones that did showed, not surprisingly, that the more tenants are involved the more their interests are protected. The conclusion from researchers at the time was the 'Paternalism may have been dented, but it has not been eradicated or even reduced in certain places' (Kay et al, 1986, p.70). Yet,

if tenants are not involved, it can hardly be called a tenancy agreement.

### 3. Information

The right to give and receive information is a basic part of any relationship, including that between landlord and tenant; without it, arguably there is no relationship. There is certainly no way of ensuring that genuine consultation takes place. As one study puts it:

Consultation is likely to be unproductive and frustrating for all concerned if tenants..are not given sufficient information to make a sensible contribution  
(NFHA, 1987, p.26).

What sort of information have tenants been able to claim as of right? The agenda and most reports and background papers for housing committees must be made available to tenants before committee and sub-committee meetings, and minutes must be published after a meeting (1972 Local Government Act). But in practice, one study found that often, when tenants want to see the papers relating to their estate or home, they are told they have no rights to see them; this applies to 90% of housing department paperwork, because only those matters considered by councillors become public documents (Bartram, 1988). The Housing Corporation now expects associations to consider ways of giving tenants information about the association in the form of a newsletter or annual report, saying who the committee members are, how to become a member, who is responsible for managing the home, and so on. Guidelines state that they should make available to tenants, on request, copies of non-confidential minutes, agendas and reports, provide clear notification of forthcoming meetings, give tenants the right to attend as observers on boards or sub committees, and keep a register in the office available to tenants setting out the names and addresses of committee members (Housing Corporation, 1989).

Local authorities are not under clear instruction, and so reformers have had, in this as in so many cases, to rely on exhortation and example. For instance, the Community Rights Project cites Leeds City Council's policy that any tenant has the right to see any piece of paper in the Housing Department unless it is genuinely confidential; in at least nine authorities there is now a presumption in favour of openness (Bartram, 1988). More generally, a major study of tenant participation in Britain (to be referred to as the Glasgow participation study) has recently found that the form in which information is given tends to be impersonal and targeted at individual households rather than tenants' groups or particular estates. By 1987, while most authorities were producing written material, it was mainly in the form of letters, handbooks or leaflets (Cairncross et al, 1989). The quality of the information was often poor. A Scottish survey agreed, and also found that over half the material studied contained clumsy English and legal or technical language (Goodlad, 1986). A major survey of housing management in England

(to be referred to as the Glasgow housing management study) found that, by 1986, only half (51%) of council tenants felt they were kept informed by their landlord, compared with four-fifths (81%) of housing association tenants. Evidence from tenants' discussion groups showed that the information provided was 'often confined to rent increases and was frequently regarded as unintelligible' (MacLennan et al, 1989, p.93).

All this is about to change. The 1989 Local Government and Housing Act has given council tenants a potentially powerful right to receive annual information of housing performance. It must be readily understood and cover the broad scope of the landlord function, it must provide the kind of information which is most relevant to tenants' interests, must permit a realistic and relative assessment of performance, and have information on quality as well as quantity of service. In due time it should include estate-based data, 'to give tenants an appreciation of performance in their own local environment' (DoE, 1990). It will provide information on the context in which the landlord works, on rents and arrears, the costs of and time taken on repairs (with assessment of satisfaction), allocations and voids, housing benefit claims, and statutory homelessness. It will estimate average management costs and show the costs of different services. It will describe the procedures for dealing with complaints, arrangements to consult tenants, and to promote the participation of tenants in the management of dwellings.

This all sounds quite revolutionary in relation to the paltry amount of information currently available to tenants. But will it be used? In a study of similar performance indicators in other service areas, Day and Klein say 'There is ....little evidence that either authority members or the public at large respond to or use such information' (1987, p.243). In housing, however, there is the advantage that consumers can be identified who are not just 'members of the public', and who have a direct interest in using such information in their negotiations with the landlord. Clearly, its use is only going to be as good as the level of effective organisation which tenants have reached. Used effectively, it has the potential to transform the power relationship, but also to sharpen the division of interests between landlord and tenant; as one tenant representative on a housing association committee said recently 'Now that we're getting to know more, they don't like it much' (NFHA, 1987, p.11).

Rights to receive information from the landlord also begin to show up the need for independent sources of information, particularly if the government is trying to persuade tenants to accept a Housing Action Trust, or the council is trying to persuade tenants to accept a voluntary transfer to a new landlord, or hoping for their loyalty in relation to 'Tenants Choice'. Recently there has been a growth in such information provision, both from officially sponsored organisations such as the Tenant Participation Advisory Services, and from tenant-controlled organisations such as the Tenants' Resource and Information Service. This was launched in September 1990, as a specialist agency, set up and controlled by tenants, who say 'we want to be able to provide these resources and control the services ourselves' in order to provide independent information

on the choices available (London Housing News, 7.90). A similar organisation, the Tenants' Information Service, was set up for Scotland in mid 1989; its priority is to be an information centre providing for the tenants movement's information and training needs. The fact that a library, newscuttings file and database are part of the organisation's priorities shows the extent to which tenants, working in a changing environment, see the need for information before anything else.

#### 4. Consultation

Consultation can be defined as 'the process of asking tenants for their views in order to consider them before a decision is made' (Cairncross et al, 1989, p.64). It can be undertaken at the level of individual households or collectively, through tenants' associations and forums. At first sight, the individual right to consultation appears an uncontentious one which, when it was demanded, attracted all-party support and then was enacted in the 1980 'tenants charter' for both local authority and housing association tenants. In fact, it was the subject of much debate. The 1977 Labour Green Paper proposed a right to consultation on changes in rents and other charges, in policies and practices, in maintenance and improvement programmes, and in housing management, provided that tenants are substantially affected. The Conservative government took over the Labour proposals, yet, under pressure from all three local authority associations, limited the right to changes in housing management and improvement programmes, but excluding rent levels. The definition of what changes 'substantially affected' tenants was left to the landlords, as was the method for consultation; landlords were charged simply to 'maintain such arrangements as they consider appropriate' and then publish them (Sect 105, Housing Act, 1985). The NCC was 'dismayed' at the weakness of requirements which gave the landlords so much discretion.

The local authority associations had objected to the right, on the grounds that it would be costly and administratively difficult to put into practice, and so it is not surprising that the landlords showed little enthusiasm for their new responsibility; the City University study found that only 50% met the deadline set for publishing their consultation statements, and only 31% more met a second deadline a year later. Only a small minority (14%) had made any strong, formal commitment to consultation; few had told tenants where to write to with their comments, even fewer had given a commitment to consider their views. Only 9% said they would inform tenants of the outcome of a consultation exercise, and incredibly, 44% had failed to consult tenants over management changes that had taken place since the 1980 Act came into force (Kay et al, 1986).

By 1986, the Glasgow housing management study had found little improvement. Only a fifth of council tenants believed the landlord always or usually consulted them on important issues, and only half of those who had been consulted believed the landlord had taken heed of their views following consultation. Yet there was a widespread desire for more; 70% of tenants wanted more influence on the landlord's decisions. Discussion groups

illuminated how tenants felt; they resented the lack of consultation, and where it did take place it was confined to modernisation or new build proposals. Tenants also wanted formal consultation on repairs, allocations, and rent setting (MacLennan et al, 1989).

What about collective consultation? The 1980 Act was criticised at the time for reducing collective rights to individual ones, in a 'shift away from and dilution of the broader proposals that tenants' organisations were making ten years earlier' (Kay et al, 1986, p.15); the argument is that only through collective action can tenants gain the influence they need to make sure their voice is heard. Such action had been gaining ground before 1980, but only very slowly. A Labour Government consultation paper had expressed ministerial doubts about 'the real willingness of local authorities to set up voluntary schemes of tenant involvement', and suggested a statutory tenants' committee as a way of forcing the issue. The idea was a radical one, that such committees would be set up in every local authority from estate-level upwards, and would consider all issues including both management and the more contentious areas of rents, allocations policies and transfers. The landlord would be bound to consider any suggestions and to respond to them. Once again the idea was widely attacked by the local authority associations and professional bodies, and the eventual Conservative Act dropped the idea of the collective right to a statutory consultative committee; as the City University researchers put it 'local authorities could be pleased that their very active lobbying over a period of years had blunted the threat to their loss of power' (Kay et al, 1986, p.15).

During the 1980s, the rhetoric changed to a widespread support for collective tenant participation; virtually all the studies of housing policy and practice advocated it (NFHA, 1985, Audit Commission, 1986, etc), and Tenant Participation Advisory Services were gradually set up, first in Scotland in 1980, then in England, Wales and Northern Ireland, with some grant aid from the Conservative government. Local authorities and tenants' groups were able to draw on these for expert guidance in setting up participation schemes. By 1987, the Glasgow participation study found that two-thirds (69%) of landlords were convening irregular discussion meetings, around a third (35%) regular discussion meetings, and 23% advisory committees. There is no doubt that the use of these methods grew substantially throughout the 1980s, but that the more formal and regular the scheme, the fewer the number of councils who were offering it; involvement of tenants on decision-making committees with advisory or observer status was still very restricted, though the proportions had doubled to 8% since the City University study in 1981.

The level at which schemes operate has changed significantly, with decentralisation of services and of consultation being a feature of the 1980s. During the 1970s, there had not been much real decentralisation; Richardson had found that, of 50 local authorities which had participation schemes, only six were estate-based (1977). However, 10 years later the Glasgow participation study found that around a third (31%) of authorities had some kind of estate-based initiative with tenant

involvement (Cairncross et al, 1989). A consensus emerged that decentralisation of housing services was a good thing; the Audit Commission, for instance, recommended that delegation should be as far down the line as possible, preferably to estate level, in order to increase the level of service, tenant involvement and satisfaction (1986). However, Clapham notes that, though decentralisation is an essential ingredient in user control, the trend have not been accompanied by genuine devolution of decision-making. Plans to set up local committees to control decentralised offices have failed, because 'the problems of agreeing the appropriate make-up and terms of reference of the committees have proved in most cases to be insurmountable' (Clapham, 1990, p.67). Councillors have been reluctant to devolve power, and the changes have been imposed from the 'top-down' with tenants rarely being consulted about the implementation of decentralised services.

What range of issues has been covered by consultation schemes? The City University study found that, of 192 statements on consultation which they examined after the 1980 Act came into effect, most mentioned changes in management and new programmes of work, but only one local authority gave a practical list of all the topics it would allow to be raised. Gravesham District Council expressed a mixture of paternalism and willingness to listen which illustrates the dilemma they felt they were in, wanting to control the discussion and yet not be seen to be unreasonable:

it is for the Council to decide in any particular case whether consultation is necessary or appropriate, but the council would not wish knowingly or willingly to deny tenants an opportunity to comment on proposals which are of direct personal concern

(Kay et al, 1986, p.193).

Ominously, 59% of landlords said they would definitely not consult over rents or service charges, and only four London Boroughs positively said they would.

Yet since then tenants have managed gradually to widen the range of issues on the agenda. The Glasgow participation study found that, of those authorities which consulted tenants at all, most (81%) consulted on modernisation or rehabilitation. This might seem a high figure but, as it has always been the most widely used and accepted form of consultation, agreed to be essential if the landlord is to ensure value for money and co-operation in gaining access to homes, it is still quite disappointing. Next comes another issue of vital importance to tenants, estate management; only two-thirds of authorities (63%) consulted on it. Next comes consultation, that is, consultation on the form which consultation ought to take. Surely this ought to be 100%! But no, only around half of councils engaged in it. This means that only half could be sure that the consultation procedures they had set up were what the tenants actually wanted. Then comes repairs policy, the favourite subject of tenants, and therefore understandably high on their agenda, but it is only on the agenda of a third (34%) of councils. Consultation on new building is difficult but not impossible, yet less than a third



of landlords were doing it. Similarly, other issues important to tenants were put on the agenda by a very small minority of landlords.

There may have been improvements in these figures since the study was done in 1986-7. Yet there does not seem to be any evidence to depart from the judgement made in 1981 by the City University group. They found from their case studies that the process of consultation produced well informed, articulate tenants

who inevitably became involved in, and had strong views on, the political choices raised by council policies. This type of discussion was sometimes resented by or threatening to certain councillors and officers who considered that such decisions should either be left to the politicians or to professional housing officers.

Their conclusion is also an explanation:

it was not always easy to cope with the differences in interest that emerged. Many authorities prefer to avoid such debates and to retain complete control over the decision-making process

(Kay et al, 1986, p.208).

The final test of the seriousness with which landlords have treated tenant consultation is, of course, the amount of resources they are prepared to make available to tenant groups. Where that basic building block of a tenants' movement, the tenants' association, has to be stimulated into being, it makes sense to begin by providing tenant liaison workers. During the early 1980s, the City University study found that this was the most common method of support; 30% of the local authorities in England who responded to their survey employed workers, while 5% gave grants to tenants' associations to employ their own. 25% supported associations with cheap meeting places, the use of a duplicator or free printing, while 11% gave grants, including start-up grants to new groups. The majority of councils, however, did not give any support at all to tenants. Only in one authority did tenants have access to a truly independent source of funding; Sheffield had introduced a rent levy by which, for the first time, tenants were able to fund their own activities on a firm basis, without relying just on the goodwill of the landlord (Kay et al, 1986). In Scotland, a similar situation was found, of an active minority of landlords (28%) supporting the development of tenant groups (Community Development Housing Group, 1986).

By 1986-7, the Glasgow participation study had found little change. Because it included Welsh and Scottish authorities along with the English, the figures actually went down; only 18% provided specialist staff, 15% provided premises, 8% starter grants and 8% other grants. Again, the majority of councils (76%) provided no support at all. The level of support was closely correlated with the size of the housing stock and the number of tenants' associations; the larger the housing stock, the higher the number of associations, and the greater the level

of support (Cairncross et al, 1990). The conclusion of the researchers is that 'the levels of assistance provided to tenants' groups was very low, and did not match the apparent commitment of councils and housing associations to tenant participation' (1989, p.55). The local authorities were not matching their rhetoric with real material support.

Put the other way round, from the tenants' point of view this meant that, although most had a meeting room and a typewriter, less than a quarter had access to office supplies or premises, training or transport facilities, and less than two fifths had access to expert advice; those with access to genuinely independent advice were even fewer. Nearly a third were surviving on an income of below £50 per year, with membership fees and grants being the most common source of income. The conclusion is

Their existence is one of hand to mouth survival. In such a condition of insecurity they may find it difficult to meet the demands that arrangements for tenant participation inevitably place upon them

(Cairncross et al, 1989, p.84).

There are signs of hope, though. Where local authorities have put resources in, strong results have followed. Greenwich Borough Council has eight tenant support workers, including three working with black and ethnic minority groups, and has a budget of £50,000 per year for tenant groups. As a result, 78 tenants' associations and a federation now exist, and 70% of tenants are represented. The lesson is that the extension and democratisation of the tenants' movement can be achieved, but that it costs money (Bartram, 1988).

It also requires training for tenants, as well as for housing workers and councillors. Yet in the above survey only two authorities provided training for tenants. Others were to some extent meeting the need: the Priority Estates Project developed tenant training on the estates on which it worked, while the national Tenant Participation Advisory Services were invited by many councils to develop participation, and also developed much needed expertise in tenant training. The 1990s should see a more systematic training for both tenants and housing workers; an Institute of Housing National Certificate in Tenant Participation is to start in five colleges in England in September 1991, and is expected to spread to colleges in almost every region and country in the United Kingdom by 1992. It is designed for tenant activists and co-op members as well as for tenant liaison officers and other professionals. However, the commitment of landlords to encouraging and funding places for tenants has still to be tested.

## 5. Accountability

Beyond the consultation stage, tenants can go in one or two directions: either in the direction of making landlords more accountable, or of involvement in management. Each of these two strategies involves a hierarchy of tenant participation and

control. The accountability strategy involves gaining negotiating rights, then carving out areas of choice over services, and finally being able to choose or refuse a new landlord (see Cairncross et al, 1990). The involvement in management strategy involves joint management of estates, followed by self-management and finally tenant ownership of an estate. Of course, in practice they overlap, and both strategies can be pursued at once, the former in relation to the council as a whole, and the latter in relation to particular estates.

**Accountability** is about calling people to account for the use of powers or resources which have been lent to them on trust by others. It includes the notion of a right and also the ability to call to account; the one without the other makes the concept inoperative. An accountability strategy often involves tenants' groups in putting representatives on decision-making committees, and backing them up with associations and federations which mirror the landlord's decision-making machinery at all levels. The aim is to obtain negotiating rights, keeping distinct the roles and responsibilities of tenant and landlord, and forcing the latter to justify the service provided and to promise changes which suit the tenants' interest.

**Tenant representation on committees** was a live issue during the 1970s; between 1970 and 1973 Dick Leonard MP attempted three times to have a Council Housing (Tenants Representation) Bill passed, but without success. During the 1980s the idea of a right to representation became much more muted. There was nothing in law to stop landlords involving tenants as co-opted members of formal decision-making committees, but in practice there has been great resistance to the idea. By 1986 there were only four local authorities, all in London, which had allowed tenants on to the housing committee with full voting rights, the same number as Richardson had recorded in 1975! Two allowed partial voting rights, again the same number as in 1975. However, the number allowing tenants on the sub-committee had increased from three to 20 (Cairncross et al, 1989). Further development will be inhibited, because the Local Government and Housing Act 1989 has recently prevented co-optees of housing committees and sub-committees from voting. Tenant co-optees may still serve in an advisory capacity and may gain some power from their membership but, without formal power, have no guarantee that their role will not slip back to consultation. However, the issue is once again becoming a live one in situations where the landlord wishes to transfer the housing stock to a purpose-made housing association, and tenants can demand places on the management committee as the price of their agreement.

Beyond negotiation, tenants can gain space for making choices between options. The most familiar form this takes is in modernisation schemes, where tenants often choose different types of work from a budget (see IOH/RIBA, 1988). Recently, choice has been developed in a few councils over levels of service, with tenants of tower blocks choosing, for example, whether to opt for a new concierge and pay a surcharge on the rent. During the 1980s, though, the opportunity for choices spread to include opting for a new landlord. Around the middle of the decade, some influential voices began to be heard arguing for the break-up of council housing, or at least for the right of tenants to choose

a new landlord. An ex-chief housing officer, Alex Henney, argued that council housing has simply not been accountable and cannot be redeemed in its present form (1985, p.5). He proposed the transfer of the entire council stock to Housing Management Trusts, each of 500-2000 dwellings, which would have a majority of tenants on the board. At around the same time, the Audit Commission concluded that, unless those councils whose housing management was poor took the necessary steps to improve the service, central government might have to by-pass the local authority and take over (1986, p.82). The 'Inquiry into British Housing' argued that, given purchasing power, tenants ought to be able to choose between landlords, to 'shop around', but also 'to obtain housing from a different landlord if service from the first is inadequate' (NFHA, 1985, p.8). As Clapham says 'The right to go elsewhere is an important one to consumers, because it offers a significant element of control through choice' (1990, p.65). Of course, the control which is gained need not just be exercised in the direction of change, because the ability to choose to end a contractual relationship which is not working satisfactorily can also act back on the relationship, giving tenants more power to renegotiate their existing situation.

One can detect elements of all these arguments in government policy as it was expressed in the 1988 Housing Act, and yet the twin strategies of Housing Action Trusts and Tenants' Choice transfers were both, at least initially, a good deal more authoritarian than critics of council housing had expected. 'HATs' owed more to urban development corporations than to any housing models; the aim was for a trust set up by the Secretary of State and led by business-people to lever private funding into the worst estates, and over three to five years repair the stock, improve the environment and introduce diversity of tenure. Tenants would have no rights at all until the end of the HAT, when they could choose a permanent landlord. The authoritarian nature of the proposal, with its denial of any ballot among tenants and of any representation on the HAT board, and its weak promise of consultation of residents, led tenants to oppose all six of the original HATs. Then, after some vigorous campaigning, and in a last minute amendment in the House of Lords, they eventually obtained the right to a ballot. Further concessions followed; a promise was exacted that councils would be given the necessary finance to buy the estates back at the end of the HAT's life, if the tenants so wished. Some tenants' groups opposed the HAT from the start, while others found themselves in a dilemma, because of the promise of substantial government investment which, it was made clear, would not otherwise be available. They had to take up a neutral stance and to ask their tenants to make up their own minds. Yet, so deep was the suspicion that had been engendered, and so worrying the remaining questions about future rent levels and security of tenure and other rights, that tenants eventually voted down all six HATs.

There may eventually be one or two HATs, but they will be formed out of a partnership of the council, tenants and central government, in which tenants will exact much stronger guarantees of rights and of representation; at Hull where one estate is involved, and at Waltham Forest where four estates may transfer, five out of 11 seats on the board will be reserved for tenants

and councillors.

A similar pattern can be detected in the evolution of Tenants' Choice. At first, this was envisaged as a right for private landlords and housing associations to identify estates they were interested in buying. Tenants were given the right to a curious form of 'negative vote', in which those who did not vote would be counted as 'yes' votes. Unlike HATs, those who voted to stay with the Council would do so, but flat-dwellers would have no guarantee that their rents would not rise, as the council would have to lease their individual flat back from the new landlord. Again, the resulting controversy over voting arrangements soured relationships, and this, coupled with anxieties over the loss of rights through the new 'assured tenancies', made tenants suspicious of the whole idea; so far, no hostile bids from private landlords or associations have got off the ground. In fact, it had the opposite effect of galvanising a new tenants' movement, out of which a National Tenants and Residents Federation was formed, and it led to much bargaining with the local authorities; tenants had at last gained some leverage and could engage in genuine negotiations over the quality of services. Furthermore, the Housing Corporation, charged with registering the new landlords, has developed a set of requirements which have so far deterred private landlords. Tenant transfer staff have added into the statutory process an initial informal stage, in which tenants are able to choose between genuine alternatives, included a tenant-led buyout.

Similar problems have arisen in relation to new town transfers. In England, tenants have had to choose which landlord to transfer to; they have not had the option of staying with their existing landlord (the development corporations), which are to be wound up. The government would clearly prefer transfer to a consortium of housing associations, as happened in Central Lancashire New Town. However, in some cases tenants and local authorities campaigned to allow transfer to the council; at Telford, the local authority went to the High Court, insisting that tenants had the right to a ballot, and a proposed transfer to housing associations had to be called off. The DoE counter-attacked by insisting that a tenants-choice type transfer be used in future; individual tenants would choose their new landlord from a selection which included the council and housing associations, and those who did not vote would have their homes apportioned out later between the competitors. The result at Peterborough was a huge majority in favour of the council, and as a result the DoE instructed remaining corporations to enter into management agreements with housing associations, so that tenants could get to know what they have to offer before being balloted. At Basildon, though, intense opposition from the tenants' action group and the local council led to such a management transfer being abandoned. At Milton Keynes, the council was sacked from a management agreement it had held after it had surveyed tenants on their preferences for management co-ops, and a transfer to a housing association was proposed. Tenants then had to threaten legal action because they had not been consulted on the transfer. As in the proposed HATs, relationships were soured and the opposite result occurred to that the government intended; tenants are expected to vote for

the council.

It is a pity that negotiations have been so clouded by the distaste of government ministers for the local authority option, though they would argue that tenants are too ready to vote for the council, not knowing enough about the alternatives. When tenants have entered more actively into the process they have obtained a good deal; at Runcorn they negotiated with a consortium of housing associations and gained a seat on management committees and a package of rights: to fair rents, the right to buy, an enhanced right to repair, and assurances over security of tenure. However, it is clear that tenants have had to fight hard to be consulted and to be offered a fair choice between alternatives.

In Scotland, the government managed to avoid the problems of tenants choosing the 'wrong' landlord, by denying altogether the right to transfer to the local authority (Enterprise and New Towns Scotland Act). Coupled with the lack of a right to consultation on major changes (the Scottish equivalent of the 1980 'Tenants Charter' did not include this), it seemed that tenants would have very little choice at all. Yet, such was the criticism from the Scottish Consumer Council, the Scottish Federation of Housing Associations, Shelter, members of Parliament and from tenants groups, that the Scottish office had to agree to consult tenants groups and to consider transfer to local authorities (though ministers refused to accept an amendment giving an automatic right to such a transfer). Again, the government has expressed its commitment to reducing, not adding to, the size of the public sector, and management agreements with housing associations may be entered into so that tenants can gain wider experience of landlords and have time to examine fully all the options; these will include associations, councils, private landlords and co-ops.

Yet tenants are, as in every other case of change of landlord, worried first about security of tenure, then about rent levels, and then about the standard of service; the local council is regarded as more reliable on the first two counts, if not the third. At East Kilbride, while 60% of tenants surveyed said they would prefer to transfer to the council, the staff were submitting plans for a management buy-out. Such alarm was caused to tenants that the idea had to be scrapped and replaced by a new housing association, which would have tenants on the board. At Livingstone a staff agency is also planned to manage the stock, with a view to a management buy-out in 1995, but this time tenants were promised places on the board of a non-profit agency, with surpluses ploughed back into new housing. Tenants have, therefore, had a significant impact on the options being made available. Unfortunately, as in England, one result of the uncertainty is that many tenants will be panicked into exercising the one clear right to transfer they currently have - the individual right to buy.

One development which took the government by surprise was the very rapid development of a voluntary transfer option by several local councils. It was a matter of interpretation whether these were a way of pre-empting central government policies, or simply a different way of carrying them out. But again from the tenants' point of view the main questions concerned the extent

of choice and of information made available to make a rational choice, the safeguarding of rights to security and reasonable rents, and the influence of tenants on the future landlord's decision-making structure.

Firstly, the extent of the choices open to tenants has been questionable. Early ballots did not bode well; they aimed to predate the 1988 Housing Act, thus stopping tenants from having a choice of landlord (though they also avoided the less secure assured tenancies). Tenants were given a choice, but only to transfer to one new landlord or to stay with the council, and there was no right, if the transfer went ahead, for individuals to stay with the council if they wished. Later transfers, such as at Ryedale, were slowed down by the DoE to allow time for the Housing Corporation to insert a prior stage allowing tenants to consider first the various options available under tenants' choice transfers, yet in other cases, such as Bromley, tenants have still complained about being rushed into an early ballot. None of the councils pushing transfer have taken seriously the option of a tenant controlled co-operative, nor have they put a convincing case for remaining with the council. More generally, it has been argued that the effect of the 1989 Local Government and Housing Act on councils is to propel tenants into choosing a new landlord in order to escape steep rent rises which have been brought about by central government precisely to have that effect. Even more sinister have been the steep rent rises proposed by some councils, it is suspected, in order to close off the option of staying put, or punish tenants who have turned down transfers. And finally, tenants' choice is being ignored, for instance at Rochester, where trickle transfers of vacant property are to go ahead despite the tenants choosing to remain with the council.

The second major problem is lack of information. At Broadland, for instance, tenants complained that they only saw their proposed tenancy agreements when they received the ballot papers. When information has been given, it has sometimes been misleading, prompting Gloucester tenants to complain to the Ombudsman, and yet tenants' groups - at Gloucester and Broadland for example - have been denied funds to obtain their own advice. On the other hand, advice from interest groups arguing against transfer has also been questionable, with scaremongering over the security of assured tenancies, over the lack of subsidy when stock is transferred, and the obscuring of the difference between housing associations and profit-making landlords. Very little of the information available to tenants has been unbiased.

Then there is concern over the type of landlord proposed. Tenants have been more inclined to reject transfers to existing large housing associations than to new, locally based ones. More seriously, some council officers - at Rochester, Rochford and the Scottish Special Housing Association for instance - have aimed to set up private companies to take over the stock, and tenants have demanded representation and assurances about their non-profit nature. Tenants have also been concerned about the costs of the transfers, which have sometimes fallen on tenants through being charged to the housing revenue account; at Elmbridge the tenants' federation complained about this to the district auditor.

Then there is the voting method, which at first caused controversy. The tenants' choice-type negative vote was used at Torbay, where the majority voted against the transfer but, under the rules, it would have gone ahead; the DoE eventually stopped it. All others are now using a simple majority vote, but even this - at Broadland and Suffolk Coastal for instance - has allowed less than half the tenants to vote in a new landlord.

On the other hand, tenants have in some areas been galvanised into action, either to oppose transfers or to obtain assurances and 'seats on the board' which show that, when given a real choice, they can gain real negotiating power. It remains to be seen whether this power can be retained over time, or whether the interests of 'workers and citizens' will once again eclipse those of the consumers.

## 6. Involvement in management

Beyond consultation, some tenants' groups, particularly at estate level, want to get involved in being responsible for management, either jointly with the landlord, or through self-management. Some even take the further step of buying their estate and becoming their own landlord through a co-operative or community-based housing association, using either voluntary transfer or tenants' choice mechanisms.

Probably the first place joint management was tried out was in Rochdale. Housing management sub-committees were offered as an option for tenants on each estate, in which tenants would be the majority with councillors and officers. The sub-committee draws up an estate budget which, though it has to be approved by the council's housing committee, is then under the control of the estate committee, which can vary the expenditure within the budget. There are real benefits to the housing department from this model; it provides value for money in expenditure, and detailed feedback on the work of direct labour and other departments which can then be called to account. Around 15-20 of these Area Housing Management Sub-committees are planned. To be a success, they require a network of active tenants' associations and a strong tenants' federation, a proper training programme, as well as commitment from local councillors and officers.

A more formal type of joint management evolved out of the experience of the Priority Estates Project. In 1979 a Tenant Board was established on the Wenlock Barn estate in Hackney, similar to the Rochdale model. But there was a need to strengthen further the control of estate services by consumers and the idea of Estate Management Boards emerged, designed to operate at one remove from the council via a legal management agreement (see Zipfel, 1988). There are now around 10 boards being developed, both by the PEP and independently by local authorities. They are particularly suitable for larger estates, where tenant participation is not likely to be high enough to warrant a tenant management co-op, and where tenants do not want total responsibility for estate services.

Tenant management co-ops have been around much longer, since 1975, when councils were first allowed to pass on the management



of their estates to the tenants via an agency agreement. Tenants have never had the right to self-management; the 1986 Housing and Planning Act gave them the right merely to a 'reasoned reply' from the council to their request to set one up. There are around 60 in council property. Islington has 18 with another 10 in the pipeline, while Glasgow has 13, the key to their success being a solid commitment by the local authority; in both cases co-op development units were set up in the 1970s. They have been very successful at delivering an efficient and effective service, particularly on repairs and void control (see Power, 1988, Birchall, 1988). Their growth has, however, been relatively slow, the main reason being lack of support from local authorities. However, since the 1988 Housing Act, there has been an almost total change of attitude to them; councils wishing to retain their stock have seen TMCs and 'EMBs' as alternatives to tenants choice and, in some cases, Housing Action Trusts, and many more TMCs are now being promoted. The National Federation of Housing Co-operatives has developed a modular management agreement which allows tenants to take on any combination of services, ranging from just repairs to full management including rent collection.

**Tenant ownership** has, at the individual level, been one of the main planks of government housing policy during the 1980s - in the shape of the right to buy. In fact, since it was granted in 1980, no other right has been so strengthened both in the level of discounts to tenants and the severity of penalties for landlords who impeded sales. Yet it is a right given not to strengthen the status of tenants but to undermine it. Collective ownership by tenants is quite different. 'Par value' ownership co-operatives have, since the mid-1970s, been a small but significant part of the social housing sector; there are about 270 of them, again concentrated in certain areas, notably London and Liverpool. After rapid growth during the late '70s, they were affected by cuts in Housing Corporation funding, and their growth slowed down to about 20 new co-ops per year. Changes in Corporation funding since 1988, with the emphasis on the attracting of private finance, are likely further to restrict the formation of new co-ops, and the emphasis of government policy has switched more towards the development of management and ownership co-ops out of existing council stock (DoE, 1989), and of tenant participation in both this and the housing association sector (see Birchall, 1991).

**Transferred ownership co-ops** were first developed in the mid-1980s in Glasgow; there are six at present (including one registered as a community housing association), but many more are planned as part of a drive to transfer 25% of the housing stock to other tenures. Several other councils in Scotland are also developing them, and there is the promise of Scottish Homes funding for the sales and for subsequent improvement work. Under pressure from central government via the Welsh Office and 'Estate Action' funding, some Welsh councils are likely to see transfer to housing associations as the only way of raising finance for the improvement of hard-to-let estates; a tenants' association has led the way at Glyntaff Farm Estate, Pontypridd, in actively seeking such a move. In England, transfers are more likely to take place through tenants' choice, usually without the consent

of the landlord. English Labour controlled authorities, particularly in the South East, are more determined to keep their stock to fulfil their homelessness responsibilities, and are generally less favourable politically towards communitarian - as opposed to municipal - socialism. Conservative authorities are more likely to be exploring total transfer of stock to a new housing association. Tenants groups have begun the 'tenants choice' process in several cases, but for a variety of reasons. On the Walterton and Elgin estate in Westminster, they want to protect council housing from a Conservative council determined to sell vacant stock for owner-occupation. On the Trowbridge estate in Hackney, they want to generate funding for improvements to the low-rise housing, leaving the high-rise to be demolished by the council. On the Elthorne estate in Islington, three tenant management co-ops are exploring the option of going one further and becoming collective owners. It is likely, then, that a small number of transfers will be affected, but that the effect on council housing will be more to provide leverage for tenants to obtain better quality services and greater involvement in decision-making, rather than large-scale transfer of stock to the co-operative sector. Finally, the Torbay tenants have, since the disastrous bid for voluntary transfer by the council, set up their own housing association with a view to transferring the entire stock to a tenant controlled body. This will set an interesting precedent, particularly for new town tenants and others who have come to distrust the motives of their existing landlords.

## RIGHTS CONCERNING THE HOUSING SERVICE

We now come to consider how the particular rights of tenants have changed during the 1980s: rights concerning access to the home; housing costs; management and maintenance; and design and modernisation.

### 1. Entry to the tenancy

During the 1980s, there were well over a million households on council waiting lists (1.2 million cited by the Audit Commission, 1986), who faced a variety of bureaucratic hurdles in gaining access, and often had very little choice about the type of housing and the area in which they would eventually live. One-eighth of council tenants were on transfer lists (Audit Commission, 1986), and those considering moving but not necessarily on the transfer list were an even higher percentage; a fifth of all council tenants (MacLennan, 1989). They are much less mobile than owner-occupiers or private tenants, and also face a similar set of bureaucratic hurdles those in other tenures can hardly imagine. Yet, when we try to assert tenants' rights in this area, it proves to be the most difficult and contentious area of all, because decisions about how to allocate scarce resources among different types of need are always contestable and because, with honourable exceptions, the representatives of worker and citizen interests have been, and still are, determined to maintain absolute control.

What rights should applicants have? They should have the right to clear and easily understandable information about how their application for housing or for a transfer is proceeding, and to clarity on the rules and workings of the system, in particular on the likely outcome of their application. They should be clear about the number of offers that will be made, on any penalties imposed if an offer is turned down, and on likely waiting times for different types of property (see Housing Corporation, 1989). As far as is possible, they should have their needs and preferences taken into account, including the need to live in a particular geographical area, and to have a choice between different alternatives offered. They need a waiting list system which balances different types and degrees of housing needs in a rational way which is understandable to tenants. They also require a mandatory national mobility scheme, which allows tenants to transfer across arbitrary local authority and housing association boundaries (see Clapham, 1990). Finally, because, unlike owner-occupiers, tenants are subject to arbitrary decisions made by bureaucratic 'gatekeepers', natural justice demands that there be a right of appeal against decisions made.

How far have housing authorities granted these rights? In 1977, under pressure from tenants' organisations, the Labour government's Green Paper proposed abolishing arbitrary restrictions on registering on the waiting list, suggested a national mobility scheme, and publication of allocations rules. The local authority associations opposed the first two of these, wanting to retain discretion and restrict demand for council housing. The incoming Conservative government then dropped the

issue of waiting list restrictions, proposed a voluntary national mobility scheme, but stood firm on the question of information; the 1980 Housing Act 'Tenants Charter' required councils to publish a summary of their rules for determining priority as between new and transfer applicants, to make available a set of rules governing the procedures for allocation, and to allow applicants to inspect the personal information they had provided in their application.

In practice, local authorities were not so forthcoming; 13% had still not issued any information by the second deadline set, October 1982. Half of those who did had not produced it in an easily readable form, and not one provided information on their basic statutory rehousing obligations under the 1977 Homeless Persons Act. Despite the fact that Scottish authorities had, in 1980, been stopped from operating residential restrictions, a quarter of English authorities were still doing this, while 20% still had age restrictions, 24% barred single people from registering, 35% restricted owner occupiers and 19% still used merit systems extensively. Worse still, in 14 district councils decisions were still being made on 'merit' by councillors, and 7% of local authorities were still using only the date order system, which is incapable of taking into account housing need. 36% gave no information on what would happen if an applicant refused an offer, while 28% would only give one offer, and 36% simply said the number of offers would be limited. A third did not allow applicants to state the geographical area they preferred to live in. Only 8% gave estimated waiting times for different groups and different types of housing, only 10% said applicants could appeal against the assessment of their priority, and only 12% against decisions felt to be unfair.

On transfers, discretion played an even larger part in allocations: 75% would not transfer tenants in rent arrears, 65% would not transfer people who in their opinion had inadequate standards of house-keeping, and some simply stated that they exercised total discretion! Merit and group systems predominated, and most gave no information on how many choices would be offered, or how much time applicants could be expected to wait. 59% gave no information on whether applicants could express a preference for different geographical areas, and 69% said nothing about how many offers would be made (Kay et al, 1986). So the advice and information given to existing tenants about transfers was even less adequate than that given to new applicants, but in both cases practice fell far short of the 'Tenants Charter'.

Later in the decade, practice had improved; 93% published details of their allocation scheme, though this still left a small minority seemingly not meeting a clear legal requirement. 65% used points systems, compared with 54% in 1982, but a small minority were still sticking to date order systems (7% compared to 8% in the 1982 survey), and 8% were still using solely merit or discretion. 19% of authorities were offering one refusal, 48% two refusals, and 16% three; only 8% allowed an unlimited number of offers (MacLennan et al, 1989). None were able to offer a real choice (taken for granted by owner occupiers) of more than one property at a time. Evidence from why people rejected offers shows the inadequacy of centralised allocations systems to take

into account people's need to live in particular areas; 43% said the location was unsuitable, and 29% that they did not like the neighbourhood.

Finally, have tenants more easily been able to transfer to other areas? The voluntary National Mobility Scheme has been unable to meet the demand for rented accommodation for those wishing to move, because local authorities have been reluctant to make lettings available to outsiders when there are urgent pressures to house local people; there is therefore 'a need for the number of lettings under the scheme to be increased and for membership to be mandatory' (Clapham, 1990, p.66, summarising Conway and Ramsay, 1986). The right to exchange has been granted (Housing and Building Control Act, 1984), but this has had limited impact on tenants' mobility, because it is so difficult to match two tenants and their needs.

How have tenants been able to influence practices through consultation? In contrast to the general support for tenant involvement in management, tenants demanding collective involvement in allocations policies have often come up against a solid wall of resistance from worker and citizen interests in trying to assert their right even to a point of view; the Centre for Housing Research study found that by 1986 only 29% of authorities were consulting on allocation policy, and only 15% on its administration. The exception has been the Priority Estates Project, which has involved tenants in local allocations policies on hard-to-let estates (see Power, 1987).

Why should there be this reluctance? There is widespread suspicion that, given power, tenants will put their own interests first. Yet it is not necessarily the case that, given rights over lettings, they will act in an elitist or racist way, any more than will representatives of worker or citizen interests; certainly the latter have often been convicted of racism in allocations (see Ginsburg, 1989 for a review of the evidence). Tenants have been able to take some control through estate management boards and management co-ops but, despite their taking all their allocations through council nominations, these have been heavily criticised by outside commentators fearing that 'elitism' and 'racism' will result. Yet, as Clapham points out, despite the growth in the numbers of such tenant-controlled organisations, 'No evidence is ever put forward to justify this view' (Clapham, 1990, p.73). Sometimes the existence of all-white or all-elderly co-ops is cited, but the fault usually lies in the prior allocations by the council, or in the fact that a pre-existing population (such as Irish catholics in Liverpool) are trying to rehouse themselves in decent conditions. The use of co-ops by Afro-Caribbean, Bangladeshi, Chinese, single parent families, disabled people, and so on, who want to redress the balance, is often overlooked.

## 2. Housing costs

Tenants ought to have the right to information on how rents (and service charges) are calculated, to be consulted on rent increases, and to be sure that their rent is being spent properly on the purposes for which it was intended. They should be able

to see a direct connection between the quality of the dwelling and the basic services they receive and the rent they pay, and to opt for a higher level of service for extra rent payments if they want it. They should have the right to a convenient and flexible method of rent collection, and accurate and up to date information on their rent account. If they fall into arrears, these should be dealt with sensitively and in confidence. There should be information and assistance on housing benefits, and reasonable and achievable agreements for clearing the debt. Legal action should be taken only as a last resort (Housing Corporation, 1989).

How well do councils live up to these ideal rights? On rent setting, landlords have had total discretion; there has been no protection against high rent rises through phasing of increases, and no right of appeal. This used not to be a problem when rents were generally low, but recent increases such as the £85 per week proposed in Croydon have thrown into sharp relief the almost complete powerlessness of tenants to argue for an affordable rent. Nor have councils had to provide any information on how rents are calculated, which is just as well, since few of them have detailed cost information available even for their own needs, and the calculations required to produce it have proved very difficult. Double-charging of services through the rent account and the general fund has been common, and there has been little check on charges levied by other departments for services provided (Audit Commission, 1986). Nor has there been any consistency in rent setting between landlords; during the mid-1980s, the Audit Commission quotes rents for a three-bedroom house as varying between £15 a week in Greenwich and £28 a week in Wandsworth (1986, p.2); these differentials have got much worse since then, with political decisions being made in different authorities to increase rents above or below central government guidelines.

On the question of value for money, the Audit Commission advocated setting rents to take into account the popularity of the dwelling, both in order to solve the 'hard to let' problem, but also to enable tenants to feel that their valuation of the home had been taken into account; at least two local authorities (Woking and Doncaster) were attempting this in the mid-1980s (1986, p.58-9). On the linking of rents with services, the record is not good. The Centre for Housing Research study found that in both local authorities and housing associations tenants believed that the mix of services was wrong:

They believed that they were required to pay for services which were poorly conceived, and even unnecessary, but at the same time, were not provided with other services for which they would have been prepared to pay more  
(Maclennan et al, 1989, p.98).

Large councils in particular were criticised; 40% of tenants believed the landlords undertook wasteful projects or services. They made poor use of repairs equipment and manpower, and provided items liable to be vandalised. At the same time, the study found that 22% of council tenants were willing to pay more rent on services (Maclennan et al, 1989). In order to meet these

aspirations, landlords have to be able to offer a clear set of options, linked realistically to rent levels. The study found that, while 'Such offers, because of rent pooling, are the exception rather than the rule in large councils', one decentralised local authority was beginning to produce different services for different rent levels in different localities. Several more are now beginning to experiment, but the capacity to do this depends on the development of estate-based budgeting, which is also still in its infancy.

In contrast, rights relating to **service charges** have recently been made quite strong. Both public and private tenants who pay variable service charges gained the right under the 1985 Landlord and Tenant Act to written information explaining their rights, the right to receive and inspect the landlord's information on costs, and to appeal to the County Court if they think them unreasonable. If service charges are fixed, they have the right of appeal to rent assessment committees.

It might be thought that **rent collection** is a less contentious area, but the interests of the landlord in the methods used are different from, even if they overlap with, those of tenants; landlords want to ensure the safety of staff and to minimise costs, while tenants want convenience in paying and easy access to information and staff (Legg et al, 1981, p.96). During the 1980s, there was a gradual move away from door-to-door collection to a range of less personal methods: by 1986, 63% of authorities were still providing door-to-door collection to at least some tenants, but universal door-to-door collection was becoming quite rare: 88% now offered office payments, 77% were using banker's order, 50% post office giro and 21% bank giro payments (MacLennan et al, 1989). It is generally accepted that the loss of door-to-door collection seriously inconveniences older and infirm tenants, and that the move to giro collection and to longer rent payment intervals lead to a higher level of arrears and delays in the acknowledgement of payments (Duncan and Kirby, 1983), both of which also work to the tenants' disadvantage.

Both landlord and tenant have an interest in up to date and **accurate accounts**; information ought to be available 'on-line', updated on a weekly basis, and available to estate management staff dealing with arrears. Although the use of computerised systems for rent accounting grew during the 1980s, this did not eliminate all the problems; the Audit Commission found that in the mid-1980s nearly 20% of local authority systems still did not provide on-line access, and 10% did not update tenants' accounts weekly (1986, p.61). Furthermore, computerisation did not solve the growing problem of reliance on infrequent statements from outside bodies such as Girobank, rather than on the traditional rent book, and it made the service more vulnerable than did the old manual system when there were breakdowns in service. At the end of the 1980s, for tenants it was still true that 'easy access to reliable, up-to-date information is often still a problem' (Legg et al, 1981, p.101).

In dealing with **rent arrears**, the interest of landlord and tenant are also different, though overlapping. The former values early intervention, regular repayment of as much debt as possible, and, if all else fails, repossession. The tenant also values early notification of the problem (because this prevents

serious arrears building up), but also needs accurate, up-to-date information on its extent, good advice on benefit entitlements (council tenants in serious arrears have a lower level of housing benefit take-up - see Duncan and Kirby, 1983), co-ordination between the agencies involved, and realistic agreements on repayment of debt. At the beginning of the 1980s, the record of local authorities in these respects was not good. The City University Study found that in 1982 only 53% of local authorities mentioned entitlement to rent rebates in their tenancy conditions or handbooks. Only half offered advice and assistance. Many were changing the way they dealt with arrears, but tenants were still being put into arrears through administrative errors, inadequate records, or because arrangements to pay were set at unreasonable levels (Kay et al, 1986).

A more detailed study of housing management practice by the same researchers found a catalogue of bad practices: warning letters sent to people in 'technical' arrears, lack of contact and waste of time in visits when the tenant was out, lack of knowledge of welfare rights, and so on (Legg et al, 1981). When tenants were taken to court, they were rarely present; the majority of councils failed to explain that tenants could defend themselves, and 'the courts were almost exclusively hearing only one side of the story', even when arrears were due to administrative failure (Kay et al, 1986, p.84).

Four years after the above studies, the Audit Commission found that councils still varied markedly in their managerial ability to handle arrears cases, and that accuracy of information from housing benefits offices was still a problem. Policy commitments were needed from councillors, and adequate training of specialist staff was still needed, especially in debt counselling. There is some evidence, though, that practices were improving. By 1986, seven-tenths of councils were notifying tenants about the existence of housing benefit in their standard letters. 88% of authorities were checking for entitlements to housing benefit, 78% for income support, 63% for family income supplement, and 61% for one parent benefit (Maclennan et al, 1989).



### 3. Management and maintenance

During the post-war period up to the mid 1970s, in general the dominance of citizen and worker interests led to a concern with the needs of prospective consumers rather than of existing tenants, and with housing development rather than management. With the slowing down of new development during the 1980s there was a chance to shift priorities, but the absence of tenant interests within the decision-making structure and the dominance of worker interests led, as the Audit Commission charges of a number of local authorities, to 'money...being spent on a growing bureaucracy rather than on a better service for tenants' (1986, p.1). A new reason emerged for neglecting the needs of existing tenants; a growing crisis of homelessness which some argued must take priority over day to day management. There was a growing interest in equal opportunities policies and fairness in allocations which, important and overdue as they were, also eclipsed the more mundane needs of tenants who were beginning to be seen as privileged when compared with the homeless. Yet the Audit Commission estimated that by the middle of the decade there were 8000 too many staff in a total workforce of 55,000, and that many could be redeployed from administration to service provision, including a thousand staff engaged in lettings (1986, p.24). In general, though, there was a growing realisation during the 1980s that the standard of housing management and maintenance was an important issue in its own right and could no longer be avoided; as the Association of Metropolitan Authorities put it, 'The level of efficiency of this part of the housing service is crucial in determining the quality of life of millions of council tenants' (AMA, 1986, P.17). Crucial to this service orientation is the standard of the response repair service; apart from rent collection, this is the most frequent point of contact between tenants and landlords, and it 'plays a major role in determining tenants' perceptions of their landlord's performance' (MacLennan et al, 1989, p.70).

During the 1980s, councils were put under pressure, firstly by a series of reports critical of their management practices, and then by central government pressure to persuade tenants to opt for new landlords. Studies noted unusually high levels of consumer dissatisfaction; the Audit Commission quoted a MORI poll which found that over 35% of council tenants were dissatisfied with the housing service. The Commission's report divided local authorities into three types: shire districts which generally had few fundamental problems, larger authorities some of which had serious problems, and around 30 larger authorities which had acute management and maintenance problems (1986). The Centre for Housing Research broadly confirmed the diagnosis; it found that large authorities in particular were perceived by tenants as inefficient, having inadequate resources, providing an unsatisfactory service, and poor value for money. The poorer performers among them were also rated by tenants as the most rapidly deteriorating in service.

In the study, for the first time, tenants' views of performance in local authorities and housing associations could be compared: 53% of council tenants thought their landlords were efficient, compared to 76% of housing association tenants; 67%

thought the standard of service was satisfactory, compared to 80% of association tenants; 27% thought the service gave poor value for money, compared with only 13% of association tenants; in other words 'the mix and quality of association services is more in line with consumer preferences than that of councils' (1989, p.106). Associations also completed repairs more rapidly than local authorities, with the larger authorities coming out as slowest.

Tenants were concerned about the lack of resources; the Centre for Housing Research study found that only 35% of council tenants, compared to 52% of association tenants, thought their landlord had adequate resources for management. Yet the Audit Commission found that up to the middle of the decade resources had been increasing. Expenditure was increasing faster than inflation - it had risen by 30-40% over the 6 years to 1983-4, while, owing to the right to buy, the number of dwellings had declined by 4%. The Commission did not know why this should be, but commented that the increase had not produced a better service, and that for many landlords tenants were still being seen as 'the problem', not as customers to be served (1986). In contrast, the Centre for Housing Research provided comparative figures which showed that councils were not spending enough on management. Expenditure in housing associations was almost half as much again as that for councils; £151 compared with £103, and they had more than double the management staff. Clearly, since low cost and low performance were strongly associated with each other, the poor performance of council housing could partly be explained by lack of expenditure on management.

Yet council tenants were receiving poor value for their rents. Associations used 24% of their rents for management compared with 12% in the council sector, yet the average annual rent was higher in councils, at £771 compared with £672 for associations. The study comments that, armed with this information 'it would not take council tenants long to conclude that in relation to rent payments, they received a poorer deal than association tenants' (1989, p.107). This may be partly due to the different subsidy systems, but it is also due to the fact that associations are given a target against which to measure expenditure while councils can make political decisions without being called to account.

Is the solution to the low performance of councils simply to increase their spending? Unfortunately, the causes of bad management are more complex than that; the study found that it was possible for low-cost landlords to be quite successful, and for high-cost landlords to be unsuccessful; money alone does not ensure success. Other conditions need to be satisfied. The first condition is **feedback from tenants**; without it management staff have no way of telling if their perception of performance matches that of the tenants; the Centre for Housing Research study found that 'staff of all organisations tended to share inaccurate views of how tenants would regard their service', and staff in large councils over-rated their performance to a significant extent (Maclennan et al, 1989, p.103). Yet only 15% of councils were obtaining feedback on the quality of services. This is now changing, if only because they want to be able to show improvements which persuade their tenants to remain with

them.

Then there have to be sanctions against landlords who do not meet their contractual commitments, especially on repairs. After much pressure from tenants' groups, the right to repair was given in law in 1984 (Building Control Act). There has to be a unified housing service, in which housing managers can exercise control over services. The Audit Commission found that, by the mid-1980s, the traditional splitting of responsibilities across different local authority departments was still very common, especially in smaller authorities: 66% of councils relying on outside departments to do repairs, 55% to administer housing benefits paid to council tenants, 40% to do rent accounting, 31% to collect rents and 29% to do repairs administration (1986). Another study found that unified housing departments brought their own problems; larger authorities had the problem of controlling all the different sections within the department (Kirby et al, 1988). More recently, a few councils have experimented with an agency structure, in which the housing service becomes a purchaser of services; it remains to be seen whether this will really change the balance of power, particularly in relation to direct works departments; 65% relied on direct labour from another department, which raises 'major questions of accountability' (MacLennan et al, 1989, p.75-6).

Tenants demand a service on a human scale. They show greater satisfaction with decentralised local authorities, and neighbourhood offices score very highly (MacLennan et al, 1989). Yet, even though 12% of the Centre for Housing Research study sample had neighbourhood offices one tier below the area level, at 1000 units they still had twice the average number of dwellings covered by housing association area offices, and were rarely decentralised down to estate level. Vested interest - both of senior managers and councillors afraid that they might lose power to local groups of consumers - have made decentralisation in many instances a half-hearted measure. When it has happened, it has often been without any consultation with tenants as to the appropriate level or mix of services required.

Tenants have also always emphasised the important of estate management, of mundane jobs such as caretaking, rubbish collection, cleaning and external maintenance (Legg et al, 1986). Yet, despite the rhetoric of customer care, this received very little attention from housing workers; total expenditure was probably no more than £5 per year per dwelling (at 1986 prices), and it was contracting. The Audit Commission found that 'Almost a quarter of the authorities...devoted negligible effort to estate management' (1986, p.20), and that total estate management staff were estimated to be around 2700 full time equivalents; not much more than one for every 2000 dwellings. Traditionally, estate based officers have often been the first to be cut in any cost-cutting exercise (Power, 1987b, p.70). Caretakers, who are the first line of defence against falling standards on estates, have been given low status and autonomy, so their relationships with tenants have been difficult. There has been confusion over the lines of responsibility between landlord, police, and tenants, and a lack of common understanding about what standards should be aimed at. There has been the persistent problem of getting other departments to do their work properly, particularly

in collecting litter. No sanctions have been available to make tenants do the cleaning of common areas, so that those who want to co-operate become demoralised. There has been a lack of clarity about responsibility for open spaces, and an unwillingness to take on the difficult job of controlling the anti-social actions of a tiny minority, who cause demoralisation out of all proportion to their numbers.

An intensive study of estate management in four authorities found that 'when authorities do experience difficulties, they tend to see their own interests before those of their tenants...inevitably this has a harmful effect on landlord/tenant relations' (Legg et al, 1986, p.134). Yet the Priority Estates Project, which has specialised in managing the most difficult to let estates, has demonstrated that when attention is paid to estate management and support is given to tenants, they do respond and the most hopeless and demoralised of estates can be turned round.

Particular issues are raised by repairs. Tenants have a right to know that their report of a defect has been properly noted; the Centre for Housing Research Study found that only 28% of councils issued repairs receipts. They have the right to know that the report has been taken by a competent person, yet often there are too few staff with relevant training in repairs taking such reports; the Institute of Housing's Certificate in Repairs and Maintenance is now attempting to put this right. Tenants have the right to know when a repair will be done. The same study shows that the record on this is reasonable: 73% of associations told tenants when a repair was likely to take place, compared with 68% of authorities. But tenants also have the right to a proper appointment to arrange access to the home, so that their time (and money if they have to take time off work) is not wasted. The City University found that during the early 1980s few local authorities had appointment systems, and so almost 40% of tradesmen's calls were abortive because the tenant was out (Legg et al, 1986). By 1986, still only 29% of authorities gave prior notice of access, compared with 77% of associations (MacLennan et al, 1989). After the job is done, tenants also have the right to report their level of satisfaction with it, and to have this reflected in a consumer rating of contractors; some landlords are now doing this, but they remain the exception.

If practice was not all it should be during the 1980s, a powerful consensus was emerging that tenants ought collectively to be able to do something about it. The 'Duke of Edinburgh's Inquiry', for instance, offered the 'hope that in the future tenants should be able not only to choose the kind of management the landlord shall offer, but also the extent of their own involvement in decision-making. The Audit Commission made a similar connection between tenant involvement and improved management;

it is the view of many authorities and the Commission that a high level of tenant involvement is essential if local housing services are to deliver the type and quality of housing which tenants really want

(1986, p.21).

But how much involvement has there been? As well as the development of self-management through tenant management co-ops and, more recently, of joint management through estate management boards, there has been significant growth in more general consultation. A Centre for Housing Research tenant participation survey found that, of those councils which consulted, two-thirds (63%) did so on estate management, but only a third (34%) consulted on repairs policy (Cairncross et al, 1989); clearly, the 'worker interest', specifically of direct labour organisations, was still inhibiting tenant involvement in that most vexing of issues, housing repairs.

#### 4. The use value of the home

There are two types of rights which tenants have always sought to enhance the use value of the home. One concerns the right to take in lodgers and to sub-let rooms, and the other the right to be involved in design and modernisation.

The 1980 Housing Act gave tenants an absolute right to take in lodgers, provided this did not make the home overcrowded, and the right to sub-let rooms with the permission of the landlord, which was not to be unreasonably withheld. Landlords did not particularly mind the right to take in lodgers; prior to 1980, 98% of them had allowed them with prior permission, though they often had very restrictive policies against relatives staying for more than a few nights without permission, and against the levying of lodging charges. Nevertheless, after the Act became law, 25% of authorities failed to mention the right to take in lodgers in either the tenancy agreement or their supplementary information (Kay et al, 1986). The right to sub-let rooms was not welcomed; only 28% allowed this in some form before 1980, and after the Act 20% of authorities failed to mention it, while the vast majority failed to clarify it properly.

More important was the right given to consultation over modernisation schemes. As with the other rights to consultation, this did not mean much, as it was left to the discretion of councils as to how they would do it, and how far they would allow it to affect decision-making. Yet, compared to the resistance to other rights, there has been a remarkable level of agreement among professionals that it has to be done positively, both for new build and modernisation schemes. This is mainly because, during the 1980s the problem of having to manage and repair the council estates built during the post-war drive for slum clearance became all too apparent. It forced a reappraisal of the role of consumers in testing out the designs of the professionals, and led to a series of strong statements from all the important reports which came out during the decade on housing practice. The Audit Commission, in an otherwise 'managerial' study said: 'Listen to what people want...Involve tenants in decisions affecting their homes and lives rather than relying on architects and planners who live somewhere else' (1986, p.34). The Inquiry Into British Housing said:

Tenants must never again be left out of the design process. Not only were potential residents not asked about

industrialised systems-built houses and layouts; it is hard to believe that anyone concerned in the various design decisions on some estates ever seriously considered how people would live in the "units" provided  
(NFHA, 1985, p.42).

It warned that architects and planners should never again sacrifice quality to quantity in new building, nor should they rely on one solution only to housing problems which demand variety and imagination in searching out solutions that work. The Institute of Housing and Royal Institute of British Architects report 'Tenant Participation in Housing Design' summed up the whole sorry post-war experience in this way:

It is relatively easy to identify the influence of politicians, housing managers, architects and other professionals on the shape, character and features of the present housing stock. It is not so easy to identify the influence of tenants. By and large, this is a limited, secondary influence often only to be perceived where the preferences of tenants have filtered through into the design of subsequent projects. To become a primary influence, tenants would have the right to decide on all matters affecting the design of dwellings and estates  
(IOH/RIBA, 1989, p.5).

More mundane but just as influential has been the growing interest in 'value for money'. The argument goes that, though participation may cost more in the short term, in the long run consultation on new build and modernisation will save enormous amounts of money which in the past have been wasted (Bartram, 1988).

Yet it has not been easy to put into practice, because the prospective tenants of new build housing are not usually identifiable before it is designed; new techniques have been needed, such as the use of tenant surveys on design, and the interviewing of tenants one year into their tenancy, with the feedback this provides leading to review of approved lists of contractors and architects (Platt et al, 1990). Better still is the pre-allocation of some houses a long time in advance to a nucleus of tenants who can afford to wait, or the forming of a 'design panel' of existing tenants as a surrogate for the user point of view. This is not a problem in modernisation schemes, which offer 'an unrivalled opportunity for involving tenants', because most projects can rely on sitting tenants to put the consumer view (IOH/RIBA, 1989, p.5).

How have landlords behaved in practice? The Centre for Housing Research participation study found in 1986 that 81% of councils consulted on modernisation or rehabilitation, while 32% consulted on new build (Cairncross et al, 1989). It seems clear, then, that modernisation is the area in which landlords consult most, but that, despite being an attractive and relatively easy right to grant, it is still not universally offered. Participation on new build is still a minority pursuit.

Individual tenants can also enhance the use-value of the home through doing their own improvements, a right which owner-

occupiers take for granted, but which had to be granted to tenants in 1980. In practice, this was not a burning issue before 1980, since most authorities (99% in the City University Study) allowed this with permission. For once, the three local authority associations welcomed the new right, but they confirmed the suspicions of tenant activists that they saw it as a way of encouraging tenants to do their own repairs.

Even so, after the Act, all the local authorities surveyed in the City University study mentioned the right, but most in a negative way; 28% failed to say that permission would not be unreasonably withheld (an exception was Sheffield City Council, which launched an improvement grants scheme for tenants). It is a popular right, but one which, like so many others, suffers from lack of publicity, and a negative tone when mentioned by landlords. It can be made easier to exercise by setting out automatic permission for some straight-forward improvements. But can tenants get help with the cost of the work? They now have the same rights as private tenants and owner-occupiers to mandatory grants, but, since very few lack basic amenities, this is rarely used. They can also apply for repair and discretionary improvement grants, and can ask their landlord to reimburse them for work done. Whether they feel committed enough to their home, and confident enough to approach the landlord for permission to do work depends, as does the exercise of so many other rights, on the quality of the landlord-tenant relationship.

## CONCLUSION

From the tenants' point of view, the report on council housing departments during the 1980s could be phrased 'tries hard, but could do better'. The overall impression is, firstly, of a minority of councils who would have tried hard to give their tenants rights and improve the service, whether or not they had been pressured into doing so. But the stronger impression is of a majority, who at the beginning of the decade had to be prodded into recognising that tenants have rights at all, and then by the end of it were trying desperately either to placate the tenants with belated promises of participation and improved services, or to off-load their housing stock completely. On the other hand, the tenants' view of central government would be no less negative. A modest package of rights was granted in 1980, and some choice over the landlord in 1988, but whenever the government has found such rights and choices threatening to interfere with the over-riding aim of breaking up the council stock, it has ridden roughshod over them. More generally, the choices which tenants have now secured - mainly through their own efforts - are to be exercised in a climate of soaring rents and continuing lack of funding for estate improvements.

The underlying problem - that council tenants have not had a place in the structure of control - means that they have been prey to powerful interests whose first loyalty has lain elsewhere: to private developers, to direct labour organisations, to the local political party, and so on. The attack on, and defence of, council housing has been conducted mainly within the arena of citizen and worker interest at both local and national levels, in a policy struggle which has tended to appeal to, manipulate and redefine the consumer interest. Council tenants have been, to a large extent, pawns in a bigger game.

The 1990s will probably see three major strategies to win over tenants (see Simpson, 1989). If a conservative government is re-elected, it might simply wait for the combined effects of its 1988 and 1989 legislation to come to fruition. Had this paper been written a year ago, it would have reported the probable frustration of the government's plans by tenants voting against 'HATs, and councils promising a new deal for their tenants. But the 'carrot' of tenants' transfer, followed by the 'stick' of rapidly rising rents and drastic restrictions on capital spending, have already, early in 1991, produced an intensification of plans for voluntary and 'tenants choice' transfers, along with the individual 'right to buy'. However, the government has at least one more trick up its collective sleeve; along with the rents-to-mortgages scheme which may or may not work, it will extend compulsory competitive tendering to council housing management. This would have the same effect as did 'tenants choice', of raising the spectre of private landlords taking over the stock, and it would force councils to adopt an agency structure - already being experimented with in a few authorities - which would finally separate housing management from other services and make it possible for tenants to be represented 'on the board'. It would also give an added impetus to tenant management co-ops and estate management boards, which might well want to bid under any private sector competition in



order to retain control over estates. Like 'tenants choice', it would make councils and their tenants do 'the right thing for the wrong reasons', but without any guarantee of having the resources to do it really well.

On the other hand, the election of a Labour government would bring in a new partnership of central and local government, which would probably, along with a modest derestriction of capital spending and increase in revenue subsidy, emphasise the need to improve quality in housing management: the formation of an advisory inspection service (probably based on the DoE or perhaps the Housing Corporation) to monitor performance in housing management, stricter management accounting for services, a stress on staff training, and a new tenants' charter to give enforceable participation rights and a mandatory framework for resourcing tenants' organisations (Simpson, 1989). This time around, the local authority associations and the Institute of Housing would be only too glad to support such a tenants' charter (see Institute of Housing, 1989, 1990, Association of London Authorities, 1988).

A coalition of Liberal Democrats and either of the two main parties might lead to that most radical of plans, suggested by some commentators on both right (Henney, 1985) and left (Clapham, 1989) - the transfer of all council housing to tenant-controlled bodies. Given a sensible and attractive framework for its financing, a positive strategic and monitoring role for the local authority, and some kind of transfer commission to promote and supervise the changeover, it could provide a positive libertarian yet socially just framework for the de-municipalisation of a service which probably should never have been municipalised in the first place.

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