



Office of the
Deputy Prime Minister

Creating sustainable communities

Housing Transfer Manual

2005 Programme

housing



Office of the
Deputy Prime Minister

Creating sustainable communities

Housing Transfer Manual

2005 Programme

Housing Transfer Manual

2005 Programme

October 2004

Office of the Deputy Prime Minister: London

The Office of the Deputy Prime Minister
Eland House
Bressenden Place
London SW1E 5DU
Telephone: 020 7944 4400
Web site: www.odpm.gov.uk

© Crown copyright 2004.

Copyright in the typographical arrangement rests with the Crown.

This publication, excluding logos, may be reproduced free of charge in any format or medium for research, private study or for internal circulation within an organisation. This is subject to it being reproduced accurately and not used in a misleading context. The material must be acknowledged as Crown copyright and the title of the publication specified.

For any other use of this material, please write to HMSO Licensing, St Clements House, 2-16 Colegate, Norwich NR3 1BQ. Fax: 01603 723000 or e-mail: licensing@hmso.gov.uk.

Further copies of this publication are available from:

ODPM Publications
PO Box 236
Wetherby
West Yorkshire
LS23 7NB
Tel: 0870 1226 236
Fax: 0870 1226 237
Textphone: 0870 1207 405
E-mail: odpm@twoten.press.net
or online via www.odpm.gov.uk

Printed in Great Britain on material containing 75% post-consumer waste and 25% ECF pulp.

October 2004

Reference no. 04HC02613

Contents

Ministerial Foreword	1
Key Changes	2
SECTION 1	5
Introduction	5
SECTION 2	14
Deciding to pursue transfer	14
SECTION 3	25
Choosing the prospective new landlord	25
SECTION 4	31
Involving tenants	31
SECTION 5	38
Drawing up the repair and improvement programme and details of the housing service	38
SECTION 6	45
Deciding on the terms of the transfer	45
SECTION 7	50
Considering the use of the receipt from the transfer	50
SECTION 8	54
Applying for the 2005 Large Scale Voluntary Transfer Programme	54
SECTION 9	60
Submitting details of a proposed Small Scale Voluntary Transfer	60
SECTION 10	63
The consultation exercise	63
SECTION 11	72
Securing funding	72
SECTION 12	77
Setting up a new landlord	77
SECTION 13	91
Finalising the tenancy agreement	91
SECTION 14	95
The Local Authority's housing rule and functions after transfer	95
SECTION 15	100
Drawing up the transfer contract	100
SECTION 16	105
Applying for the Secretary of State's consent and completing the transfer	105

Annex A	114
Implications of partial transfer on the Housing Revenue Account	114
Annex B	116
The Single Transfer Model	116
Annex C	121
Selection of the prospective new landlord	121
Annex D	124
Tenant and community involvement good practice guidance	124
Annex E	134
Meeting the needs of Black and Minority Ethnic and hard-to-reach communities good practice guidance	134
Annex F	142
Collection and analysis of stock condition information	142
Annex G	148
Devising energy efficiency measures	148
Annex H	151
Drawing up an 'Egan compliance' action plan	151
Annex I	153
Drawing up a rent plan, treatment of service charges and Supporting People Grant	153
Annex J	156
Capital finance and the treatment of costs associated with transfer	156
Annex K	162
Programme for Disposals (Applications) Direction 2005	162
Annex L	163
Transfer proposal summary sheet	163
ANNEX M	165
Information to be provided on a proposed transfer	165
Annex N	172
Consultation material good practice guidance	172
Annex O	188
The RSL business plan and key contents	188
Annex P	193
Contents of funding prospectus	193
Annex Q	195
Proposed group structures	195
Annex R	200
Housing benefit implications of transfer	200

Annex S	202
Further guidance on discharging statutory obligations in relation to the allocation of housing and homelessness	202
Annex T	209
Dealing with overhanging debt payment	209
Annex U	213
Calculation and payment of the LSVT Levy	213
The Disposals Levy (Deduction) (England) Determination 2004	222
The Disposals Levy (Administration) (England) Determination 2004	225
Contact details	232
Bibliography	237

Ministerial Foreword

Since 1997 great progress has been made in reducing the number of homes that fall below the Decent Homes Standard- the number is down by 1 million. But there is a lot more to do.

Where Local Authorities need additional investment to meet this target they have three options that will deliver this: transferring their housing stock to a Registered Social Landlord (RSL); using housing Private Finance Initiative contracts; establishing high performing Arm's Length Management Organisations (ALMOs) or some combination of these.

These three programmes are proving an effective way to channel billions of pounds of extra investment into social housing. So far there have been 194 successful housing stock transfers, 41 ALMOs are up and running and 10 more schemes are being set up. There are currently 22 schemes on the PFI programme aiming to deliver decent homes, and delivering affordable social housing for rent through new build general needs, sheltered and extra care housing.

This document is one of a set of three that launches the latest bidding rounds for the ALMO, PFI and transfer programmes enabling even more Local Authorities to deliver decent homes. There will be a further bidding round in 2005.

Important changes have been made to the options to shape them to the local needs and circumstances. With PFI there is a renewed emphasis on building new affordable social housing. With immediate effect, the cost of demolition is brought within the scope of ALMO funding to ensure robust decisions between demolition and refurbishment in Decent Homes programmes. Housing stock transfer is now a realistic option for Local Authorities and tenants where there is negative value stock with the introduction of a gap-funding scheme.

Giving people decent homes makes real differences to their lives. However these programmes are about more than delivering Decent Homes – they each bring additional benefits. Perhaps most importantly, they offer tenants the opportunity to become much more involved in making decisions about the management and ownership of their homes, through the Options Appraisal process, through implementation of the chosen option and beyond.

We have made it clear that tenant empowerment and tenant consultation must be at the heart of a successful Options Appraisal. The Community Housing Task Force is continuing to make good progress working with tenants, Local Authorities and the Government Offices for the Regions to deliver robust Options Appraisals. For the first time, this year each Local Authority applying for programmes must have their Options Appraisal signed off by the Regional Government Office **prior** to submitting their bid.

I look forward to continuing to work with Local Authorities and other social landlords in the future to offer their tenants a Decent Home.



Rt Hon Keith Hill MP
Minister of State for Housing and Planning.

Key changes

In June 2003, the Office published *Decent Homes – Options Appraisal Guidance for Local Authorities (1)* to assist authorities with taking forward their Options Appraisal. All stock owning authorities are now required to submit Options Appraisals to their relevant regional Government Office for sign off. Sign-off needs to be obtained by July 2005 at the latest. Authorities will not secure a place on the 2005 Housing Transfer Programme without a signed off Options Appraisal.

The Housing Transfer Manual 2005 is now a consolidation of the *2003 Housing Transfer Manual* and the *Supplement to the Housing Transfer Manual 2003, 2004 Programme* and has been updated to take into account changes in a number of policy areas.

ODPM issued a consultative paper in October 2003, *Housing Transfer: Removing barriers in the transfer process to facilitate innovative private finance and deliver successful transfers (2)*. The paper set out a range of options to refine policy and implement lessons learned from previous transfers and these have now been incorporated throughout the Manual.

The main changes are highlighted below.

Section 1 The Community Housing Task Force advisers (CHTF), with whom authorities should already be working on their Options Appraisals, are now located with and embedded into the Government Office network. The CHTF's role has been expanded to provide advice and support to all authorities going through Options Appraisal and to those pursuing Transfer, Arm's Length Management and the Private Finance Initiative. The Housing Corporation's central Stock Transfer Registration Unit (STRU) should be an authority's first point of contact when discussing transfer proposals with the Housing Corporation.

Section 2 clarifies the respective roles of authorities and stakeholders where there is social housing within an NDC area in which stock transfer is proposed.

Section 3 Where an authority is proposing to transfer its stock to a new standalone RSL, the Office will require the authority to demonstrate that it has worked with tenants to explore the scope for working with existing RSLs.

Section 4 has been updated to reflect the Housing Corporation's new Tenant Involvement Policy which states that all associations must publish a statement setting out their aims and objectives for involving residents.

Sections 5 and 12 reaffirm ODPM's wish for authorities and new landlords to be able to look at valuations beyond the normal 30-year options where that is appropriate, and to give greater consideration to the discount rates used in the model. The Office has a new model which can be used to value stock between 30 and 50 years. The new landlord should also engage in a dialogue with funders during the development of the transfer. Sir Peter Gershon's Review of Public Sector Efficiency focussed on how best to target resources on front line services by releasing resources through more efficient working practices particularly in procurement. ODPM has to ensure specific targets for social housing are secured. To contribute towards this it will be a requirement of the housing transfer programme contributes to increased efficiency in both in procurement and delivery.

Section 6 gives guidance on ODPM's gap funding scheme following the Deputy Prime Minister's announcement on 5 May 2004 that resources would be available within the Office to assist transfers where there is a negative value, and where the authority has taken steps to minimise the gap but has been unable to reduce it any further.

Section 7 has been amended to include changes to the capital finance system brought in by the Local Government Act 2003 which mean that an authority is required to make provision for the repayment of its housing attributable debt from the transfer receipt, or an amount equal to that part of the debt equivalent to the net receipt where the net receipt is lower than the total housing attributable debt. The Office will consider requests from local authorities who are pursuing a mixed model approach to delivering the decent home to use receipt(s) from proposed positive value partial transfer(s) to fund proposed negative value partial transfer(s) that are part of the authority's decent home delivery strategy as set out in a signed off Options Appraisal strategy. Details are set out in Annex J.

Section 11 encourages contact between the new landlord and tenants ahead of the ballot. Given it is the new landlord who will be charged with the delivery of the transfer promises, the Office believes that where possible the new landlord should have a role in the development of the proposals and consultation material.

Section 12 Until now the Office and the Housing Corporation have required all transfer landlords to have a fully funded business plan from the outset. This is now seen as too rigid a requirement and a potential barrier to the development of alternative funding models. A fairly standard funding model had become the preferred option for lenders and borrowers alike. Removing this requirement may encourage the development of more innovative funding structures from a wider range of lenders. The Housing Corporation will now require a transfer association to have a funding strategy for the business plan delivery, with an initial funding tranche in place on day one to meet the transfer price and any expenditure necessary to deliver the transfer promises made to tenants.

Section 16 The Office re-affirms that authorities should begin the task of identifying and managing the risks associated with warranties *at the earliest possible stage*. The guidance stresses that this should be done preferably when the authority is preparing its application to ODPM for a place on the LSVT Programme.

Annex E has been revised to reflect the Office's guide, *Involving black and minority ethnic tenants* (46) published in June 2004. The guide not only focused on BME groups but many of the themes of the report and the good practice examples are relevant to involving any "hard-to-reach" group. The BME good practice guidance contained in this Manual has been revised to take this into account.

Any authority proposing to have a Options Appraisal signed off by the Government Office for their Region by the end January 2005 that supports an application for transfer and that would complete between April 2005 and March 2007 should submit a full application for the 2005 Housing Transfer Programme to reach ODPM by **Friday 28 January 2005**.

Authorities should already be working with the Community Housing Task Force on the development of their Options Appraisal for the delivery of decent homes and the Task Force stands ready to help all parties to develop their housing transfer proposals. This Housing Transfer Manual provides authorities with the appropriate guidance for ensuring that their transfer proposals present as few barriers as possible to obtaining a place on the 2005 Transfer Programme and subsequently obtaining consent from Ministers.

SECTION 1

Introduction

The purpose of this manual

- 1.1 This manual replaces ODPM's *Housing Transfer Manual 2003 Programme and Supplement to the Housing Transfer Manual 2003 – 2004 Supplement* and can be considered the definitive guidance to authorities considering the completion of a housing transfer in 2005. It will also be of interest to tenants of authorities that are considering transfer and to prospective recipient landlords.
- 1.2 This manual provides guidance on housing transfer, i.e. the transfer of ownership and management of all or part of a local authority's housing stock to a Registered Social Landlord (RSL). It also sets out the current Government policy in respect of housing transfer in general.
- 1.3 The manual also sets out the procedure by which an authority should make an application to the Office of the Deputy Prime Minister (ODPM) for a place on a Large Scale Voluntary Transfer Programme (LSVT) or submit details of a proposed Small Scale Voluntary Transfer (SSVT). Also contained are the criteria by which an application will be assessed and which must be met to gain a place on the programme. Authorities will be expected to show clearly that they can fulfil the criteria set, giving specific examples in their applications to demonstrate their ability to do so.
- 1.4 In June 2003 the Office published *Decent Homes Options Appraisal Guidance for Local Authorities(1)* to assist local authorities with taking forward their Options Appraisal. It sets out in broad terms what is expected of authorities on Options Appraisal, the steps that are being taken to strengthen the support provided for authorities in this work and the process and requirements for Options Appraisal sign-off by July 2005. This fulfils one of the outcomes of the *Review of the delivery of the decent home target for social housing – PSA Plus Review*, published in March 2003. The sign-off will involve checking that: tenants are fully engaged in the process and support the conclusions; that it is based on robust data; that underlying assumptions are reasonable, and that the analysis is sound. Details of the criteria to be used in the sign-off are set out in Section 8 of the Options Appraisal guidance. Sign-off needs to be obtained by July 2005 at the latest by Government Offices for the Regions. Applications for the 2005 Housing Transfer Programme **must** be supported by a signed off Options Appraisal. Therefore authorities should make early contact with their Government Office for the Region (GO-R) to discuss the timetable for sign-off.

- 1.5 ODPM and the Housing Corporation have established a monitoring and evaluation framework for measuring transfers progress. In the post-transfer period this framework will ensure individual authorities and new landlords establish how the objectives set out in the original LSVT Programme application, and commitments made during the transfer process, are tracked and met. It is a requirement that all transferring authorities and recipient RSLs on the 2005 programme submit the required information for LSVT monitoring and evaluation, which will be supervised by the Housing Corporation and ODPM. The monitoring and evaluation system has been designed to minimise the data collection burden upon authorities/RSLs, using existing data wherever possible.
- 1.6 This manual explains how an authority should work with its tenants on a transfer proposal and, subject to tenants indicating that they are in favour of transfer, how it should apply for the Secretary of State's consent to the transfer under sections 32-34 and/or 43 of the Housing Act 1985.

Proposed Large Scale Voluntary Transfer

- 1.7 Where the conclusion from an authority's Options Appraisal is that it should carry out a Large Scale Voluntary Transfer (LSVT), i.e. the transfer of more than 499 tenanted and leasehold properties to a single RSL over a five year period, it must first secure a place on an LSVT Programme. The LSVT Programme application process ensures that ODPM receives details about a proposed LSVT, enabling it to check that it accords with Government policy and that tenants have been central in the development of a proposal that the authority would be able to deliver.
- 1.8 The LSVT Programme is essentially a list of authorities that have ODPM agreement to consult tenants formally and that may, subject to the majority of tenants not being opposed, submit an application for the Secretary of State's consent to the transfer, with a view to completing the transfer within the two (financial) years covered by the particular Programme. The application process for the 2005 LSVT Programme is described in Section 8 of this manual.

Proposed Small Scale Voluntary Transfer

- 1.9 Although a proposed Small Scale Voluntary Transfer (SSVT), i.e. the transfer of 499 or fewer properties, does not require a place on an LSVT Programme, that is essentially the only difference between a proposed SSVT and a proposed LSVT. As detailed in Section 9, an authority proposing an SSVT is required to provide ODPM with information about the proposal. The level of detail provided should be commensurate with the scheme's size and complexity. It should enable ODPM to see that the proposal accords with policy and would be deliverable. Subject to this being so, we then give our agreement for the authority to develop the proposal further and consult tenants formally.

Proposed trickle transfer

- 1.10 A trickle transfer occurs when an authority arranges to transfer a small number of its properties to an RSL as and when they become vacant. The Secretary of State will consider each case for trickle transfer on its merits, both from an economic and strategic point of view, having regard to individual circumstances. However large scale trickle transfers may be difficult to justify because they avoid the need for a tenants ballot and thereby run counter to the principle that tenants should be in favour before transfer proceeds. Any transfer of over 499 vacant properties to a single RSL over a five-year period requires a place on the LSVT Programme. ODPM is very unlikely to agree to any trickle transfer where the day to day management and maintenance would remain with the local authority. With small scale trickle transfers there can be uncertainty as to how frequently properties will become available for transfer, thus making financial and management planning difficult for the purchasing RSL. An authority proposing to enter into a trickle transfer agreement must first submit details to Jo Thorpe or Esther Sheriff (contact details are at the back of this manual).

Role of ODPM

- 1.11 As already mentioned, for transfer to take place, the consent of the Secretary of State under section 32-34 and/or 43 of the Housing Act 1985 is required. Before giving that consent, the Secretary of State will wish to be sure that the proposal is in line with the strategic aims of the authority, has the support of the tenants involved, provides them with the future protection and benefits of well managed social housing at affordable rents and generally accords with Government policy on housing transfer, in particular in relation to the target to provide everybody with a decent home, tenant empowerment and regeneration.
- 1.12 Whilst, strictly speaking, the Secretary of State may consider these matters only once the consent application is in front of him, the LSVT Programme application process and the SSVT information requirements provide ODPM with a means of giving feedback to the authority so that a consent application is more likely to be one that the Secretary of State will feel able to approve.
- 1.13 There are two linked teams within ODPM and together they deal with transfer proposals:
- The Community Housing Task Force; and
 - The transfer policy team within Decent Homes Division.

The Community Housing Task Force

- 1.14 An authority's primary contact in developing a deliverable transfer scheme should be with the Community Housing Task Force (CHTF). They are a national team of advisers who are based across the Government Office network and were set up in June 2001 to support authorities, tenants and prospective new landlords through the transfer process. This role has since been expanded, with the CHTF now providing advice and support to all local authorities going through Options Appraisal and to those pursuing the transfer, Private Finance Initiative (PFI) and Arm's Length Management (ALMO) options. CHTF advisers work alongside colleagues in the Transfer Policy Team and the GO-R working to improve the quality of the final transfer product and the process of delivering it. In addition to giving advice on day to day issues arising during the transfer process, the CHTF will also seek to ensure that transfers address the following issues in particular: the creation of better organisations, neighbourhood renewal, tenant/community empowerment, issues relating to Black and Minority Ethnic (BME) and other hard to reach groups and an improved strategic role for the local authority.
- 1.15 The CHTF comprises experienced housing practitioners offering authorities and tenants practical operational and policy advice and support. It is essential for an authority to establish contact with the relevant CHTF adviser in their region at the earliest opportunity preferably before any significant work on the authority's Options Appraisal. This will be well in advance of submitting an application for a place on the LSVT Programme. An authority should also contact the CHTF before it submits details of a proposed SSVT to the ODPM Decent Homes Division (DHD) policy adviser. CHTF contact details are at the back of this manual. The CHTF also has its own pages on the ODPM with contact details and good practice documents on the ODPM website at www.odpm.gov.uk/chtf
- 1.16 CHTF advisers are specifically responsible for:
- offering hands on advice, support and innovative problem solving to all stakeholders including authorities, tenants, prospective new landlords and consultants;
 - guiding and assisting authorities in carrying out their Options Appraisals;
 - ensuring that, when transfer is selected by an authority, its proposals meet the decent home target and address the core issues of service delivery, regeneration, tenant empowerment, BME issues and strategy;
 - promoting the development, collection and sharing of good practice; and
 - advising on tenant consultation material.
- 1.17 CHTF advisers will also:
- contribute to DHD policy/procedure development work; and
 - liaise closely with the Government Offices in the regions and with the Housing Corporation Stock Transfer Registration Unit in order to help co-ordinate the strategy, transfer and registration processes.

- 1.18 The Transfer Policy Team within ODPM Decent Homes Division (DHD) is responsible both for setting the policy framework within which housing transfers take place, including ensuring the policy reflects the Communities Plan and wider government policy agendas, and for recommending to the Secretary of State whether or not to consent to a transfer, on the basis of a formal assessment of the application. The team is made up of policy advisers, each responsible for advising on particular policy aspects of transfer. Each adviser is also responsible for assessing transfer applications from one or more regions. Contact details are listed at the back of this manual.
- 1.19 DHD Transfer Policy Team advisers are specifically responsible for:
- establishing the overall policy framework in which transfers take place, including the development of the transfer guidance and consideration of requests for policy variations;
 - promoting research and review work in relation to transfer policy;
 - carrying out a formal assessment of each transfer proposal;
 - managing the LSVT Programme, including agreeing each authority's transfer timetable;
 - making recommendations to the Secretary of State on the consent application, in the light of the supporting information; and
 - putting in place systems for monitoring delivery of transfer commitments.

Role of the Government Offices for the Regions

- 1.20 As explained in Section 2, prior to deciding to pursue transfer, an authority will be expected to develop a Housing Strategy and draw up a Housing Revenue Account (HRA) Business Plan and to discuss these with the relevant Government Office (GO-R). The CHTF will work with the authority in carrying out its Options Appraisal. The GO-R will need to sign-off the Options Appraisal by July 2005 ensuring that whichever option is chosen meets Government housing policy, particularly in relation to delivery of the decent home standard by 2010, improving basic services and separating the strategic and landlord functions.
- 1.21 Once an authority has decided to pursue transfer, the CHTF will seek appropriate support from within the GO-R in assisting the authority with the development of its transfer proposal, in particular in relation to an assessment of the extent to which the proposal:
- responds to strategic issues, including housing market, demand and cross tenure issues;
 - identifies an appropriate strategic enabling role for the authority after transfer;
 - links up with wider regeneration and social inclusion initiatives; and
 - involves external partners.

- 1.22 As part of its formal assessment of a transfer proposal, DHD will take into account comments offered by the GO-R on the above issues.
- 1.23 When a transfer has been completed, the GO-R will continue to have an ongoing relationship with the authority in relation to its strategic and statutory roles (we expect transfer proposals to include details of how the authority intends to discharge this role). A list of GO addresses is in the Contact Details section at the end of this manual.

Role of the Housing Corporation

- 1.24 It is the Government's policy that tenanted housing stock can be transferred under LSVT only to a Registered Social Landlord, i.e. a not-for-profit landlord registered with the Housing Corporation. The RSL may be set up specifically to take on the stock, or may be one that already exists, or a new subsidiary of one that already exists. The Housing Corporation decides, through its Registration Committee, whether a proposed social landlord meets the criteria for registration. It is also responsible for the regulation of RSLs and as such can provide advice on a range of issues related to the new landlord, including the composition of the management board, proposed group structures and any continuing links with the authority.
- 1.25 The Housing Corporation has a central Stock Transfer Registration Unit (STRU). This should be any authority's first point of contact if they wish to discuss transfer with the Corporation. STRU, with input from its Field Officers, assesses RSL applications and makes recommendations to its Registration Committee. STRU and CHTF officers will therefore work together with authorities considering transfer, to develop proposals that meet both Government policy objectives and Housing Corporation registration criteria. The Housing Corporation will also wish to discuss with any existing RSL the implications for its current business plan of taking on additional stock through transfer.
- 1.26 As part of its formal assessment of a transfer proposal, DHD will note comments offered by the STRU who will, in its assessment, incorporate comments made by relevant Field Officers. The assessment will cover the registration implications as, ultimately, confirmation will be required from the Housing Corporation that registration has been achieved before the Secretary of State will grant consent to the transfer.
- 1.27 An authority wishing to pursue a transfer should therefore contact STRU at the earliest opportunity and, if possible, before expressing an interest in applying for a place on an LSVT Programme or submitting details of a proposed SSVT. A list of Housing Corporation addresses is in the Contact Details section at the end of this manual.

How the manual is structured

- 1.28 Assuming that an authority has already gone through the Options Appraisal process with its tenants, the work connected with a proposed transfer can usefully be broken down into four key stages. This is reflected in the structure of this manual.

Part A: Developing the Transfer Proposal

- 1.29 The first stage in the transfer process is for the authority to involve tenants fully in the development of the transfer proposal, and the first part of this manual details the various policy and procedural issues that should be taken into account.

Part B Submitting Details of the Transfer Proposal to ODPM

- 1.30 Once an authority has developed its transfer proposal, it needs to submit details to ODPM. The second part of this manual explains the information an authority is required to submit, in respect of a proposed LSVT and a proposed SSVT.

Part C Formal Consultation With Tenants on the Transfer Proposal

- 1.31 Once it has submitted details of the proposed transfer to ODPM, and has either been given a place on the LSVT Programme or agreement to proceed with a proposed SSVT, the authority should consult formally all the tenants whose homes would transfer. The third part of this manual details the formal consultation requirements, but it should be remembered that ODPM expects tenants to be involved at all stages of the process, including the initial strategy development and Options Appraisal work.

Part D Subject to Tenants Being in Favour, Completing the Transfer

- 1.32 If, following the formal consultation, tenants indicate that they are in favour of transfer, this is the point for the authority to prepare an application for consent to the transfer. The fourth part of this manual covers the period after a positive ballot. It includes guidance on drawing up a business plan and seeking funding, drawing up the transfer contract between the authority and the new landlord, seeking registration of a new landlord with the Housing Corporation and submitting a consent application.
- 1.33 It should be noted that the order in which the various issues are dealt with in each part of the guidance is not intended to suggest a particular sequence of events: in practice, many of the activities will take place concurrently. The involvement of tenants, for example, is the third issue to be dealt with in Part A but should actually take place from the outset and continue throughout.
- 1.34 It should also be noted that a lot of valuable guidance is contained in Annexes. This is because we have tried to keep the main sections confined to the key policy points in order that the document can be used both to acquire an overview of the process and be referred to as necessary for more detailed advice on a particular issue. When developing a transfer proposal, authorities are advised to read the relevant Annexes as well as the sections to which they relate.

Other sources of guidance

- 1.35 A local authority considering transfer for the 2005 programme should already have its Options Appraisal under way using as a guide *Delivering Decent Homes – Options Appraisal, Guidance for Local Authorities (June 2003)(1)*. This sets out in broad terms what is expected of authorities on Options Appraisal but it does not attempt to provide detailed guidance on conducting Options Appraisals. *A New Financial Framework for Local Authority Housing Guidance on Business Plans (5)* which describes the investment Options appraisal process through which we expect it to have gone, with its tenants, before opting to pursue transfer (see Section 2).

- 1.36 The Government's earlier housing policy statement *Quality and choice: a decent home for all the way forward for housing (6)*, published in December 2000, set out the Government's aim of bringing greater fairness and coherence to the structure of social rents. A new approach was introduced, basing a rent on its size, its value compared to other social properties and the earnings in the surrounding area. The *Guide to social rent reforms (7)* sets out the details underpinning this and provides background information on the implications for landlords, including those acquiring properties through housing transfer.
- 1.37 As detailed in Section 4, an authority proposing transfer should appoint an Independent Tenant Adviser (ITA). One should already be in place from the Options Appraisal process and the authority and tenants will wish to decide whether the same ITA is subsequently retained to assist with the transfer. ODPM issued in November 2001 some good practice guidance *Independent Tenant Advisers and Housing Transfers (8)* to which the authority should refer when making the appointment.
- 1.38 Where there would be overhanging debt, i.e. the receipt for the transfer would be insufficient to enable the authority to repay its housing debt, the authority should look at Annex T.
- 1.39 Where an authority completes an LSVT that generates a receipt that is higher than its attributable housing debt, once it has repaid the debt, it will be liable to pay 20% of that remaining (less certain deductions) to ODPM as LSVT levy. Guidance on calculating the amount of levy and the practicalities of payment are contained in Annex U.
- 1.40 As detailed in Sections 8 and 9, and in Annex B, an authority proposing to transfer more than 200 properties is required to complete ODPM's *Single Transfer Model (STM)* (10) and those responsible for inputting data into the STM will wish to refer to the *Guidance on completing the Single Transfer Model*.
- 1.41 If it is proposed to establish a new RSL, either free standing or a subsidiary of an existing RSL, the authority should obtain a copy of the Housing Corporation's Registration with the Housing Corporation (48). This sets out the registration requirements (an Independent Tenant Adviser advising tenants on establishing a new RSL will wish to refer to this also).
- 1.42 As detailed in Section 2, the government wishes to encourage as wide a range of transfers as possible, including small community based transfers, and we would encourage authorities to read the Housing Corporation's *Involvement Policy for the Housing Association Sector published in February 2004 (58)* which outlines its policies on this issue as well as the Chartered Institute of Housing's publication on *Empowering Communities: The Community Gateway Model (97)*.
- 1.43 As well as the items referred to above there is a significant amount of other material available. The bibliography at the end of this manual gives details of relevant documents and models and how they can be obtained.
- 1.44 We would encourage an authority contemplating transfer to make contact with others with experience of the process. A list of completed transfers is available on the ODPM web site at www.odpm.gov.uk/decenthomes which also provides links to other material.

- 1.45 There is also an on-going series of good practice briefing notes from the Community Housing Task Force and the National Housing Federation. The bibliography at the end of this guidance gives details of those already published (27-33). The CHTF pages on the ODPM website at www.odpm.gov.uk/chtf provide an up to date list as well as links to other material.

SECTION 2

Deciding to pursue transfer

KEY POINTS

- An authority should indicate how its transfer proposal supports the objectives for bringing its housing up to the decent home standard and improving management, as set out in its HRA Business Plan.
- Transfer proposals should be based on a fully worked out Options Appraisal in which tenants have been fully involved from the outset.
- The Options Appraisal should be informed by a housing needs and housing market assessment.
- An authority may wish to use a Best Value Review of its landlord role in support of its Options Appraisal.
- An authority must assess the impact of a proposed transfer on its overall financial position, covering the general fund, its HRA in the case of partial transfers and the funds for capital investment.
- An authority must assess the public expenditure consequences of a proposed transfer.
- An authority must assess the wider impact of a proposed transfer on its corporate strategy, organisational structure and set out how the strategic and enabling functions would be delivered after transfer.
- An authority should draw up a change management plan to ensure the involvement and commitment of all staff affected by the proposed transfer.
- An authority should consider how transfer could contribute to the regeneration of its area.
- An authority should give careful consideration to transfer proposals put forward by tenants.

The strategic context

- 2.1 A local authority proposing transfer will be expected to demonstrate the ways in which this will support the delivery of the objectives for council housing stock and housing management services. These will need to reflect the wider strategic objectives set out in the authority's Housing Strategy and in the Government's policy statement *Sustainable communities: building for the future* (3).
- 2.2 A Housing Strategy provides an analysis of the housing needs of an area and identifies approaches for addressing those which are priorities for action. It covers housing across all tenures and provides a framework for ensuring that all parties act in a co-ordinated way to tackle housing problems alongside related issues (e.g. community safety). It covers the broad position on council housing with more detail being provided in the HRA Business Plan. The requirement for a separate detailed plan reflects the importance the Government attaches to the separation of the housing strategic and landlord roles. The Government Office in each region work with authorities to ensure that their housing strategy and, where relevant, HRA business plan are fit for purpose.
- 2.3 A Housing Strategy should, in turn, reflect the broader corporate objectives of the authority, as expressed through its Community Strategy and Local Strategic Partnership, thereby ensuring that any transfer proposal responds to relevant social inclusion and neighbourhood renewal issues. Authorities are advised to refer to *Local Strategic Partnerships – Government Guidance* (19) in this regard.

HRA business plan

- 2.4 Since 2001/02, as part of a new financial framework, all housing authorities with council housing stock have been required to produce an HRA Business Plan. This is required to set out the authority's priorities for the future management of its housing stock in the context of its wider housing strategy and to cover the condition of the housing stock, the wider demand for council housing and the likely availability of resources. Amongst other things, the fit for purpose Business Plan will set out how the authority intends to deliver decent homes by 2010 (see paragraph 2.5).

The decent homes target

- 2.5 In July 2000, as part of its Spending Review, the Government established a Public Service Agreement (PSA) target to have all social housing in a decent condition by 2010. This is one of several floor targets announced in *A New Commitment to Neighbourhood Renewal: National Strategy Action Plan* which sets out the Government's approach to tackling deprivation in England's poorest communities.
- 2.6 In order to monitor progress against the target, the Government established the Decent Homes Standard under which a home is considered decent if it:
- meets the current statutory minimum for housing;
 - is in a reasonable state of repair;

- provides reasonably modern facilities and services; and
 - provides a reasonable degree of thermal comfort.
- 2.7 More detailed guidance is contained in *A decent home the revised definition and guidance for implementation (22)* to which local authorities should refer during the Options Appraisal exercise (see paragraph 2.8 below), along with *Decent Homes: Capturing the Standard at the Local Level (21)* which provides guidance on using stock condition survey and other information to estimate and monitor the incidence of non-decent housing.

Options Appraisal

- 2.8 The Options Appraisal should look at the various options available to the authority to enable it to deliver decent homes by 2010. It will need to be signed off by the relevant Government Office by July 2005. It should be conducted in accordance with section 7 of *A New Financial Framework for Local Authority Housing Guidance on Business Plans (5)* and *Delivering Decent Homes – Options Appraisal, guidance for Local Authorities (1)* issued in July 2003.
- 2.9 As well as whole and partial stock transfer, the options to be considered for generating additional resources to invest in the housing and improve management are the Private Finance Initiative (PFI) and setting up an Arm's Length Management Organisation (ALMO). There is no reason why an authority should not select a mix and match approach for its housing stock, with different options being selected for different areas or estates. We will expect an application to make clear, however, its strategy for meeting the decent homes standard for all of its stock as set out in the Options Appraisal.
- 2.10 We would expect the authority to consult and seek guidance from the CHTF and consult the relevant Government Office during the Options Appraisal process. We see the Options Appraisal process as an opportunity to increase tenant and community participation, effective participation is viewed as an essential component of the process. Tenants should be involved in the Options Appraisal from the outset. It is vital that tenants are able to contribute to the debate and reach an informed view on the future of their homes. We expect tenants to have the support and information they need to take part effectively in reviewing the options, making informed decisions and helping to develop and take these forward, for example through the early appointment of an Independent Tenant Adviser (ITA), building on existing tenant participation compact practices and the use of grant funding for tenant participation work.
- 2.11 It is also important to involve staff within the authority in the process. It is important that they are part of the decision-making process and committed to delivering the agreed outcomes.
- 2.12 At the end of the Options Appraisal process, the relevant Government Office will need to be satisfied that the Options Appraisal process:
- i) involved tenant from the outset;

- ii) when examining the housing transfer options, looked at alternative prospective landlords to take on the stock; and
- iii) paid due account of the potential financial effect of the various investment options on the public purse.

Housing needs and market assessment

- 2.13 The Options Appraisal should be underpinned by an assessment of the housing market in which it operates and an assessment of the likely long-term demand for social housing in the area.
- 2.14 The nature and depth of this assessment should reflect the position facing the authority; for example in an area where demand for social housing is known to be high the focus will be very different from where it is clear that demand is falling. Care should be taken with any assessment, as demand for housing can differ greatly within a very small area. The views of potential funders should be sought when deciding on the type of assessment as their support of a proposed approach or specification should help when seeking funding. The assessment should seek to address the distinct needs of local communities; for example elderly people, families with young children and Black and Minority Ethnic (BME) communities. The basis of projections of future demand should be clearly demonstrated.
- 2.15 ODPM has issued three documents *Local Housing Needs Assessment: Good Practice Guidance (23)*, *Low demand housing and unpopular neighbourhoods (24)*, *Responding to Low Demand Housing and Unpopular Neighbourhoods: a guide to good practice (25)* to which authorities should refer when carrying out a housing needs assessment.
- 2.16 ODPM will not allow transfer to proceed unless the authority can demonstrate that there is long term demand for the housing it is proposed to transfer, how it is proposed it would be sustained and, if not, details of the strategy in place which will address demand problems or, where this is not the case, that the authority and prospective new landlord have a strategy to address demand issues, for example by incorporating stock restructuring and tenure diversification strategies into the transfer proposal. Any evidence base should be the product of partnership working not only with relevant stakeholders within the authority area but also with other local authority partners where boundaries of sub-regional housing markets overlap with administrative boundaries.
- 2.17 Where the housing needs assessment reveals that the existing stock is not of the right type or size to meet future demand, the appropriate strategy might involve remodelling or demolition and rebuilding. In these circumstances, the authority should refer to the *Demolition and New Build on Local Authority Estates (26)* report, based on research carried out by DTZ Pieda Consulting, which outlines some approaches to decision making about demolition options. Clearly, demolition can be a sensitive issue for local residents and authorities should consult tenants about possible solutions for their area.
- 2.18 Even where the assessment shows there would be strong long-term demand, and renovation would be the main strategy, some selective demolition and redevelopment might be considered necessary to tackle pockets of unpopular and/or high cost housing, for example estates that have a very high turn-over and are difficult to let because of poor design or layout.

- 2.19 Where the study reveals low, weak or unstable demand, we would expect the authority to have a clear strategy for dealing with the issue as an integral part of the transfer proposal. An authority experiencing low demand must clearly set out the present demand issues and detail any pertinent research. The authority should consider whether housing transfer alone is appropriate and whether it would be sensible also to transfer buildings or land that will not be required for social housing and whether mixed tenure estates/areas or shared ownership and market renting schemes might be developed through partnership working. It should also consider the sale of land for commercial development or community use. Close partnership working with any of the Housing Market Renewal Pathfinders will be expected should the boundaries of the local authority proposing transfer include or be neighbouring a HMRP.
- 2.20 In areas where under-supply of housing is the issue, the use of any capital receipt to provide new social housing to meet the needs of the local community and keyworkers is likely to be an important element of the wider strategy.
- 2.21 In submitting details of a transfer proposal to ODPM, an authority must demonstrate not only an understanding of demand at an area or estate level but also have a clear idea how its rented stock fits into the wider low cost housing market in the borough and the wider sub-regional housing market. ODPM will look for a broad understanding of demand patterns and flows between tenures and how transfer proposals dealing with demolition, stock restructuring, physical improvement and wider regeneration may affect them.
- 2.22 This approach must feed into the cross-tenure strategic approach to housing that the local authority should be developing in consultation with the relevant Government Office (GO-R) and Regional Housing Board (where appropriate), regardless of its transfer proposals.

Links with best value

- 2.23 Local authorities are subject to the Best Value regime as part of the Government's programme for improving the delivery of services, including the services that social housing tenants receive. RSLs are also expected to comply with the principles of Best Value.
- 2.24 The statutory duty of Best Value requires authorities to undertake Best Value Reviews (BVRs) of all their services, including housing. The Housing Inspectorate undertakes an independent assessment of housing services, normally after the completion of these BVRs. It is important that the transfer process is not viewed as a device to avoid either undertaking a BVR or tackling performance issues raised by the Housing Inspectorate. It is not and the inspection cycle is not postponed because of a transfer proposal. The move to a single Housing Inspectorate will ensure continuity in the inspection process post-transfer. We expect all authorities to review their housing services in accordance with their review programme drawn up in consultation with tenants and residents, whether or not they are proposing to transfer. If an authority believes that there is a timing issue with our inspection and a key transfer event then it should contact the Housing Inspectorate at the first opportunity to discuss handling.

- 2.25 The results of a BVR report and/or an Inspection could prove invaluable in informing the changes that will be needed as part of the transfer process. We will expect the details of a proposed transfer submitted by an authority where a BV Review and Inspection have taken place to include suggestions for addressing any issues raised.
- 2.26 Whilst a BVR of the landlord role is not a requirement for an application for a place on the LSVT Programme, or in support of a proposed SSVT, an authority may wish to use one in support of its Options Appraisal, as suggested in the Audit Commission report *Housing After Transfer (100)*.

Proposed partial transfer

- 2.27 When considering the partial transfer option, the authority should have a coherent strategy for delivering decent homes. In addition it should be able to demonstrate that the proposal has been considered in terms of community boundaries. They should be sensitive to natural geographical areas, to the distinct needs of local communities and the sustainability both of the stock to be transferred and that which would remain with the local authority.
- 2.28 Early consultation of tenants and responsibilities under the Tenant Compact and Best Value still apply to partial transfers. Local authorities should provide details as to how these considerations influenced the application for a partial transfer, for example in relation to deciding the partial transfers community and physical boundaries.
- 2.29 The authority should also have regard to the implications of partial transfer for its HRA and HRA subsidy entitlement, in accordance with the guidance at Annex A. Partial transfer might result in a net cost to the HRA, which would have to be borne by the tenants who remain with the authority, or a net gain: the effect is unlikely to be entirely neutral. A model, which enables authorities to assess some of the effects of different partial transfer scenarios, is available in computer disk form from Housing Strategy and Finance (HSF) Division in ODPM. An authority that decides to pursue partial transfer will be required to complete the model and submit it with its LSVT Programme application or SSVT proposal.

Corporate impact and support

- 2.30 An essential element of the Options Appraisal is the need for an authority to carry out an assessment of the effect of transfer on its other services and, in the case of a whole stock transfer, the effect this might have on its corporate structure. The authority should remember that it will continue to have a strategic housing role after transfer and should ensure a sufficient budget and staff complement. It should identify any potential problems and appropriate solutions to address them. Although no financial assistance will be available from ODPM, the CHTF can offer advice.
- 2.31 Once it has decided to pursue transfer, whether whole stock or partial, the authority should adopt a corporate approach to the development of the proposal, ensuring that other key partners are involved as appropriate, possibly through the Local Strategic Partnership. Experience has shown that transfers are successful where there is support for the proposals at both member and officer level and where the authority works in close partnership with the prospective new landlord and tenants.

- 2.32 When submitting details of the proposal to ODPM, the authority will be required to detail the resolutions regarding transfer passed by the council and the extent of support for these resolutions.

Considering the implications for local authority staff

- 2.33 Transfer represents a major organisational change for a local authority. Once an authority has decided to pursue transfer, it should draw up a change management plan to ensure the involvement, commitment and motivation of all staff affected, either directly or indirectly, during the change.

- 2.34 A change management plan should address the following issues:

- transfer should provide an important opportunity to engage and seek the contribution of the workforce in developing the best possible transfer proposal and future RSL business plan;
- training and development should be made available to help staff prepare and develop new skills and approaches for working in their new roles, whether it be in the RSL sector or as part of the local authority's strategic housing role; and
- good practice for managing the process should be adopted, as outlined in the Cabinet Office's statement of practice *Staff transfers in the public sector (105)*.

- 2.35 LSVT Programme applicants are expected to show that they have identified the resources and leadership to develop and implement a change management plan within the authority.

Linking a transfer proposal to a regeneration strategy

- 2.36 Investment to improve social housing should be properly planned and part of a wider neighbourhood renewal strategy. As part of the application we expect an explanation of how the transfer would contribute to achieving the Government's sustainable communities strategy and its regeneration, social and economic objectives. Where the transfer is part of a larger regeneration scheme the application should contain details of the roles of the stakeholders in delivering the project and whether bids have been made to finance the project.

- 2.37 The housing transfer process and the investment that it will generate will represent an important one-off opportunity for local authorities, residents and other stakeholders to improve community well being. It also offers an opportunity to develop a forward strategy for the housing transfer organisation after the capital investment set out in the offer document has been undertaken. Therefore, housing transfer represents a major opportunity to:

- deliver the Decent Home Standard and major repairs and improvements to the housing and physical environment;
- deliver better housing management services, strongly linked to a broader neighbourhood management approach for the area. This should be undertaken in partnership with other service providers and stakeholders;
- create new facilities in the housing transfer area, drawing on external funding streams;
- secure a sustainable future for the housing transfer organisation; and
- to develop relationships and improve cross agency working, by open and consistent information sharing.

2.38 Specific regeneration initiatives and projects (including the details of the agencies involved) to be facilitated by the transfer should be included in the details of a transfer proposal submitted to ODPM. In areas where a neighbourhood renewal approach is needed, we would expect transfer proposals to acknowledge the five strands of neighbourhood renewal work and enterprise, crime, education and skills, health, housing and the physical environment. Any proposed stock restructuring that affects the tenure profile of the stock transfer area i.e. tenure diversification, stock clearance, changes of use of and for non-housing purposes can also form an important element of a transfer proposal in a neighbourhood renewal context. It would be advisable to enter into a dialogue with the local planning authority if such proposals are to form part of the offer document, and appropriate allowance should be made in the business plan for any costs related to clearance, purchasing of right to buy leases, conveyancing, and lost rental income. Similarly, allowance should be made for any guaranteed capital receipt that might be generated from a disposal.

2.39 It will be important that any housing transfer proposal to residents clearly demarcates what the new housing transfer organisation will deliver (details should be included in the offer) and what it will strive to achieve in partnership with others such as an NDC, particularly where external funding is required.

2.40 The successor RSL landlord, NDC and local authority will be expected to work closely on the transfer business plan. The funding streams from the various stakeholders need to be clearly identified and agreed in the application to the Office. In particular there should be clarity about the resources from the local authority itself.

2.41 It will be important for the local authority to provide evidence of the demand for existing and new services and facilities that people want from the new housing provider. Particularly important will be identifying and entering into a dialogue with hard to reach groups whose needs may have been neglected in the past. This is particularly relevant to many Black and Minority Ethnic (BME) groups located in disadvantaged neighbourhoods. Equally the local authority will be expected to adopt the lead agency role with respect to consultation on the proposed transfer.

- 2.42 The Local Strategic Partnership (LSP), made up of representatives from the public, private, community and voluntary sectors is a focal point for informing stakeholders and service providers in the locality of what is planned for the housing transfer area. Any neighbourhood renewal work planned for the housing transfer organisation should therefore be undertaken in consultation with the respective LSP. For further details on the LSPs established in the 88 most disadvantaged local authority districts in England and funding available to support their work, access the NRU website at www.neighbourhood.gov.uk
- 2.43 The Neighbourhood Renewal Unit skills and knowledge team based in ODPM working closely with colleagues in the Government Office Neighbourhood Renewal Teams, based in each of the nine regions, is committed to bringing about a step change in the level of skills and knowledge for all involved in neighbourhood renewal. In October 2002 the team launched the Learning Curve learning and development strategy for neighbourhood renewal. The Learning Curve sets out 23 action points designed to improve the skills and knowledge and encourage the behaviours needed by everyone involved to deliver NR effectively. Some of these action points are directly relevant to the local authority and its partners (and the stock transfer organisation that will succeed it), to ensure that staff have access to the appropriate skills and knowledge, training and development they will require. In addition the publication *Transformation and Sustainability Programme Note 25* available from the Neighbourhood Renewal Unit website (www.renewal.net) provides a practical tool kit of strategies and good practice to effectively tackle barriers to effective delivery and promote effective inter agency working.
- 2.44 Equally appropriate is the skills and knowledge good practice website: www.renewal.net, also launched in October 2002, that provides practical, easy access evidence of what works in NR, including short, clear guides to delivering neighbourhood renewal, case studies, key policy and guidance documents and theme-based discussion groups.
- 2.45 Where the transfer is outside the core Neighbourhood Renewal Areas, partners should still consider how the lessons of the Neighbourhood Strategy could be applied.
- 2.46 The National Strategy for Neighbourhood Renewal, launched in 2001, sets out a new approach to renewing deprived areas. The National Strategy is centred on the vision that, within 10-20 years, no-one should be seriously disadvantaged by where they live. To help deliver this vision, the Action Plan focuses :
- on joining up and addressing underlying causes: the 105 commitments the strategy can only be met when all departments, local service providers and the community work well together for sustained improvement on areas such as work and enterprise, crime, education and skills, health, housing and the physical environment. Floor targets are set and monitored as part of the Public Spending Agreements (PSAs) which ensure many key departments and local authorities focus on the most deprived areas as well as trying to improve overall national performance;
 - looks to Local Strategic Partnerships to meet a challenging agenda for shaping local delivery of services to ensure deprived neighbourhoods receive the support they need;
 - seeks to engage community and voluntary sector involvement in regeneration activity;

- provides a series of programmes to support these activities in ways the local communities decide best meet their needs; and
- gives support to improve skills and spread knowledge about what works well.

2.47 Underpinning the delivery of the National Strategy for Neighbourhood Renewal is a requirement for mainstream service providers to bend their funding and services. This mainstreaming is to make services work better in deprived neighbourhoods, by shaping and resourcing them for the task, and making them focus explicitly on the places and people most in need of their support. A local authority who is a property owning landlord and working closely with a NDC Board and stakeholders, will be working on a clearly designated estate or geographical area. Clarity of roles of all the stakeholders (tenants, council officers, NDCs and RSLs) and clear communication and ownership are critical in order that delays are minimized and successful outcomes are achieved. From experience with previous schemes the following points should be borne in mind by both the local authority and the NDC:

- ensuring that each partner has a clear and demonstrable understanding of each organisation's role as well as how and what they will contribute to a possible housing transfer;
- there is openness and a willingness to regularly share information in a structured way between the NDC, authority and RSL on all aspects of the proposed transfer and beyond;
- the management of the relationship between each body and tenants is given a high and consistent priority, and there is clarity of ownership of the process and messages;
- the possibility of gap funding is not viewed by any party as a short cut to plug gaps in a business plan. Reviewing the business plan assumptions, what can be delivered, who can provide additional monies must be demonstrably and extensively explored before this option will be considered;
- tenants receive a clear and unambiguous message on the details of the proposed transfer, with the local authority assuming the lead role working closely with the successor RSL landlord; and
- a recognition that NDC funds in the first instance should supplement and complement mainstream funding, creating opportunities for innovating, and plugging gaps that would otherwise be barriers to progress.

Considering community-based transfer proposals

2.48 In keeping with the wider Government policy of encouraging community empowerment and neighbourhood-focused renewal, ODPM wishes to encourage as wide a range of transfers as possible, including to small and/or community-based landlords. Ministers attach great importance to the extent to which transfer proposals achieve tenant management and community empowerment and ownership at local level.

- 2.49 Where a tenants' group, including those in management co-operatives, tenant management organisations and tenants' associations, puts forward a transfer proposal, we expect the authority to consider it seriously. Careful thought would need to be given to how such a proposal might be covered in its HRA Business Plan at the same time remembering to assess its impact on the HRA and that, if over 499 units, it will have to submit an application for the LSVT Programme.
- 2.50 As detailed in Section 4, tenants' groups wishing to explore options for transfers of their homes to community-based organisations may apply to ODPM's Tenant Services Branch for Section 16 funding to contribute towards the development of proposals through to ballot stage. If the tenants opt for transfer, they can apply to the Housing Corporation for future funding.
- 2.51 There is no reason why a community-based, tenant-led RSL should not be established, provided it is capable of meeting the Housing Corporation's standard tests of financial and managerial competence and governance, and has at least one third independent members on the Board (where a Co-op is seeking registration, this requirement does not apply). However, careful thought will need to be given to the precise nature of the new organisation – for example, it might best form part of group structure arrangement to resolve any viability issues.
- 2.52 ODPM wishes to encourage new and innovative approaches to tenant-led and community-based transfers. The Community Gateway Model, and the setting up of a Community Gateway Association as part of the Model, is an approach to transfer that gives tenants more direct involvement in and control over the management and ownership of their homes. The Chartered Institute of Housing's publication *Empowering Communities: The Community Gateway Model (97)* shows how tenants can get involved in the initial stages of Options Appraisal. The Community Gateway Model represents a new type of body, in which tenants can have different levels of control or even ownership.
- 2.53 In April 2004, the Housing Corporation introduced its Involvement Policy for the Housing Association Sector and all housing associations registered with the Corporation must comply with its requirements. Further details are available on the Housing Corporation website www.housingcorp.gov.uk.

SECTION 3

Choosing the prospective new landlord

KEY POINTS

- An authority may transfer its tenanted housing only to a Registered Social Landlord (RSL).
- An authority must decide on the type of RSL that should take on the housing, and must demonstrate how tenants have played an active role in the landlord choice issue.
- The transfer of large stock holdings to a single RSL will be discouraged (see 3.18).
- Proposed group structures must comply with prescribed criteria in this manual and meet the Group Structure Policy of the Housing Corporation in order to be able to achieve registration as an RSL and should not preclude future re-structuring of the group.
- Dominant regional or sub-regional RSLs will be discouraged.
- An authority should put in place arrangements for its officers and councillors to avoid conflicts of interest especially where staff are seconded to form an “executive” for a shadow landlord or where members of the authority are shadow board members of the proposed RSL.

3.1 All landlords acquiring tenanted local authority housing must be Registered Social Landlords (RSLs), i.e. landlords registered with the Housing Corporation. Acquiring landlords can be existing organisations or bodies created specifically for the purposes of transfer. The term Housing Association is also often used as a generic term. You may wish to refer to *Good Practice Briefing NHF/1 What it means to be a Housing Association issued by the National Housing Federation (85)*. Any housing association acquiring tenanted local authority housing must be registered with the Housing Corporation. Registration with the Housing Corporation will occur only if an organisation complies with the registration criteria and operates in accordance with the Housing Corporation’s Regulatory Code for RSLs. Guidance on setting up a new RSL and the implications of Housing Corporation registration is contained in Section 12. You may also wish to refer to the CHTF’s *Good Practice Briefing Note no 9 – Choosing a New Landlord (42)*. ODPM encourages local authorities to work in partnership with tenants to bring forward the choice of landlord to shortly after transfer has been confirmed as the preferred way forward for decent home delivery.

Deciding on the type of landlord

- 3.2 An authority proposing transfer is required to consider with tenants, in liaison with the Housing Corporation, what type of new landlord should take over the housing. The options are as follows:
- an existing RSL;
 - a newly established subsidiary of an existing RSL (either part of an existing group structure or through the creation of a new group structure);
 - a newly established free-standing RSL; and
 - a number of newly established RSLs that will make up a new group.
- 3.3 There has historically been a presumption by local authorities that, in all except the smaller and partial transfers, the establishment of a new RSL as the new landlord is the best option. This can be the case but is becoming less so, existing landlords having considerable experience and strengths to offer. Where an authority is proposing to transfer stock to a new stand alone RSL, the Office will require the authority to demonstrate that it has worked with tenants to explore the scope for working with existing RSLs.
- 3.4 We do not require a competitive process for landlord selection on all transfer proposals. However we will require an authority to demonstrate clearly in both its LSVT Programme application and in working with the CHTF that tenants have been made fully aware of all the new landlord options and what each option offers to tenants in relation to their particular circumstances, and provide evidence that they have been fully involved in deciding the eventual landlord choice. It will also be beneficial to involve staff representatives other than those taking forward the actual transfer. There are a number of ways this can be done, such as visiting existing LSVT RSLs in the local area particularly those involved in the choice of landlord process, talking to tenants who have already been involved in transfer, inviting staff from both traditional and transfer RSLs to make presentations to tenants and staff and engaging with officers from both the NHF and the Housing Corporation who can offer advice on RSL activity more generally.
- 3.5 The process of landlord selection will depend on a range of issues including:
- the size and nature of the stock to be transferred;
 - organisational viability and the landlord's ability to deliver service improvements, manage the improvement programme, secure the confidence of the tenants and other stakeholders in the area, tenant empowerment and fundability; and
 - local circumstances such as community boundaries, geography and management areas, together with an understanding of the nature of the social housing market in which the authority is operating and of current choices of landlord available to tenants.

- 3.6 Authorities should bear in mind that it can be easier to implement and fund transfers, especially smaller ones, to large, existing RSLs. Moreover, such RSLs are more likely to offer cost effective services in the long run. However, we would not wish to rule out smaller transfers to newly established RSLs where they could be shown to be cost-effective and capable of attracting funding. Authorities should avoid proposed structures that would involve complex legal arrangements, for example where a consortium of RSLs would take on joint ownership.
- 3.7 Early contact should be made with the Housing Corporation's Stock Transfer Registration Unit (STRU) and with the relevant Government Office to discuss any housing market issues. You may wish to refer to *Good Practice Briefing Note NHF/2 Why go to an existing Housing Association for transfer (86)* issued by the National Housing Federation and *Getting the Green Light (93)* – both publications available via the NHF website. Publications@housing.org.uk

Working with tenants

- 3.8 The Office wishes to see tenants being given greater choice in the transfer process, particularly in relation to the prospective new landlord. Choice is likely to deliver greater benefits in terms of better outcomes for tenants, more innovative approaches to management and tenants services, a stronger Business Plan for the new housing association and potentially a larger capital receipt and other financial benefits for authorities.
- 3.9 The authority should consider ways of helping tenants weigh up the relative advantages of transfer to an existing RSL or group of RSLs compared to setting up a new RSL. The authority should always work with tenants to explore what options are available, either as part of an informal selection procedure or through holding a competition and inviting RSLs to submit formal proposals to become the RSL partner. Authorities should demonstrate that they have worked with not only established tenant representatives but have made every effort to engage with and provide information to all tenants. A clear process for the choice of landlord exercise should be included in an authority's application, including details of any competitive process.

Involving ODPM and the Housing Corporation

- 3.10 It is important that tenants are fully involved in the selection process, for example in drawing up the brief or specification for potential bidders, agreeing a short-list and contributing to the final selection. Where necessary, capacity building should precede tenants involvement. Annex C provides some good practice points on involving tenants in the selection of the prospective new landlord and examples of the types of criteria used by authorities in the selection of a new landlord and also issues raised during the process.
- 3.11 The brief for the competition, including a list of RSLs to be invited to compete, must be cleared with the CHTF. The local authority must also seek comments from the Housing Corporation STRU to ensure that the brief is consistent with the Regulatory Code for RSLs and that there are no apparent conflicts with registration requirements or the regulatory framework under which RSLs operate.

- 3.12 The authority should ensure that all bids are capable of complying with the Housing Corporation's regulatory policies and registration criteria *Registration with the Housing Corporation – Guidance for General and Stock Transfer Applicants seeking to become Registered Social Landlords (48)*. The authority must provide copies of any bids received from RSLs to the Corporation (STRU). The RSL's should inform their lead Corporation regulator and the STRU when they are bidding for stock. STRU will not interfere with the commercial negotiations between the LA and interested RSLs but STRU will continue to liaise with the ODPM transfer team on the transfer valuation aspects of the transfer business plan and the reasonableness of key assumptions underlying the different business plan projections of respective RSL bids.

Criteria for choosing a new landlord

- 3.13 A specification for the new successor landlord should be developed by the local authority and its tenants regardless of whether it is ultimately established as a stand alone organisation or is incorporated into a group structure. In developing such a specification an essential first step is the need for a full assessment of financial and management performance. All aspects of the Council's housing service in particular its scope, organisation, delivery, relevance and standards should be reviewed and new benchmarks established. An independent assessment of an authority's housing service should be used, including the most recent Housing Inspectorate Best Value Reviews and the associated Performance Plans to inform the process. The range of service and other improvements that a new stock transfer RSL will be required to deliver will then become clearer. An authority will need to decide whether the Direct Labour Organisation (DLO) should transfer. In making this decision it will need to review the efficiency and performance of the current DLO operation within the authority and consider whether an independent DLO healthcheck is necessary so an action plan for improvements can be put in place by the new landlord should the DLO transfer.
- 3.14 The process of selecting a landlord is set out in *Good Practice Briefing no 9 Choosing a New Landlord (42)* which reviews the key stages from Options Appraisal through to formal selection methods.
- 3.15 A well-developed specification can serve two purposes. It can firstly assist the authority and its tenants to determine whether or not the new landlord services can be accommodated through a stand alone structure. Secondly it can provide the basis for the agreeing a set of criteria that can be used to structure any formal selection process. In choosing the new landlord, in conjunction with tenants, the authority can make use of a range of criteria based on organisation and governance, operational performance and financial considerations. A sample list is contained in Annex C to this manual.
- 3.16 The authority and its tenants should have regard not only to the range and quality of landlord services but also to the degree of local control and autonomy that would be exercised through the new landlord, organisational ethos and management style, opportunities and commitment to tenant involvement, local knowledge of housing issues, fair policies on diversity and equality and customer service standards. The weighting of these criteria will reflect local circumstances and the preferences of tenants, the Council and other stakeholders.

- 3.17 The general ethos of the new organisation alongside control and governance issues should be addressed in particular. This should include establishing a view of how any new landlord should operate within a group structure and the degree of financial and organisational freedom it should have.
- 3.18 The development of a clear vision of the new organisation will effectively inform the specification and resulting criteria which in turn will ensure the selection process runs smoothly.

Deciding on the number of properties to transfer to a single landlord

- 3.19 ODPM believes it is not desirable, in areas with large amounts of housing, to replace one monolithic landlord with another. We want to ensure that housing is transferred to landlords that can provide quality housing services and good value for money. We also want to see landlords that are small enough to enable the governing body and senior management to remain in touch with the views of the tenants yet large enough to attract good quality staff, be financially viable and benefit from economies of scale.
- 3.20 Although ODPM has removed the formal upper limit of 12,000 dwellings transferring to a single RSL, whether free standing or a subsidiary, we still place great importance on delivery and locally-based management. Removal of this upper guideline limit does not mean that ODPM will look favourably on whole stock transfers to a single RSL in authorities with large stock holdings. An authority proposing to transfer a large stock holding should consider splitting its stock and transferring it to two or more distinct RSLs with clearly separate identities, possibly as part of a group structure or putting in place significant and meaningful devolved local management. Where a case can be made for transferring a large number of dwellings to a single landlord, perhaps because of subsequent demolition to address demand issues, ODPM will consider the case in the context of the application for a place on the programme.

Developing a proposed group structure

- 3.21 ODPM will consider proposals from an authority with large stock holdings that would involve the establishment of a new group structure, where this is considered the best means of facilitating a comprehensive improvement in tenants living conditions. The Housing Corporation STRU should be consulted about a proposed group structure at an early stage. Guidance on the issues to be taken into account when drawing up a group structure is at paragraphs 12.11 -12.14 and Annex Q. The proposed RSL must be able to comply with the Housing Corporation's group structures policy, as applied to RSLs, currently set out in Corporation Circulars 28/94 and 06/97 or successor regulatory requirements.

- 3.22 When the options of transferring to a new group structure or a subsidiary of an existing group structure is being considered, there should be no constitutional or contractual constraints on future restructuring of the group, e.g. there should be mechanisms which allow subsidiaries to consider in the right circumstances demerging from the group and adopting stand-alone basis. Typically, a clause will provide for de-merger, providing that the subsidiary can negotiate satisfactory arrangements that do not damage the financial position of the group or its members and do not trigger a breach of financial covenants and that the subsidiary can demonstrate its financial viability so as to comply with Housing Corporation's regulatory requirements. The parent RSL within any group must have the final decision in any case of de-merger. However, where the principles set out above are met, the parent should not withhold consent unreasonably. Authorities and the prospective landlord applicant or shadow board should contact the Housing Corporation STRU with regard to good practice in this area and the expectations for Intra Group Agreements or other procedural agreements to underpin the constitutional group links and make transparent the roles and responsibilities of each entity in the group.

Considering transfer to an RSL working in a neighbouring authority

- 3.23 In order to give tenants the greatest possible choice, we will not usually agree to transfers that would lead to the emergence of single dominant regional or sub-regional RSLs, although in some areas this may be unavoidable. When considering applications where transfer is proposed to an RSL working in a neighbouring authority, we would wish to see the choice of landlord had been tested through competition and that there had been significant tenant involvement in that choice. Authorities should seek guidance from the Housing Corporation STRU and relevant GO-R to ensure that their strategic objectives would not conflict with this policy. These rules do not apply to linked groups, where an unregistered company provides services on contracts of no longer than five years duration to an otherwise completely independent RSL.
- 3.24 We encourage cross-boundary working between RSLs, where the housing strategy shows this clearly to be important to the provision of housing and delivery of housing services in the area.
- 3.25 Where transfer RSLs are considering merger in the years after transfer, ODPM has agreed with the Housing Corporation that the Corporation will consider the business case and rationale for merger or restructure against criteria applied in the RSL sector. Housing Corporation consent will be required for the requisite changes to the governing instruments of the parties involved and the views of ODPM will be sought where appropriate.

SECTION 4

Involving tenants

KEY POINTS

- Tenants should be at the heart of all stages of the Options Appraisal and development of a transfer proposal. They should be involved as early as possible and at all stages in the process. Good practice developed by many authorities through tenant participation compacts should be honoured and built upon during the transfer and by the successor landlord.
- An authority should draw up a communication strategy setting out how it proposes to involve and communicate with tenants and other stakeholders.
- Tenants must have access to independent advice and support and to capacity building and training throughout, from the Options Appraisal stage to after transfer.
- An authority must give careful consideration to how it will enable/encourage all tenants to participate both before and after transfer, including those from Black and Minority Ethnic communities and those not normally represented.
- Transfer proposals should provide more opportunities for tenant participation after transfer.

- 4.1 As already mentioned, one of our key requirements is that tenants are fully involved in all stages of a transfer proposal, including the Options Appraisal process and, once the decision has been made to pursue transfer, the detailed development of the proposal and the selection of the prospective new landlord. We also require the resultant proposal to build on good practice developed through tenant participation compacts, to reflect tenant priorities and aspirations and to enhance opportunities for tenant and community empowerment.
- 4.2 We expect local authorities to contact the Community Housing Task Force (CHTF) at the start of the Options Appraisal process and to continue to work with their CHTF adviser on this issue.

Drawing up a communication strategy

- 4.3 An authority should involve tenants in drawing up a communication strategy at an early stage. The strategy should set out its approach to involving and communicating with tenants and other stakeholders, which will include the authority's own staff. The strategy should be kept regularly under review.

- 4.4 An authority should have its own tenant participation policy and procedures. These should have been brought together in a tenant participation compact, negotiated and agreed with tenants, and should be built on when developing the communication strategy. If for any reason a compact does not exist, the authority should work with tenants to devise suitable equivalent arrangements.
- 4.5 The strategy should set out how tenants will be involved in the Options Appraisal and the selection of the new landlord, and how the authority intends to comply with the formal consultation requirements. The strategy should be clear about how the authority will fully involve existing tenants groups and the efforts that will be made to involve and seek the views of the wider body of tenants. The authority will be required to set out the extent of support amongst tenants in its LSVT Programme application or SSVT proposal.
- 4.6 The communication strategy should outline also how the wider community, including leaseholders and freeholders resident in the area, will be kept informed, to allay possible concerns about the proposals and what they involve. It should also set out how the authority will deal with the media and with any inaccurate information that may be circulated about the proposals.
- 4.7 ODPM is in particular looking for innovative ways of maximising tenant involvement and engaging those who would not usually be involved or who are currently under-represented, for example the young and Black and Minority Ethnic (BME) communities (see from paragraph 4.29 below).
- 4.8 Annex D provides some good practice points on involving tenants, based on several research projects, and should be referred to when the communication strategy is being drawn up. The authority will be required to clear its communication strategy with the CHTF.

Arranging independent advice for tenants

- 4.9 In order that tenants are fully engaged in the consideration of options for their area, we recommend that tenants have access to high quality independent advice prior to and during the Options Appraisal and, if the authority decides to pursue transfer, that an Independent Tenant Adviser (ITA) works with tenants both before and after the ballot even if tenants vote against transfer. A local authority should also consider what other advice (such as legal advice) tenants might need. The ITA should also consider and make appropriate links with other consultants operating in the area.
- 4.10 In 2000, research was commissioned into the role of the ITA and how it has evolved in different local circumstances. Guidance based on this report *Independent Tenant Advisers and Housing Transfer: a Good Practice Guide (8)* was issued in 2001. It gives examples of the role an ITA can fulfil and the practical ways ITAs can deliver the services required. It also highlights some good practice principles in developing the brief for an ITA and tendering and managing the ITA contract. The pre-options, pre-ballot and post-ballot phases demand a range of different skills from an ITA. Local authorities and their tenants may find it wise to limit contracts to specific phases, allowing them maximum flexibility in procurement of the best advice for each stage. **We would recommend that an authority read this guidance before making an ITA appointment.**

4.11 The work of the ITA can be a key way of engaging and involving tenants in decisions about their area. Where possible, the tenants' organisation should be delegated the budget and authority to enable them to manage the ITA contract. A local authority should consider providing appropriate administrative support where this is the case. The key messages of the guidance are:

- The ITA's role should be clearly defined and tenants should be involved throughout the process. Before putting the brief together, tenants should be given the opportunity to learn what an ITA should do. The local authority and tenants should then consider what the ITA needs to do before the post is filled. The tasks should reflect the agreed priorities of everyone involved.
- The importance of competitively tendering for the ITA role and that the brief should provide a clear outline of expectations, respective roles and responsibilities. It is essential that tenants play a role in drawing up the contract specification and in monitoring the ITA's performance, where possible taking the lead with support from the authority. Where tenants' groups exist, an authority should involve them; where they do not, an authority should establish a tenants' panel for this purpose. The authority should ensure that the selected ITA has the necessary skills and capacity to develop tenant empowerment and to recognise the specific needs of BME tenants and residents and reach out to all sections of the community. The brief for the ITA should list details of Tenant Management Organisations (TMOs) and Section 16 agents active in the area. The authority should consider whether supplementary advice that cannot be provided by the ITA is needed.
- Training and support needs should be identified early in the process to enable tenants to play an active part in managing the work of the ITA. The guidance provides examples of where residents, through a tenants' panel, have been closely and effectively involved in the management of the ITA.
- That it is good practice for the local authority to develop a tenant panel before recruiting an ITA. Common tasks for the ITA might include accessing information on the detail of the transfer proposal, giving advice to tenants on specific topics such as the sale price, the proposed rent plan or the Preserved Right to Buy.
- The business plan of the new landlord will be a Commercial In Confidence document. Where the ITA has demonstrated a responsible approach to handling information, the shadow RSL board may wish to consider sharing the business plan with the ITA in confidence. This should assist the ITA in performing the role successfully. The ITA should respect the document's confidentiality.
- Effective communication is emphasised and careful consideration should be given to the most appropriate means of communication, especially with hard to reach groups. A flexible approach is essential and local need and circumstances must determine communication. Age, ethnicity and the geography of local communities need to be taken into account. Further guidance is available in the ITA Good Practice Guide.
- In some areas, where appropriate, the ITA may work with tenants to comment on a draft offer document; in others they may play a part in shaping the initial drafts of the document, reflecting tenants' priorities.
- The role of the ITA post-ballot should also be considered, whether or not there is a successful ballot.

Drawing up the tenant participation arrangements that would apply after transfer

- 4.12 The Office believes transfer offers a major opportunity to overhaul the practices currently in place and develop opportunities for a greater role for tenants. As well as involving tenants in developing the transfer proposal, an authority will also need to consider the tenant participation policies and procedures that would apply after transfer. These must ensure effective participation with tenants at all levels of the new organisation and provide greater opportunities for tenants to be involved than those that the authority has in place. This is a key feature of housing transfer. ODPM wants tenant consultation and participation to feature strongly in transfer proposals; transfer landlords are expected to provide opportunities for tenants to have a real say in, and more influence over, the management of their homes.
- 4.13 After transfer, the new landlord will be expected to comply with the requirements of the Housing Corporation's *Regulatory Code and Guidance*. In April 2004, the Housing Corporation introduced its Involvement policy and all associations registered with the Corporation must comply with its requirements. The policy states all associations must publish a statement setting out their aims and objectives for involving residents. They must review this every year, using an impact assessment, which shows what difference has been made. Residents must be involved in the development of the statement. The Involvement policy applies to anyone living in the housing association's stock, e.g. leaseholders.
- 4.14 Under the Regulatory Code, the new landlord must seek and be responsive to tenants' views and priorities, enable tenants to play their part in decision-making and provide opportunities for tenants to explore and play their part in how services are managed and provided. To achieve this, the landlord is expected to seek to make an agreement, developed in partnership with tenants, setting out how they will be involved, consulted and informed, and how this will be resourced, measured, monitored and reviewed.
- 4.15 As well as providing for tenants to be represented on the RSL's governing body, mechanisms for inclusive tenant participation below board level should be established, to promote accountability and representation across all sections of the community. The participation structure should allow for changes in the desired level and scope of involvement by tenants. It should not be assumed that tenant board members will necessarily represent the wider range of tenants views or that tenant board members are solely responsible for tenants issues.
- 4.16 Guidance should be sought from the CHTF about the prospective new landlord's tenant involvement proposals after transfer. In addition, it may be possible for tenants to employ a specialist tenant empowerment adviser to help tenants look at the options for involvement after transfer. Grant may be available under Section 16 for this purpose (see section 4.27 below). The Housing Corporation should be contacted to establish whether additional funding through its Community Training and Enabling Grant Programme would be available to the new landlord and tenants to help improve resident involvement.

- 4.17 Tenants should be able to develop the level and type of involvement they want in partnership with the housing association to achieve this. A wide range of promotion and communication methods should be employed to reach all tenants. RSLs should consider how to be innovative and not just limit the approach to meetings, newsletters and visits. RSLs should also develop new approaches to participation to ensure all parts of the community have the opportunity to get involved. Some suggestions on tenant participation methods are listed in Annex D.
- 4.18 Tenants may want to participate by being members or guarantors of the new landlord. ODPM wants to encourage transfer vehicles that have a wide ownership amongst tenants, within the Housing Corporation's policies on governance of RSLs. We will also expect the authority to involve tenants/residents in the development of cross-tenure housing strategy work.
- 4.19 The local authority will still have a duty to consult directly with its residents, including former tenants, post-transfer, particularly with regard to the development of cross-tenure housing strategy and regeneration work. Local authorities will be expected to work with their CHTF adviser to make sure they have the capacity and expertise available to carry out this role effectively.

Tenant Management Organisations

- 4.20 Recent research has shown that most TMOs provide an effective housing management service and deliver wider community benefits. These benefits enhance rather than detract from the effectiveness of a landlord's operation and business. Therefore the Office would hope to see an increase, not decrease, in the number of TMOs or other management arrangements after transfer.
- 4.21 Through its Regulatory Code and Guidance and Involvement policy, the Housing Corporation expects RSLs to show that:
- Where they so wish, tenants are supported, by enabling them to obtain the knowledge and skills to play an effective part in the investment in, and the management of, their homes and neighbourhoods.
 - Residents are encouraged and supported to explore options. The development of an TMO is one way of achieving this. The National Housing Federation has produced a modular management agreement for housing association tenants, which can be used for TMOs.
- 4.22 Since 1 April 1994, council tenants have been able to set up a TMO by exercising the statutory Right to Manage. Although this statutory right does not continue in the housing association sector, ODPM and the Housing Corporation would expect new TMOs to be developed, where residents so wished, and for existing and developing TMOs to continue following transfer. The Housing Corporation will be issuing good practice guidance on this by the end of 2004.
- 4.23 We would also expect the transfer contract to include a framework setting out the position and procedures for existing TMOs, and for future TMOs to develop under the new landlord. The offer document should explain what roles and responsibilities the TMO would have within the proposed new landlord's structure.

- 4.24 ODPM and the Housing Corporation would expect the acquiring landlord to honour the principle of an existing management arrangement and to enter into a new agreement with the TMO. This should be negotiated as a partnership between the TMO and new RSL prior to the transfer. If it is not considered feasible by the acquiring landlord and the TMO is to continue with the existing management arrangements, full justification for any decision must be given to the Housing Corporation.
- 4.25 Similarly, where tenants have already exercised their Right to Manage and are either in the feasibility or development stages at the time of transfer, the transfer contract should set out the new landlord's commitment to continue to support the development of the TMO and to negotiate with the TMO an agreement if it is in the interests of the association and all its tenants.
- 4.26 Where an established TMO wants to renegotiate its agreement, or where a TMO is being developed, an independent adviser may be appointed to help tenants in these negotiations. Funding may be available through the Section 16 Tenant Empowerment Grant Programme (see paragraph 4.27 below). An established TMO should be alerted to a possible transfer at an early stage, in the same way as any other managing agent or contractor, because of the implications for the housing management functions which it carries out under its existing management agreement with the local authority.

Section 16 Funding

- 4.27 ODPM will consider providing funding, under the Section 16 Tenant Empowerment Programme, in the following circumstances:
- *Tenant Management* – where a Right to Manage Notice has been served on a local authority prior to transfer, tenants should be able to continue with the arrangements for setting up a TMO after transfer. S16 grant will continue to be paid as if the tenants had remained with the local authority. Once the transfer has taken place, funding may also be available under the Housing Corporation's Community Training and Enabling Grant Programme.
 - Where tenants have indicated they are in favour of transfer, S16 can be used to help existing TMOs that want to continue in management following transfer. In these circumstances grant may be used by the TMO to engage an agency to help them through the process, including renegotiating their management agreement and management and maintenance allowance with the acquiring landlord.
 - *Community controlled transfers* – ODPM wishes to encourage and support transfers to community-based organisations. Where tenants and their local authority have agreed such an approach, S16 grant may contribute (through an Options Study followed by feasibility and development funding) towards the development of a proposal through to the ballot stage. Funding may be available under the Housing Corporation's Community Training and Enabling Grant Programme to continue the proposal following the ballot.
- 4.28 Further advice about ODPM's policy on tenant participation and on the circumstances in which Section 16 funding may be approved is available from Tenant Services Branch, Zone 1/J6, Eland House, telephone 020 7944 3488, e-mail tp@odpm.gsi.gov.uk.

Meeting the needs of black and minority ethnic communities

- 4.29 We expect authorities to take full account of the needs and aspirations of Black and Minority Ethnic (BME) residents and communities, not just existing tenants, in developing their housing transfer proposals. BME tenants should be involved in considering investment options for their neighbourhoods and transfer proposals should specifically address the needs of BME communities.
- 4.30 The implications of, and choices within, transfer must be clearly explained to BME tenants using a variety of culturally appropriate mechanisms. The transfer process must involve minority ethnic staff/advisers and successor landlords must similarly ensure their staff reflects the communities they serve. An authority should consider seeking advice and help from organisations originating within BME communities and from BME RSLs which have relevant experience.
- 4.31 Prospective new landlords must ensure their policies and services reflect BME needs/aspirations, including zero tolerance of racial harassment, ensuring equality of access to quality services and promoting their services within the minority communities. The prospective new landlord should consider involving BME RSLs in local management agreements.
- 4.32 Authorities will be expected to continue partnership working with RSLs and other agencies after transfer to ensure they continue to meet the needs of local BME communities/neighbourhoods after transfer as part of their BME strategy work.
- 4.33 The Office recently published guidance on *Empowering communities, improving housing: Involving black and ethnic minority tenants and communities* (46) which builds on good practice on tenant and community involvement to consider the involvement of BME tenants.

SECTION 5

Drawing up the repair and improvement programme and details of the housing service

KEY POINTS

- In consultation with tenants, an authority should draw up a programme of repairs, maintenance and improvement works that would be carried out by the new landlord.
- An authority will need to have access to up-to-date and robust information about the condition of the housing from a recent stock condition survey.
- In order to address fully all issues arising from the quality of the housing to be transferred, a more detailed design appraisal and master planning exercise may also be required.
- An authority proposing to transfer 200 or more properties must complete ODPM's Single Transfer Model.
- An authority should consider the scope for including energy efficiency improvements and advice in the repair and improvement programme.
- An authority must draft an Egan compliance action plan for consideration by the Housing Corporation.
- An authority must demonstrate how it will support the drive for efficiency gains in social housing following from the Gershon Efficiency Review of Public Services.
- Transfer should deliver a higher quality housing service for tenants and an authority must agree a draft programme of Best Value Reviews within the Single Housing Inspectorate.
- Where the proposed repairs and improvements involve demolition and new build, these plans should be explored fully and explained to tenants in order to minimise uncertainty.

Drawing up a repair and improvement programme

- 5.1 ODPM expects transfer to facilitate the repair and improvement of the housing, to bring it up to the decent standard as a minimum and to ensure that the property is adequately maintained in the long term, addressing issues of demand and viability. A key part of developing a transfer proposal, therefore, involves drawing up a repair and improvement programme, i.e. a package of repair, improvement and maintenance works that would be carried out by the new landlord over a thirty year period. To address low demand or stock in an exceptionally poor condition, an authority may consider a programme of demolitions with or without new build as part of the overall repair and improvement programme. Tenants should be consulted and involved in drawing up the programme, based on arrangements set out in the local compact.

Obtaining Up-To-Date Stock Condition Information

- 5.2 The first step in drawing up the repair and improvement programme upon which the business plan will be based is the acquisition of up-to-date and robust information about the condition of the housing.
- 5.3 Stock Condition Surveys (SCSs) are an important part of the HRA business planning process and, at the time it comes to developing its transfer proposal, an authority may well have completed recently a SCS or be in the process of embarking upon one. An authority should consider therefore what information on the condition of the stock is already available before commissioning a fresh survey and should have a clear understanding about the type of outputs that are required before assembling any new information. In particular, the authority should note that in order to accomplish transfer, a number of third parties will require robust stock condition data, and that any surveys commissioned with a view to facilitating transfer will be the basis of warranties and such other legal comfort as these third parties (for example the new landlord, funders, insurers) might require. The importance of good quality reliable stock condition data cannot therefore be overstated. Tenants should be consulted on and involved in the formulation of the works programmes that are developed on the back of stock condition surveys. Authorities should consider involving RSLs in the procurement of the Stock Condition Survey if it has not already been completed prior to the RSL selection, and working with the RSL in developing a conveyancing strategy to prevent the duplication of effort.
- 5.4 We strongly advise authorities to refer to *Collecting, managing and using housing stock information (20)* when planning to conduct or commission a SCS, and to encourage any contractors invited to tender for SCS work to demonstrate that they have used the guidance in developing their proposals. Annex E summarises the good practice principles contained in the guidance, which, if followed, should enable assessment of the proportion of an authority's housing that is decent. In addition to individual dwellings, internal and external communal areas should also be addressed as part of the survey; para. 15 of Annex F refers.

- 5.5 Although a simple SCS should enable an authority to assess the costs involved in complying with the decency standard, it may not provide an adequate assessment of the extent of works necessary to address tenants reasonable priorities or to ensure medium or long term demand for the stock, and viability for business plans based on continuing demand. In such cases, and in some areas, a more master planning process may be necessary. It is possible to combine a stock survey with other surveys such as an energy survey or local housing needs assessment; see paras. 24 & 25 of Annex F. It may also be appropriate to undertake an environmental risk assessment whilst carrying out a stock condition survey or commission a separate survey. See para. 26 of Annex F.
- 5.6 Where an existing RSL is likely to be the transfer partner, the authority and tenants may find it advantageous to select the prospective new landlord prior to finalising assessments of stock condition, in order that all stakeholders can sign up to the results, particularly where more complex design and master-planning exercises are to be embarked upon. There may be a need after inclusion on the transfer programme for further stock condition surveys involving the prospective new landlord.
- 5.7 Local authorities are expected to provide the maximum possible information in the offer document regarding the detail, design, and phasing of major works programmes in order to remove uncertainty for residents. This is particularly important where major demolition or re-provision is planned. Residents should be involved fully in pre-ballot stages.

Leaseholders

- 5.8 When the Stock Condition Survey is commissioned, it should be specified that leaseholder re-charges are easily identifiable and costed, so that when the lessees are consulted they know early on what the proposed works programme will mean for them in terms of actual costs and the time they have to pay. If the leases do not allow re-charges for works that will be required to comply with Decent Homes Standard or the tenant aspirations, then this will affect the valuation.
- 5.9 The Stock Condition Survey will show what works are necessary or desirable, and it is advisable to include all such costed works in S125 notices so that the full amount may be re-charged. Having a standard form of lease for the future would also be advisable, and including a requirement to give notice of sub letting would be useful. Also, authorities should check that including garages, storage areas, rights over adjacent land, in the Right To Buy would not prevent future re-development of areas that may need demolition and rebuild.

Completing the Cost Generation Model

- 5.10 Once satisfied that it has up to date information on the condition of the stock, the authority should use it to work out what repair and improvement works need to be carried out to bring the housing up to a decent standard. ODPM has developed a model the Cost Generation Model (CGM) which facilitates the presentation of this information.

- 5.11 The CGM requires the stock condition information to be input in relation to particular types of housing, or archetypes, and facilitates the estimation of the expenditure necessary on particular repair and improvement categories over thirty years. It also facilitates the modelling of demolition and new build. The CGM forms part of the Single Transfer Model (STM), which authorities proposing to transfer 200 properties or more are required to complete. The expenditure figures derived from the CGM flow into the Pricing Model, which calculates the value of the housing and hence the required sale price. Annex B provides details of the CGM and the other models in the STM.

Devising energy efficiency measures

- 5.12 When drawing up the proposed repair and improvement programme, an authority should consider the scope for energy efficiency improvements and advice, in accordance with the guidance at Annex G. There is a number of organisations, including the Energy Saving Trust, who will offer advice. This should be sought early in the scheme development process.

Drawing up an Egan compliance action plan

- 5.13 When drawing up the repair and improvement programme, an authority should also draft an action plan setting out the steps it has already taken and how these might be developed by the new landlord to achieve compliance with the principles set out in *Rethinking Construction (103)*, the report of Sir John Egan's Construction Taskforce, within a reasonable period.
- 5.14 The more comprehensive the stock condition survey is, the better and more reliable the works costs are likely to be, with less need to include risk premiums. If the prospective new landlord is known and already has partnering contractors, cross-checks and estimates of costs should come from these contractors.
- 5.15 RSLs are already finding financial benefits in securing partnering arrangements with contractors. Both the authority and the prospective new landlord should be assessing the opportunities for entering into these arrangements where possible. The likely cost benefits should then be reflected in the business planning process.
- 5.16 Further details on Egan compliance and guidance on drawing up the draft plan are at Annex H. The draft action plan will be assessed by the Housing Corporation and, subject to tenants voting in favour of the transfer, feedback given to the new landlord in the run-up to transfer. An approved action plan must be in place before the Housing Corporation will register the new landlord and the Secretary of State will grant consent to the transfer.

The Gershon Review

- 5.17 As part of the 2004 Spending Review outcome, Sir Peter Gershon's *Review of Public Sector Efficiency (108)* focused on how best to target resources on front line services by releasing resources through more efficient working practices. ODPM has to ensure specific targets for social housing procurement are secured. To contribute towards this it will be a requirement of the housing transfer programme to support the drive for efficiency gains in both procurement and delivery. Given the emphasis that gains should contribute towards improved services the Office believes that in the context of social housing any benefits accruing from the Gershon approach should feed back into additional investment and better services for tenants.
- 5.18 There is already a track record in the RSL sector of partnership approaches which seek to secure efficient and timely delivery of capital works and tenant services. The Office and the Housing Corporation want to build on this and ensure that what has been achieved by the best can become the norm across the sector. At the same time those that are already achieving will be encouraged to innovate further.
- 5.19 Housing transfer will offer many opportunities for more efficient procurement and delivery and the Office will expect the transfer application to provide evidence of how this will be addressed. It is envisaged there will be further guidance from the Office on achieving more efficient procurement which transfer landlords will be expected to apply as a minimum. The Gershon review can be found on the Treasury's website at www.hm-treasury.gov.uk

VAT recovery where a local authority is legally bound to undertake improvements to transferred stock

- 5.20 Should an authority and new landlord be considering a condition in the housing stock sale contract requiring the vendor local authority to improve the property to a certain standard i.e. works the authority should have done as part of the routine cyclical maintenance works which have slipped, details should be included in the application. The estimated amount of recoverable VAT incurred by the authority should be included, as well as the proposed allocation of recovered VAT and its proposed use. Where this recovered VAT (or part of it) is to be allocated to the authority it is our intention that it would not be leviable as long as it is included as a separate receipt to the main transfer receipt within the transfer agreement. Similarly, the part of the receipt to cover the additional cost of the improved properties would not be leviable but should be stated separately to the actual transfer receipt in the transfer agreement.
- 5.21 Both parties will need to agree arrangements with both HM Customs and Excise and the Housing Corporation Stock Transfer Registration Unit.
- 5.22 Where the transfer contract requires an authority to undertake catch up repairs, and in order for HM Customs and Excise to accept that the local authority is entitled to recover the VAT incurred on the works, they will require that:

- the transfer contract contains a clear obligation on the part of the local authority to refurbish the properties, or suitable addendum or other document detailing the obligation;
- the scope and quantum of the works must have been agreed prior to the transfer with that agreement forming an integral part of the contract;
- the works in question must be supplied to the authority. By this HM Customs and Excise mean that the local authority should have entered into one or more contracts for the refurbishment works to be done and paid a consideration for the works; and
- that from time to time the authority will be expected to substantiate any VAT claims, by providing a clear audit trail which links VAT claimed by the local authority with works provided under the refurbishment contract. For example they would expect to see invoices raised against the local authority. Or, where a single pre-payment has been made, evidence will be required to show that the local authority is ensuring that the works it contracted for are indeed being carried out to the contractual standards it required.

Only if these conditions are satisfied can an authority expect that it can recover the VAT charged on the works.

- 5.23 There may be occasions where the authority enters into a contract for the RSL to carry out the works, possibly assuming the role of a management contractor. In this separate “supplier/customer” situation, HM Customs and Excise would expect the RSL to invoice the authority for the works supplied to it, upon which VAT will be due. In all such cases the RSL must ensure that a clear separation is made between the refurbishment works that are being supplied to the local authority, and works that are solely the responsibility of the RSL following the transfer, such as routine repairs and maintenance.
- 5.24 ODPM would normally accept that the authority and new landlord agree the allocation of recovered VAT bilaterally and agree this with potential funders and the Housing Corporation. If the RSL were planning to underpin its business plan using the recovered VAT, the Housing Corporation would wish to know how the RSL would deliver its promises in the event of it not receiving or receiving less monies.
- 5.25 If it were proposed that any recovered VAT be used to increase the receipt to the authority, we would expect contingency arrangements to be included in the transfer agreement in the event of the monies differing in reality from those anticipated. These could result in a reimbursement of monies from the authority to the RSL in the event of the recovered VAT being lower than anticipated, or a further payment from the RSL in the event of the recovered VAT being higher than estimated. Alternatively there could be a stipulation that this payment is guaranteed regardless of actual recovered VAT.

VAT Savings from DLO transferring

- 5.26 It is our intention that VAT savings arising from use of its own work force by the RSL, e.g. from the Direct Labour Organisation (DLO) transferring, are leviable as they increase the transfer receipt relating to the Tenanted Market Value of the stock over 30 years. However, where the DLO has a separate intrinsic value, e.g. for goodwill, plant, machinery, buildings etc. for which a value is agreed by the parties and specified as a separate receipt as part of the council's covenant to transfer the DLO in the transfer agreement, then it is intended that this amount would not be leviable.

Developing proposals for a higher quality housing service

- 5.27 As well as the repair and improvement of the stock, ODPM expects transfer to bring about an improved housing service. An authority should consider therefore how the current housing service could be improved, and develop proposals accordingly, in conjunction with the prospective new landlord and tenants. We would normally expect an improved housing management service to be partly contingent upon improved levels of resident involvement. Details of how the new landlord will provide a higher quality housing service should be included in an LSVT Programme application or SSVT proposal. Particular attention should be given to containing costs, whilst improving efficiency and tenant participation.
- 5.28 In the light of reviews it has carried out to date, the authority should put together a draft programme of Best Value Reviews (BVRs) that would be carried out on services that would transfer to the new landlord. It should also put together plans for the new landlord to take forward the findings of any BVRs carried out prior to the transfer.

SECTION 6

Deciding on the terms of the transfer

KEY POINTS

- Transfer should usually involve the sale of the freehold interest in the property.
- A key part of a transfer proposal is the rent plan, which should deliver rent convergence by March 2012.
- The price an RSL pays for the housing must have regard to its Tenanted Market Value.
- An authority should be sure of a transfer's fundability before submitting details to ODPM.
- An authority should consider at the earliest possible stage the warranties likely to be requested.
- After transfer, an authority retains its strategic and enabling role.
- An authority and prospective new landlord should ensure that, after transfer, they would be able to fulfil their statutory obligations in respect of social housing and plan for partnership.

Deciding on the nature of the transfer

- 6.1 Transfer proposals should involve the sale of the freehold interest, except where this would not be feasible, for example flats over shops or a tower block above a shopping centre. In such circumstances, where the leasehold interest would need to transfer, the authority will need to submit a detailed justification.

Drawing up a rent plan

- 6.2 One of the key aspects of a transfer proposal is the rent the new landlord would initially charge tenants and how much this would increase each year. An authority and, where possible, the prospective new landlord, should draw up a proposed rent plan in line with the Government's rent reform guidance. If tenants vote in favour of transfer and the transfer goes ahead, the new landlord would be obliged to comply with that rent plan. An authority also needs to make assumptions about the level of rental income the new landlord would receive when it values the housing and calculates the sale price (see paragraph 6.5 below).

- 6.3 In the past, transfer involved tenants moving from the local authority rent regime to that of the RSL sector. However, an important objective within the Government's December 2000 housing policy statement was the delivery of rent convergence, i.e. greater fairness and coherence to the structure of social rents in both sectors, so that comparable homes within an area have comparable rents. The measures in the housing policy statement focus on a commitment to keep social rents at submarket values while having as their basis the size and value of homes and the average earnings of people in the locality. The proposals are being implemented over ten years and the proposed rent plan should enable the delivery of rent convergence by the end of March 2012.
- 6.4 Details of the implications of rent convergence when drawing up the rent plan, plus the other assumptions about rental income that should be made when valuing the housing, are at Annex I.

Calculating the sale price and VFM

- 6.5 The price that an RSL pays for the housing it acquires through transfer must have regard to its Tenanted Market Value (TMV). This method of valuation assumes that the stock is transferred as a going social housing concern and, in simple terms, equates to the income the RSL is likely to receive over thirty years in the form of rents less the estimated expenditure necessary on repair and improvement works, maintenance and supervision and management. The proposed sale price should accord with, and be able to support, the prospective new landlord's business plan. It should also capture all other non-rental income such as that from shops and garages, sales of vacant land and surplus PRTB receipts in maximising the receipt for the transfer and therefore its Value for Money (VFM). See Annex B and *Completing the Single Transfer Model (10)*.
- 6.6 ODPM has developed a model, the Pricing Model, to calculate the TMV. The Pricing Model forms part of its Single Transfer Model (STM), which an authority proposing to transfer 200 or more units is required to complete. The STM also gives the ODPM the opportunity to consider reasonableness of costs including the cost of the initial catch-up repair programme, the capital works programme, the management and maintenance costs and the rent assumptions. Annex B provides details on the Pricing Model and the other models in the STM.
- 6.7 As stated in consultative paper *Housing Transfer: Removing barriers in the transfer process to facilitate innovative private finance and deliver successful transfers (2)*, it is the Office's view that an authority is free to negotiate a transfer price within a range with the minimum price being that reflected in the STM. The Office and the sector will take a view on what was a reasonable maximum in individual cases. Where there is competition for the transfer stock the STM can be used to establish a reserve price to serve as a guideline for the competing RSLs. However as set out in Section 3, it is important to understand the assumptions underpinning any offer that are used by a landlord seeking to be chosen in a competitive process.
- 6.8 The consultative paper also reaffirmed ODPM's wish for authorities and new landlords to be able to look at valuations beyond the normal 30-year options where that is appropriate. This change was already made for the 2003 transfer programme in response to a recommendation from the National Audit Office. The Office has a model which can be used to value stock between 30 and 50 years (see Annex B).

- 6.9 The consultative paper also encouraged authorities and new landlords to give greater consideration to the discount rates used in the model, i.e. between 6% and 8%. It explained that from the 2004 Transfer Programme onwards ODPM no longer have a default setting in the STM, instead transfer applicants are required to justify the choice of the rate used.

Checking that the transfer would be fundable

- 6.10 An authority proposing transfer should seek the views of several funders (i.e. institutions who might lend the new landlord the money necessary to buy the housing and carry out the repair and improvement programme) at an early stage. Potential funders will provide feedback on whether the proposal meets the organisation's funding criteria and hence its fundability, i.e. the likelihood of the necessary funding being secured. The authority should be reasonably confident of a proposal's fundability before submitting details to ODPM.
- 6.11 Where the housing has a negative value, the new landlord will require gap funding to make the transfer fundable. An authority may decide to provide the funding from within its own resources or seek contributions from an existing RSL as part of the landlord competition. The authority should have identified the source of any funding before submitting details of the proposed transfer to ODPM. The authority should have explored all routes to gap funding before applying for a place on the transfer programme. Only when this is the case will ODPM be willing to enter discussions on the possibility of providing any assistance.
- 6.12 As detailed in Section 11, once there has been a positive ballot, the prospective new landlord should hold a funding competition, inviting as wide a range of organisations as possible to bid to fund the transfer. The new landlord should avoid waiting until shortly before the proposed transfer date to invite funding bids.

Requirement for gap funding

- 6.13 In establishing a route to offer assistance to negative value transfer the Office will want to ensure that the cost of decent home delivery to the public purse is minimised while ensuring any transfers will achieve tenants' objectives. It is the intention that the administration of the gap funding should not be burdensome to authorities, the new landlord or Government.
- 6.14 On 5 May 2004 the Deputy Prime Minister announced that there would be resources within ODPM to assist transfers where there was a negative value. The resources will be held centrally and any gap funding agreed will be paid over a number of years and **not** as a single payment at transfer. The Office will wish to review a transfer RSL's ongoing need for the gap funding in the years subsequent to transfer.
- 6.15 There will not be a bidding round for gap funding as the Office does not wish to encourage speculative applications. Instead an authority must as part of finalising its Options appraisal notify the housing transfer team in the Decent Homes Division where the outcome likely to receive sign off from Government Office for the Region includes any negative value transfers.

- 6.16 **The Office will then look for an authority and the other transfer stakeholders to develop the transfer proposal with a view to ensuring that all options for either reducing or meeting the gap are pursued. This will be assessed by the Office as part of the consideration of the application for the housing transfer and any application will need to explicitly state what steps have been taken to minimise the gap and why it cannot be reduced further.**
- 6.17 During the assessment of the application any request for gap funding will be reviewed and discussed with the local authority and new landlord. Given any application for gap funding is also likely to require an overhanging debt payment the authority will already as part of receiving a place on the Transfer Programme have to agree a minimum valuation for the housing and other assets before the authority gains a place on the programme. Therefore authorities applying for a place on the programme are advised to consult funders or obtain a security valuation, to help confirm that the valuation of the stock would be fundable under the normal criteria for loan security.
- 6.18 Agreeing a minimum valuation and a ceiling to any gap funding available will ensure that those transfers that gain a positive tenants' ballot can go ahead. This should provide authorities with certainty about the level of assistance they will receive, and central government with an accurate forecasting mechanism. Where the final sale price is less than the minimum valuation, the local authority will have to meet the shortfall from within its own resources, except where ODPM is satisfied that the changes arise from exceptional circumstances outside the control of the local authority.
- 6.19 Further technical details in relation to how gap funding will be handled will be issued prior to applications being submitted for the 2005 programme.

Identifying warranties likely to be required

- 6.20 Any funding offer is likely to be contingent on the authority giving a range of warranties on issues such as asset title, transferring staff, major defects and environmental matters (see Section 15 for more details on warranties). The scope of the warranties can have a significant effect on the valuation, so must be considered by the authority **at the earliest possible stage** preferably when the authority is preparing its application to ODPM for a place on the LSVT Programme. This will involve negotiation with the prospective new landlord, in order to ascertain what risks the latter can minimise or manage and whether any can be covered by either party's insurance arrangements. This should take account, inter alia, of premium costs, insurance coverage and break clauses in any warranty arrangements. Time for work involved in any legal investigations or further surveys should be included in any project plan. If it is proposed to transfer to an existing RSL, the authority should consider commissioning joint investigations. Authorities may also wish to consider whether to explore formal or informal self-funding arrangements. They should also investigate whether to reinsure the risks involved.
- 6.21 ODPM and the Housing Corporation have issued joint guidance on this issue, *Dealing with uncertainty: The role of warranties in stock transfers (51)* and *CHTF have issued their Good Practice Briefing Note Number 8 – Managing Environmental Risks (41)*. Authorities are advised to refer to these publications *as early as possible*. It is unacceptable to leave consideration of warranties until close to the transfer. Authorities will want to consider the time periods of warranties and the rationale where different interests have warranties of different time periods.

Ensuring continued fulfilment of statutory obligations

Strategic Role

- 6.22 After transfer, the authority will still be a housing authority with a strategic and enabling role. This is dealt with in greater detail in Section 14. The separation of the strategic and landlord functions is a key Government objective and transfer provides an excellent opportunity to strengthen the strategic housing role. It is important that the development of the housing strategy is a key part of the authority's community planning process and that it contributes to neighbourhood renewal in deprived areas in a joined-up way.
- 6.23 The strategy should also respond to the needs of the private sector and be underpinned by a sound knowledge of the housing market. As part of this process, authorities should define the housing-related outcomes sought and how these relate to and impact on other service areas and community needs. It may be appropriate to commission a private sector stock condition survey in conjunction with the social housing survey.

Allocations and Homelessness Services

- 6.24 After transfer, a local housing authority retains all statutory functions in relation to homelessness and the allocation of housing; so in considering its plans for transfer it is essential that an authority plans for its role after transfer (see Section 14).
- 6.25 Details of how an authority will fulfil its statutory obligations should be submitted to ODPM in its LSVT Programme application.

Aids and Adaptations and the Disabled Facilities Grant

- 6.26 As with all other services, a housing transfer should improve the service given to vulnerable people and those with disabilities. This will be an issue in all housing transfers and should be planned for early in the transfer process. An authority will retain its responsibility for Disabled Facilities Grant (DFG), although transfer will alter the funding arrangements. After transfer, RSL tenants are eligible to apply to the housing authority for a DFG and they will be assessed for need on the same basis as private owners and tenants under the means test arrangements in place at the time. However we expect the authority and RSL to consider how these arrangements will work in practice post-transfer. It is particularly important, given the additional pressures that transfer will place on local authority DFG budgets, that appropriate financial provision is made for the provision of housing adaptations to RSL tenants. This should be reflected in the transfer contract to ensure that the transfer does not disadvantage disabled tenants. It is unacceptable for a tenant in need of an adaptation or alteration to his/her home not to know who is responsible for the provision and where to make the request. Therefore the management of how the needs of disabled people will be addressed should be reflected in clear public and management guidance. ODPM and the Department of Health have issued joint draft guidance on delivering adaptations, which sets out examples of best practice. See *Delivering Adaptations: Good Practice System Review Checklist (31)* (section 3.7)

SECTION 7

Considering the use of the receipt from the transfer

KEY POINTS

- An authority will be required to make provision for the repayment of its housing attributable debt from the transfer receipt, or an amount equal to that part of the debt equivalent to the net receipt where the net receipt is lower than the total housing attributable debt.
- Where the net receipt from the transfer is higher than the attributable housing debt, an authority will be required to pay 20% of the remainder (less certain deductions) to ODPM as LSVT levy.
- ODPM will wish to see proposals for any usable receipt that benefit delivery of the sustainable community.
- An authority which transfers all its stock is expected to close its Housing Revenue Account.
- In cases where transfer would result in overhanging debt or the need for gap funding, the authority must agree a minimum valuation before ODPM will give it a place on the LSVT Programme.

7.1 In developing a transfer proposal, an authority should work out whether it will result in a capital receipt and, if so, how much of this it will be required to cover housing attributable debt liabilities and pay to ODPM as LSVT levy. The following is a summary of the key considerations Annex J gives more detailed guidance on capital finance issues and the treatment of costs associated with transfer.

Calculating the level of the net receipt

7.2 The first step for the authority is to calculate the level of the net receipt. This should accord with the stock's TMV (as calculated by the Pricing Model or Sale Price where that is higher) less agreed set up costs i.e. the authority's own costs and those of the prospective new landlord incurred in setting up the new landlord and acquiring the housing.

7.3 The authority will then need to calculate the attributable housing debt, i.e. the debt associated with the properties to be transferred. At present:

- attributable housing debt is normally based on an authority's Subsidy Capital Financing Requirement (SCFR) as set out in the most recent Housing Revenue Account (HRA) subsidy determination issued by ODPM; and

- in overhanging debt transfers (see paragraph 7.11 below) attributable housing debt is confirmed immediately prior to transfer by a calculation to update the SCFR. The calculation is described in paragraph 7.4 below.

7.4 The starting point for the calculation of attributable housing debt in an overhanging debt transfer is the authority's Subsidy Capital Financing Requirement (SCFR) specified in the most recent Housing Revenue Account (HRA) subsidy determination issued by ODPM. The SCFR is then modified as below to estimate the attributable housing debt immediately before the transfer takes place.

To the SCFR pre-set in the HRA subsidy determination:

Add

- (i) if the transfer takes place after 30 September, 50% of the specified amount of the HRA element of the Supported Capital Expenditure (Revenue) SCE(R) issued for the current year (the other 50% would already have been taken into account in the current year's pre-set SCFR);
- (ii) any Supplementary Credit Approvals (SCAs) used in the previous year and the current year up to the date of the transfer; and
- (iii) value of HRA share of accumulated premiums.

Subtract

- (i) the reserved part of HRA capital receipts arising from qualifying disposals in the previous two years;
- (ii) reserved receipts arising from qualifying disposals received in the current year up to but excluding the date of transfer; and
- (iii) value of HRA share of accumulated discounts.

7.5 Where the mid-year HRA Capital Financing Requirement for the transfer year (adjusted as above to take account of, for example, the reserved part of HRA capital receipts arising from qualifying disposals up to the date of transfer) is higher than the modified SCFR, that figure will be used as the estimate of attributable housing debt instead. Authorities should confirm your SCFR with Stephen McAllister, Floor 2/J3 Eland House, Bressenden Place London SW1E 5DU (020 7944 3582) both at application and prior to actual transfer.

Calculating the amount of the net receipt to be used to repay attributable housing debt

- 7.6 Where the transfer receipt is greater than the authority's housing attributable debt as defined by its Subsidy Capital Financing Requirement (SCFR) it is the local authorities responsibility to ensure it makes provision for the repayment of this debt. After transfer the Office will no longer have any liability for subsidy payments in relation to the debt. Where the attributable housing debt is equal to or greater than the net capital receipt (i.e. where there would be overhanging debt), the authority will be required to use the entire net capital receipt to redeem housing attributable debt.

Use of capital receipt towards assisting negative value transfers

- 7.7 The Office will consider requests from local authorities who are pursuing a mixed model approach to delivering the decent home to use receipt(s) from proposed positive value partial transfer(s) to fund proposed negative value partial transfer(s) that are part of the authority's decent home delivery strategy as set out in a signed off Options Appraisal strategy. Details are set out in Annex J.

Calculating the amount of LSVT levy payable

- 7.8 Where the net receipt would be higher than the attributable housing debt and the proposal would involve the transfer of more than 499 properties to a single RSL, or bring the total number of properties transferred to an RSL over a five year period to more than 499, the authority would be liable to pay 20% of the remaining receipt (less certain deductions) to ODPM as LSVT levy. Guidance on the amount of the levy and the practicalities of payment is contained in Annex U.

Deciding how to spend any usable receipt

- 7.9 Once it has calculated how much it must provide for debt management or repayment and how much it would have to pay to ODPM as LSVT levy, the authority may have some of the receipt left over.
- 7.10 Whilst it is for the authority to decide how it wishes to spend this usable receipt, ODPM will expect to see proposals that help deliver the authority's contribution towards the sustainable community agenda locally. Each authority is required to detail its plans for the usable receipt and justify its decision when submitting details of its transfer proposals to ODPM.

Proposals where there would be overhanging debt

- 7.11 Where the anticipated receipt is less than the attributable housing debt, the authority would have what is known as overhanging debt. To facilitate the Government's commitment to make transfer a realistic option for a wider range of authorities, arrangements were introduced in December 1999 under which ODPM would make a one-off payment to such an authority completing a whole stock transfer, to help it repay its attributable housing debt. As announced in the February 2003 statement on sustainable communities these arrangements have been extended to cover PWLB premium charges and are also applicable to partial transfers. Annex T sets out how to deal with overhanging debt.
- 7.12 Therefore, an overhanging debt authority should at an early stage obtain an estimate of the cost of repaying a proportion of its debt held with the Public Works Loan Board (PWLB). The precise proportion of PWLB loans to be repaid should be calculated using the methodology set out below. Authorities with overhanging debt should note that they will not be given a place on the LSVT Programme until a minimum valuation has been agreed with ODPM. Amongst other things, ODPM will seek evidence that the proposed minimum valuation is based on a recent stock condition survey, is sufficient to cover estimated set up costs and that funders have indicated that the transfer at that price would be fundable.

Calculating overhanging debt

- 7.13 The figure for attributable housing debt (calculated in 7.4 above) is used to calculate the authority's overhanging debt. The authority will calculate the net capital receipt (gross receipt minus set-up costs). This net receipt should then be used to meet housing attributable debt. The first call on the net receipt will be any commercial loan and any associated early debt redemption premiums. The PWLB premiums will be the next call on the receipt, and finally the PWLB principal. The overhanging debt payment will make up the shortfall between the net receipt and extinguishing all the housing attributable debt. With regards to the payment of the early debt redemption premium of PWLB debt – local authorities will be expected to meet this payment if the capital receipt is sufficient for them to be able to do so. However, where the capital receipt is not sufficient to enable the local authority to meet the payment, ODPM will meet the shortfall.

Overhanging debt for partial transfers

- 7.14 If the issue of overhanging debt arises with a partial transfer, the method of calculating the housing attributable debt is to follow a pro-rata approach. Therefore where 20% of the housing stock is to be transferred then an authority's housing attributable debt would need to be reduced accordingly by 20%, with the remaining 80% addressed within calculations for housing subsidy. The calculation of the Office's contribution to this should be followed as for whole stock transfers.

SECTION 8

Applying for the 2005 Large Scale Voluntary Transfer Programme

KEY POINTS

- An LSVT is the transfer of more than 499 properties to a single RSL over a five year period.
- An LSVT cannot go ahead without a place on an LSVT Programme.
- A place on an LSVT Programme signifies ODPM agreement to the manner in which the authority and its tenants are developing the transfer proposal with a view to consulting tenants formally; it does not confer the Secretary of State's consent to the transfer.
- Authorities seeking a place on the 2005 LSVT Programme are required to submit a full application by 28 January 2005.
- Full applications should comprise a transfer proposal summary sheet, the information listed at Annex M, a completed Single Transfer Model and, if a partial transfer, an HRA effects model.
- Applications will be judged against the criteria listed at paragraph 9.16.
- It is anticipated that successful applicants will be announced in Spring 2005.
- Successful applicants will be expected to complete their transfer by 31 March 2007.

What is the Large Scale Voluntary Transfer programme?

- 8.1 An authority proposing to carry out a Large Scale Voluntary Transfer (LSVT), i.e. to transfer more than 499 tenanted and leasehold properties to a single RSL over a five year period, must have a place on an LSVT Programme. The LSVT Programme is a list of authorities that ODPM has agreed may continue with the development of their transfer proposals with a view to formally consulting tenants.
- 8.2 For transfer to take place, the consent of the Secretary of State under sections 32-34 and/or 43 of the Housing Act 1985 is required. Before giving that consent, the Secretary of State will wish to be sure that the transfer proposal:
- is in line with the strategic aims of the authority;
 - has been developed with tenants and it can be demonstrated that tenants are in support of the proposal;

- provides tenants with the future protection and benefits of well managed social housing at affordable rents;
- will bring all transferred dwellings up to at least the decent homes target by 2010;
- will result in an improved service to tenants, enhanced tenant empowerment and will deliver regeneration and neighbourhood renewal where appropriate; and
- overall accords with Government policy on housing transfer.

8.3 Whilst, strictly speaking, the Secretary of State may consider these matters only once the consent application is in front of him, the LSVT Programme application process provides a means of ensuring these conditions will be satisfied. In addition, working with the CHTF and DHD in advance of the application and during the transfer process should ensure that the authority is provided with constructive feedback and timely guidance well in advance of the final consent application stage.

8.4 An authority on the 2005 LSVT Programme will have until 31 March 2007 to complete its transfer. However to avoid end of financial year bunching, we would expect the initial timetable submitted by each applicant to assume transfer no later than December 2006.

Who should apply for the 2005 LSVT programme?

- 8.5 Any authority proposing to have a signed off Options Appraisal by the end of January 2005 that supports an application for transfer that would complete between April 2005 and March 2007. An authority transferring more than 499 properties, or a transfer that would bring to more than 499 the total number of properties transferred to a single RSL in the previous five years must apply for inclusion on the 2005 LSVT Programme.
- 8.6 An authority proposing to transfer 499 or fewer properties need not apply for inclusion on the LSVT Programme. However, it must still submit details of the proposal along with how it relates to its' Decent Homes strategy set out in an agreed Options Appraisal, with a view to securing ODPM agreement to proceed with the transfer. It should also formally consult tenants, in accordance with the procedures set out in Section 9.

What is the application procedure and timetable?

- 8.7 An authority wishing to make an application to the 2005 LSVT Programme is requested to submit a full evidence-based application demonstrating how the proposal meets the various selection criteria (see paragraph 8.14 below) and generally conforms with Government policy on transfer as set out in this guidance. The formal direction inviting applications is at Annex K.
- 8.8 The deadline for authorities to submit an application is **Friday 28 January 2005**.

What should a full application contain?

8.9 A full application should include:

- a transfer proposal summary sheet (see Annex L);
- a demonstration that the programme criteria have been met (see Annex M);
- maps of the area (A3 or less) and recent photographs of the housing that is representative of its physical appearance;
- a completed Single Transfer Model (see Annex B); and
- if a partial transfer is proposed, a completed Housing Revenue Account (HRA) subsidy model (see Annex A).

Greater credit will be given to well written and concise applications focused on the criteria rather than applications that consist of several volumes with annexes.

To whom should applications be sent?

8.10 An authority should send:

Two copies of the full application plus a completed STM and, if a proposed partial transfer, an HRA subsidy model, to:

Sally Hunt,
Decent Homes Division
Office of the Deputy Prime Minister
Zone 2/C1
Eland House
Bressenden Place
London SW1E 5DU
Sally.hunt@odpm.gsi.gov.uk

8.11 One copy of the full application should also be sent to each of the following:

- the relevant Government Office for the Region contact;
- the Community Housing Task Force adviser for your region; and
- the Housing Corporation's Stock Transfer Registration Unit (which should also receive a copy of the completed STM).

8.12 If the authority wishes to submit an electronic copy of its application it may do so. However, this does not replace the need to send hard copies.

Is guidance on completing an application available?

- 8.13 Advice and guidance on any aspect of the proposal is available from the CHTF prior to submission of the application. Contact details are at the back of this Manual and further details of the advice available are on the CHTF page of the ODPM website.
www.odpm.gov.uk/chtf

What are the 2005 programme criteria?

- 8.14 In deciding whether to give an authority a place on the 2005 LSVT Programme, the Secretary of State will look for an authority's application to demonstrate in an evidence-based manner how the following criteria are met. The criteria are designed to test whether the proposed transfer complies with the policies detailed in this guidance. A local authority should use the criteria to structure their application.

Options Appraisal and Preparatory work:

- a. Whether the authority has undertaken an Options Appraisal exercise and transfer has been identified as the preferred route for decent homes delivery.
- b. That the proposal can demonstrate that it provides value for money and that it forms a coherent part of the authority's HRA Business Plan, Local Strategic Partnership and Community Partnership and that these have been drawn up after an Options Appraisal in which tenants were involved and which was informed by a housing needs assessment and a stock condition survey.
- c. That there would be long-term demand for the housing it is proposed to transfer, how it is proposed demand would be sustained and, if not, details of the strategy which will address demand issues.
- d. The extent to which the transfer would contribute to the authority's strategy for building sustainable communities and achieving the Government's wider regeneration, social and economic objectives.
- e. The level of support amongst Councillors, tenants and stakeholders for the proposed transfer.
- f. That the proposed timescale for completion of the transfer appears achievable and that the authority has a project plan that allows sufficient time for the various key stages.

Decent Homes

- g. That the authority has validated information on the extent of conditions of decency within its current stock. How the proposal would ensure as a minimum the delivery of the decent home target by 31 December 2010 for all homes transferred.
- h. Where partial transfer is proposed, that the authority has a coherent strategy for the delivery of decent homes.

Tenant Involvement

- i. Following on from the work on Options Appraisal, how tenants have been instrumental in developing the transfer proposal and continue an active involvement throughout the proposed scheme design and delivery stages including considering and choosing landlord options and, where there is a competition for the prospective new landlord, that tenant representatives are included on the assessment panel.
- j. How the transfer would provide greater tenant participation opportunities across all communities within the transferring stock.

Landlord issues

- k. That the prospective new landlord is registered, or is likely to achieve registration with the Housing Corporation and that any group structure complies with policy on operational independence and de-merger.
- l. That the prospective new landlord would not become a predominant owner of social housing in the region.
- m. That there is a strategy to deliver a higher quality housing service to tenants which takes into account the findings of previous Best Value Reviews and Housing Inspectorate reports.

Financial Appraisal

- n. That ODPM is satisfied that transfer would provide value for money for the taxpayer.
- o. A Single Transfer Model has been completed.
- p. That the proposed terms of the transfer are acceptable, including whether the price would take account of the housing's Tenanted Market Value, which has been calculated on the basis of a rent plan conforming to government policy and reasonable estimates of expenditure.
- q. That the transfer would be fundable and, where an authority would have overhanging debt, the transfer receipt would be sufficient to cover set up costs and the remainder used to offset part of the PWLB loan and premiums.
- r. That the proposed use of any usable capital receipt from the transfer would benefit the delivery of the sustainable community.

Monitoring

- s. That the authority and prospective landlord have in place proposals to ensure they comply with ODPM and the Housing Corporation requirements to monitor delivery of the transfer proposal and promises made to tenants.

Authority

- t. That the authority has appointed a project manager and where necessary a support team to see through the transfer.

- u. That the authority has assessed the corporate impact of the proposed transfer and not identified any insurmountable problems; that the authority has worked with its staff to consider the implications of the housing transfer on their employment arrangements, agreed an acceptable way forward for all parties and that it has in place a change management plan.
- v. That the local authority has set out clearly how it will undertake its strategic housing function and other statutory housing functions post transfer.

8.15 In addition to the criteria listed above, we may take into account any other matters that when considering the application are felt to be relevant.

8.16 We hope to announce in May 2005 the names of authorities whose applications are judged to comply with the criteria and which have been given a place on the 2005 LSVT Programme.

Can an authority ballot tenants before securing a place on the LSVT programme?

8.17 The ODPM recognises that authorities are running to different timetables for developing their decent homes delivery strategy. Therefore it would not want an authority and its tenants to lose the momentum that has built up by putting work on hold to wait for the annual transfer programme cycle. Therefore it is very important that an authority ensures that its proposal accords with the policy set out in this guidance and that the views of tenants are sought on a transfer that the authority would ultimately be able to deliver. Securing a place on the 2005 LSVT Programme is the best way of ensuring this is the case. However so long as the authority has been working closely with their CHTF adviser and, where the timetable for delivering the transfer means tenants and the authority are ready to ballot ahead of securing a place on the programme, they may do so.

8.18 Therefore, an authority deciding to hold a ballot prior to applying for the 2005 LSVT Programme, or without knowing whether it has been successful, does so at its own risk and should note that a vote in favour will not guarantee a place if the criteria have not been met. Should consideration of the application reveal that aspects of the proposal do not comply with the Government's policy, further consultation may well be required.

SECTION 9

Submitting details of a proposed Small Scale Voluntary Transfer

KEY POINTS

- A Small Scale Voluntary Transfer (SSVT) is the transfer of 499 or fewer properties.
- An SSVT proposal may be the result of tenants' desire for greater control, which we would encourage; it should be developed in consultation with the Community Housing Task Force (CHTF). In any case the proposal must be the outcome of an Options Appraisal that conforms to the published ODPM guidance. You will need to consult your CHTF adviser on how best to undertake the Options Appraisal.
- An authority proposing an SSVT should normally submit a transfer proposal summary sheet, the information listed at Annex M, an HRA effects model and, if 200+ units, a completed Single Transfer Model. However, not all this information may be necessary for small transfers. Authorities are advised to discuss such cases in the first instance with the relevant CHTF adviser, and then with the DHD policy adviser as appropriate before submitting initial information to ODPM.
- Initial information on an SSVT will be judged against the criteria listed at paragraph 8.15.
- If the proposed SSVT meets the criteria, ODPM will agree that the authority may develop the proposal further and formally consult tenants.

What is a Small Scale Voluntary Transfer?

- 9.1 A Small Scale Voluntary Transfer (SSVT) is the transfer of 499 or fewer properties to an RSL. Although proposed SSVTs do not require a place on an LSVT Programme, this is essentially the only difference between a proposed SSVT and a proposed LSVT.
- 9.2 An SSVT proposal may well be the result of tenants' desire to take greater control of their housing, something that we are keen to encourage.
- 9.3 General Consent A5.2.1 under section 32 of the Housing Act 1985 and B1 under section 25 of the Local Government Act 1988 each allow local authorities to transfer vacant properties to a single RSL at a rate not exceeding 50 or one quarter of one per cent of stock, whichever is greater, in any financial year. However, where the number of units to be transferred to a single RSL exceeds 499 over a five-year period, the authority will need to apply for a place on the LSVT Programme.

What are the procedures for proposed SSVTs?

9.4 An authority proposing an SSVT is required to submit initial information on its proposal to ODPM. As with applications to the LSVT Programme, this is to enable us to check that the proposal accords with policy and would be deliverable. Subject to it being so, we then give our agreement to the authority developing the transfer further and formally consulting tenants. The authority will wish to involve the CHTF in the development of the proposal.

What information should be submitted and when?

9.5 As soon as possible after the authority has agreed an HRA Business Plan including an SSVT, it should normally provide the relevant DHD policy adviser with the following:

- a completed transfer proposal summary sheet (see Annex L);
- all the information listed at Annex M, including a plan showing the boundaries of the land to be transferred;
- a completed Housing Revenue Account (HRA) Subsidy model (see Annex A);
- if the proposed transfer involves 200 or more properties, a completed Single Transfer Model (STM) (see Annex B);
- if the proposed transfer involves less than 200 properties details of the rent proposal in line with convergence (see Annex D) and the estimated receipt for discounted income less expenditure over 30 years. This should include proposals for funding a negative valuation where this is the outcome;
- this may involve details of any sister development schemes which may impact on the funding of the SSVT. Any such schemes will need to be cleared with ODPM and the Housing Corporation at an early stage.
- the level of detail provided should be commensurate with the scheme size and complexity.

9.6 A copy of the transfer proposal summary sheet and the information listed at Annex M should be sent to the relevant Government Office and the Housing Corporation STRU, the latter also receiving the completed STM if appropriate.

How will the information be assessed?

9.7 The DHD policy officer will consider the information provided against the same criteria used to assess proposed LSVTs, listed in para 8.15 and, after consulting the GO-R and the Housing Corporation STRU, will advise the authority whether it has ODPM's agreement to develop the proposal further and consult tenants formally.

Can an authority ballot tenants before securing ODPM agreement?

- 9.8 An authority will want to be sure that its proposal accords with the policy set out in this guidance and that it tests the views of tenants on a transfer that it would ultimately be able to deliver. Securing our agreement to develop the proposal further is the best way of ensuring this is the case.
- 9.9 An authority deciding to hold a ballot prior to securing our agreement does so at its own risk. Should consideration of the information provided on the proposal reveal aspects that do not comply with policy, further consultation may well be required before the transfer can proceed.

SSVTS involving overhanging debt

- 9.10 The partial overhanging debt arrangements do not apply to transfers of 499 or fewer properties.

SECTION 10

The consultation exercise

KEY POINTS

- An authority is legally required to consult all tenants whose homes would be transferred.
- The formal consultation requirements involve the issue of a Stage 1 consultation document followed by a Stage 2 notice.
- As a minimum, an authority should follow ODPM good practice guidance in drawing up its consultation material.
- Transfer cannot go ahead if the majority of tenants are opposed to it.
- A ballot is considered a good way of establishing tenants views, although we are willing to consider other methods.
- An authority is generally advised to wait until it has a place on the LSVT Programme, or agreement to develop an SSVT proposal further, before commencing formal consultation.
- In order to reflect the views of tenants resident at the time of transfer, the authority should seek to minimise the period of time between the ballot and the proposed date of transfer.
- If the period between ballot and the proposed date of transfer extends beyond 12 months, a further ballot may be required, depending on the particular circumstances.
- Promises to tenants should be measurable and deliverable.

10.1 A transfer cannot go ahead unless the authority has consulted the tenants whose homes would transfer and it has been demonstrated that a majority is not opposed. The authority is legally required to make an offer during what is known as the formal consultation period to all tenants whose homes would transfer. In practice, we expect the formal consultation to be preceded by informal, i.e. non-statutory, consultation when the authority introduces and explains its proposals.

10.2 Promises to tenants should be clearly defined, time-related and measurable. Details of how the Decent Homes Standard is to be met within a reasonable time scale should be explicit. If circumstances change we would expect tenants to be consulted and their agreement sought. We would expect the Housing Corporation to monitor such changes to ensure that tenants expectations are fulfilled.

10.3 The consultation requirements are described below. In 1999, we issued some good practice guidance on formal tenant consultation material, based on feedback from tenants who had gone through the transfer process. This is at Annex N.

- 10.4 In carrying out the consultation exercise, authorities should also adhere to the *Code of Recommended Practice on Local Authority Publicity (28)* given in Department of the Environment Circular 20/88. This allows the authority to explain and justify its proposals and ensures that publicity concentrates on facts or explanation or both. It does not, however, oblige the authority to publish the views or opinions of those opposed to transfer or to fund the publication of such views or opinions; nor does the circular apply to tenants or the new landlord.

Tenants consultative groups

- 10.5 Tenants consultative groups can provide a forum for the exchange of ideas. The constitution, remit and funding of such groups should be agreed at the outset. In particular, any arrangements for publicising the views or opinions of consultative groups should be carefully considered, and the provisions of the *Code of Recommended Practice on Local Authority Publicity* should be followed in any publicity issued with local authority assistance.

Multi-lingual consultation material

- 10.6 English may not be the first language of many tenants and an authority should consider therefore the need to produce its consultation material in a number of languages to ensure that all tenants are fully able to understand the implications of the transfer. The range of languages will of course be dependent on the ethnic mix of the tenants involved.

Informal consultation

- 10.7 As detailed in section 4, as well as involving tenant representatives in the decision to pursue transfer and in selecting the prospective new landlord, the authority should aim to involve all tenants with the proposals from an early stage. This process should have started well before an application for the LSVT Programme, or initial information on a proposed SSVT, is submitted. Indeed, one of the information requirements at the application stage is the level of tenant support for the proposals; we would want to see that tenants are not entirely against the concept of transfer.
- 10.8 Experience has shown that there is no one best way to consult tenants, and the techniques used should be tailored to individual circumstances, including the number of properties involved and the geographical spread of tenants. The aim of the exercise should be to give tenants the necessary information to make a well informed and genuine choice. The following points should be borne in mind:
- it is important that all material issued should be accessible, clear and accurate (the authority should correct inaccuracies whatever the source);
 - it should not over simplify the issues at the expense of accuracy and should look at the case for and against transfer;
 - the information should explain the consequences of staying with the authority and of transferring;

- the council should state clearly why it is offering the options to transfer, but tenants must be given sufficient information to enable them to decide whether they agree with the council's point of view;
- any promises regarding repairs and improvements or future service standards should be unambiguous and made in the secure knowledge that they can be fulfilled;
- promises made at the informal consultation stage should normally be carried forward to the formal consultation. If they are not, any changes must be clearly indicated and explained.

10.9 When involving tenants in the decision making process, it is important that all the options for further investment in, and management of, the housing are set out. It is important that tenants should at all times have access to information on the range of investment and ownership options. This is best achieved by ensuring that a full set of information and formal consultation material issued is held by the tenants' organisations, local housing offices and the Independent Tenant Adviser.

Methods of Informal Consultation

- 10.10 Research indicates that, whilst written material is important in helping tenants to make up their minds, a range of methods should be employed to ensure different sections of the community are aware of the proposals and the issues. Pamphlets, leaflets, posters, press advertisements, newsletters, meetings, door-knocking, exhibition caravans and telephone hot-lines have all been used by authorities in the past (a more comprehensive list of possible methods is in Annex D).
- 10.11 Newsletters have been particularly valuable in explaining the transfer proposals step by step, and enable an authority to give straightforward answers to the questions asked by most tenants.
- 10.12 Public meetings or exhibitions and door knocking provide valuable opportunities for face to face contact. Factual briefing of key personnel such as carers, wardens, the DLO and other members of council staff who come into day to day contact with tenants can also be helpful in explaining proposals and reassuring tenants. Other key organisations such as residents associations and individuals such as community elders should be involved from the start. These are often key opinion shapers who must have a clear understanding of the proposal from the Options Appraisal stage. It is often the case that, if this process is successful, it will generate advocates for the transfer proposal.
- 10.13 In many authorities, the production of a short video explaining the transfer proposal has also been helpful. It enables the authority to provide information in a format easily accessible to most tenants.
- 10.14 Where TMOs exist or are proposed, these should be involved from the outset. It is essential that they have a clear understanding of what is proposed and how the interests of their TMO will be protected. In particular, the TMO will want to consider the implications for the housing management responsibilities it carries out under its management agreement with the authority.

10.15 An authority must present an accurate picture to the tenants about the transfer proposal and the implications of staying with the council, but it should not seek to persuade tenants to vote one way or the other. The prospective new landlord and tenants groups can, however, explain to tenants the benefits of transfer, providing its material is fair and accurate (see paragraph 10.16 below).

The role of the prospective new landlord

10.16 Contact between the potential new landlord and tenants ahead of the ballot should be encouraged. Given it is the new landlord who will be charged with the delivery of transfer promises the Office believes that where possible the new landlord should have a role in the development of the proposals and consultation material. In addition to the local authority's material, the prospective landlord may also consider producing material for tenants, to supplement and complement that produced by the authority. As a guide, once the authority has effectively launched the stock transfer proposal, the prospective new landlord (even if it is a shadow organisation) should consider sending additional material. It is very important that the information is consistent with that provided by the local authority and that it is up to date. This will allow the tenants to get an understanding of the nature of the organisation, its structure, ethos, objectives and what it has to offer. Where the prospective new landlord already owns or manages stock, it may be useful to refer to its track record elsewhere.

10.17 ODPM expects the distribution of new material by the prospective new landlord to stop once the Stage 1 formal consultation material has been delivered. However, material can be sent from the prospective new landlord to correct inaccuracies promoted by others.

The formal consultation requirements

10.18 The formal consultation requirements are set out in section 106 of and Schedule 3A to the Housing Act 1985 (as inserted by section 6 of and Schedule 1 to the Housing and Planning Act 1986). The required process has two stages.

Stage 1 Notice

10.19 The authority must first serve a notice on its secure tenants and those with an introductory tenancy setting out:

- the details of the transfer proposal, including the identity of the prospective new landlord(s);
- the likely consequences of the transfer for the tenant; and
- the effect of the provisions of Schedule 3A (i.e. the consultation requirements) and the provisions inserted by section 8 of the 1986 Act (i.e. the preserved right to buy).

10.20 This notice is usually referred to as the formal consultation or offer document. It must invite representations within a reasonable period, which we consider to be at least 28 days. The authority is required to consider any representations made within that period and may wish to revise its proposals accordingly. Where the authority proposes to change the terms of the offer following Stage 1, the revised terms must be clearly set out in the Stage 2 notice.

Stage 2 Notice

10.21 The authority is required to serve a further written notice:

- describing any significant changes in the proposal;
- saying that objections may be made to the Secretary of State within 28 days or a specified longer period; and
- drawing attention to the fact that the Secretary of State will not give his consent to a transfer if it appears to him that the majority of tenants are opposed to the transfer.

10.22 We would normally expect the ballot to commence immediately after the issue of the Stage 2 notice and the 28 days, or other specified period, in which objections may be made to the Secretary of State, to run concurrently with the ballot (see paragraph 10.26 below). **A local authority needs to work with stakeholders to** decide on the length of the ballot period and how it is conducted. The period needs to be appropriate to the local circumstance. It is unlikely the Office would accept a period of less than 21 days for a whole stock transfer. There may be reasons why a shorter period is appropriate for a partial or small scale transfer and these should be discussed with and approved by ODPM.

The Structure and Content of the Formal Consultation Document

10.23 An authority should draw up its formal consultation document in accordance with the good practice guidance at Annex N. The document should set out clearly the terms of the proposed transfer including tenants rights under the assured tenancy regime; it should compare those rights to the rights of secure tenants. The document should explain that, although transferring tenants will have broadly similar rights, some rights will be lost while **others will be provided by contract rather than by statute. Any promises made at the informal consultation stage should be incorporated into the formal consultation material.**

Establishing tenants views

10.24 The Secretary of State cannot grant consent to transfer if it appears to him that the majority of the tenants are opposed to it. Whilst not a legal requirement, we consider that a properly conducted formal ballot, carried out under the auspices of an independent body, is an effective way in which an authority can demonstrate satisfactorily that a majority of tenants are not opposed to the transfer.

10.25 Where an authority wishes to use an alternative method of establishing tenants' views, it will be required to make a case to ODPM in advance of any action, demonstrating why a ballot would not meet its needs.

A ballot of tenants

- 10.26 We consider that a simple majority of those voting being in favour be sufficient to indicate tenant support for a transfer. The Stage 1 and Stage 2 notices should give an indication of the likely timing of the ballot and explain the mandate from tenants required by the authority to proceed with its proposals which should bind the authority's future action.
- 10.27 The ballot paper should be delivered to each tenant under separate cover from any consultation material. During the ballot period, an authority should generally refrain from issuing any further material about the proposed transfer. There may be instances where the authority considers it reasonable to clarify certain aspects, for example where a tenants organisation or anti-transfer group has made inaccurate claims about the process, and an authority may wish to issue a statement which addresses the points made. It should not, however, raise any new issue.
- 10.28 We believe it to be acceptable that any show homes remain open during the ballot period.
- 10.29 The authority should inform the DHD policy adviser and the programme administrator, Sally Hunt, CHTF adviser and the Housing Corporation STRU of the result of the ballot as soon as it is known. If the majority is in favour, and the authority decides to proceed with the transfer, formal notification of the ballot result will be required in support of the consent application.

Who should be consulted?

Tenants

- 10.30 The statutory consultation procedures are concerned solely with secure tenants or those with an introductory tenancy. This will include tenants against whom there is a suspended possession order, unless that tenant is not complying with the order and the authority has taken steps to have a date set for possession. There are likely to be occasions when someone takes up a new tenancy during the formal consultation period. Provided that they have taken up their tenancy before the Stage 2 notice has been issued, they should be included in the ballot.

Leaseholders

- 10.31 There are no statutory requirements for consulting long leaseholders (i.e. people who have exercised their Right to Buy (RTB) on a long leasehold basis or have bought from those who have exercised their RTB) as the terms of their lease would not change if the freehold transferred to an RSL. However, an authority should have engaged leaseholders in the development of the transfer proposal as they are important local stakeholders. The authority will also need to involve leaseholders in the detail of the transfer proposal, where it would result in leaseholders being asked to pay a larger than normal amount towards the cost of repairs or improvements, for example to communal areas of blocks of flats.

10.32 Many leases only allow for recovery of repair charges, and works promised to tenants in the offer document might be improvements, such as CCTV, door entry systems, etc. Other types of works are not easily categorised as repairs or improvements, so recovery from leaseholders is not always possible. Even if the work is rechargeable, there may be limits on the amount leaseholders can pay, and these may not allow full recovery. In these cases, if the authority is proposing to include such works as part of its offer document, then it should clarify where the costs to the leasehold properties will fall. The terms of the lease will be critical, so the authority's legal advisers need to be consulted about what elements can be re-charged, and these can be costed by cross referencing to the Stock Condition Survey. It is likely that local authorities will not have just one form of lease, and many leases only allow re-charges for repairs rather than improvements. Much of what tenants will expect will be improvements. These will be part of a legally binding promise in the formal consultation document, so because the authority is committing itself and the RSL to carry out these works, it must be clear exactly how any shortfall in leaseholder contributions will be funded.

10.33 There is no limit on what leaseholders may be re-charged. The £10,000 cap that was applicable in ERCF schemes does not apply to any subsequent LSVT schemes. The freeholder should therefore assume recovery of the full amount that the lease provides for.

Commonhold and Leasehold Reform Act 2002

10.34 One of the aims of housing transfer is to secure the regeneration of areas, and leaseholders are important stakeholders in the process. Transfer proposals need to address their concerns if proposals are to go ahead smoothly. In addition, leaseholders have a number of rights which have been improved by the Commonhold and Leasehold Reform Act 2002. Section 151 of this Act replaces Section 20 of the Landlord and Tenant Act 1985 in respect of consultation procedures for works. It broadens the approach for leaseholder consultation on management and repairs contracts and includes the need to consult on long-term agreements in certain circumstances. Of course, it still requires landlords to carry out comprehensive consultation before work starts. The Egan and partnering arrangements will have to cater for this, in terms of timescales and documentation. In some areas depending on the stock profile and the number of leaseholders, this could have a significant effect on the planned works programmes that underpin the offer document. Local authorities and receiving landlords need to be confident that any promises made to tenants can be delivered without compromising leaseholders legal rights.

10.35 The qualifying rules on enfranchisement for flats have been relaxed. They now allow leaseholders to purchase the freehold if at least two-thirds of the flats in the block are held on long leases, and the number of tenants participating number at least half (rather than two thirds) of flats in a block. Also, there is no longer any residence test. As a result, an LSVT landlord may have to sell the freehold of blocks where this would not have been the case before, so there should be a clear strategy to deliver pre-ballot promises to tenants in such blocks where the LSVT may possibly be another lessee rather than the freeholder.

- 10.36 Leaseholders should be kept informed of progress on the transfer proposal and told that they may make any objections to the transfer to the Secretary of State, who will take them into account when making his decision on the consent application. Where there are significant number of leaseholders, the authority should consider producing a separate leaseholder information pack.
- 10.37 Although an authority may, in order to ascertain their views, ballot leaseholders about a transfer proposal, it is not obliged to do so and it should conduct such a ballot as a separate exercise to ensure that tenants views can be clearly demonstrated.

Other Groups

- 10.38 An authority may wish to seek the views of other groups affected by the transfer proposal, for example occupiers of leased premises and hostels, but should make clear how these views will be taken into account. Whilst the consultation exercise must involve early discussions with any existing Tenant Management Organisation (TMO), tenants whose property is managed by a TMO should not be balloted separately from other tenants as all secure tenants should have the right to vote individually rather than as representatives or members of a specific organisation. Some authorities consider consulting those on their waiting list. However an authority will wish to consider what it intends to find out by doing so.

Timing of formal consultation and ballot

- 10.39 The aim of the formal consultation exercise is to seek tenants views on the terms of the proposed transfer. It is important that the information given to tenants and promises made regarding future policies on rent and repairs and levels of service are well founded. Formal consultation should not start, therefore, until the authority is sure that its proposal accords with the policy set out in this guidance. We consider that securing a place on the LSVT Programme, or ODPM agreement to develop a proposed SSVT further, is the best way of confirming this to be the case.
- 10.40 An authority deciding to hold a ballot prior to this does so at its own risk and should note that a vote in favour will not guarantee a place on the LSVT Programme or that agreement to proceed with an SSVT proposal will be given. In any event, the authority should not start consultation until it has valued the property and has a clear understanding of the nature of the repair and improvement package and the service that would be provided by the prospective new landlord. Should consideration of the details of a transfer proposal reveal aspects that do not comply with policy, further consultation may well be required before the transfer can proceed.
- 10.41 In order to ensure that it reflects the views of tenants resident at the time of transfer, an authority should seek to minimise the time between ballot and the transfer. Ideally it should be around 6 months. In cases where the period between the ballot and completion of the transfer extends to 12 months, which may be the case in some of the more complex urban transfers, the Secretary of State will take a view on whether the original ballot reflects the views of current tenants and may require that further consultation be undertaken. Where the period extends beyond 12 months, a further ballot may be considered necessary, depending on the particular local circumstances.

Sharing consultation material with ODPM and the Housing Corporation

- 10.42 An authority is required to give ODPM and the Housing Corporation an opportunity to comment on its consultation material before it is issued. This is to enable identification of anything which is unlikely to be acceptable to the Secretary of State when he comes to consider the authority's consent application, or flag up any concerns about the adequacy or comprehensiveness of the material.
- 10.43 CHTF advisers should be involved with the authority in the development of the consultation material. Draft material should be provided to the relevant CHTF adviser, and to the Housing Corporation STRU and Housing Corporation Field Officer, in sufficient time for them to give it proper consideration and offer further comments, **allowing at least 5 working days for informal material and at least 10 working days for the formal consultation document.** It will be the CHTF adviser's responsibility, once they have ascertained that they are content with the consultation material, to clear it with the DHD policy adviser. Sufficient time for consideration of draft consultation material by ODPM and the Housing Corporation should be allowed for in any project management plan.
- 10.44 The authority should provide both the CHTF adviser and the DHD policy adviser with final copies of all consultation material as and when it is issued. Subject to the majority of tenants indicating they are in favour, and the authority deciding to proceed with the transfer, it will be required to certify to the effect that it has complied with the requirements in Schedule 3A to the Housing Act 1985 in support of the consent application.

SECTION 11

Securing funding

KEY POINTS

- This section incorporates the funding proposals set out in the consultative paper *Housing Transfer: Removing barriers in the transfer process to facilitate innovative private finance and deliver successful transfers (2)*.
- In the Housing Corporation's registration criteria there is no longer a requirement for a fully funded 30-year Business Plan but a new landlord should have in place a 30-year funding strategy agreed with the Housing Corporation and that will deliver the Business Plan.
- An authority and prospective new landlord should engage with funders at the earliest opportunity.
- Competition for funding should help ensure best value for all parties.
- The prospective new landlord should seek to have in place at the earliest opportunity a senior officer with financial experience to work on the business plan and funding prospectus.
- An authority and prospective new landlord should take responsibility to ensure the availability to funders of quality stock condition and demand surveys.
- The prospective new landlord should be an intelligent customer, challenging its funding advisers and arrangers proposals.

11.1 The acquiring landlord will have to raise finance to fund the purchase of the housing and the repair and improvement Programme. An authority proposing transfer should have invited views at an early stage about the transfer's fundability as part of the Options Appraisal process. As soon as the new landlord has been chosen they should appoint funding advisers or arrangers. The landlord should then engage in dialogue with funders during the development of the transfer and should consider tendering for a funding partner during this stage. Involving funders at an early stage in the process will give them the opportunity to feed in to the business plan, the transfer price and the funding strategy as these are developed. Where it would add value, pre-ballot expenditure may need to be considered to facilitate earlier involvement of funding advisers or arrangers. There may also be a need to establish the shadow transfer association at an earlier stage in the process to act as the "client" of the funding arranger. Certainly, once there has been a positive ballot, the prospective new landlord should move quickly to work with funders to determine the funding arrangements for the transfer.

- 11.2 Up until now the Office and the Housing Corporation have required all transfer landlords to have a fully funded business plan from the outset. This is now seen as too rigid a requirement and a potential barrier to the development of alternative funding models. A fairly standard funding model has become the preferred option for lenders and borrowers alike. Removing this requirement may encourage the development of more innovative funding structures from a wider range of lenders. The requirement for full funding could also be seen as inefficient and potentially more costly than necessary albeit offers more certainty and can enable new landlords to lock into attractive loan terms. The Housing Corporation will now require a transfer association to have a funding strategy for the business plan delivery, with an initial funding tranche in place on day one to meet the transfer price and any expenditure necessary to deliver the transfer promises made to tenants.

Competition for Funders

- 11.3 ODPM expects the new landlord to hold an open competition for funders, inviting as wide a range of lenders to bid as possible. There may also be a range of approaches to providing the finance that could be considered. The basis for competition should take account of interest rates, fees and products and the selection criteria for a funder should weight each criteria and be clear how the criteria can be measured during the selection process. To achieve the best possible value for money, the Housing Corporation will expect funding arrangements and their covenants to complement the Business Plan as part of the registration process.

Drawing up a business plan

- 11.4 Details of what a business plan should cover are in Annex O. Funders requirements should be borne in mind when drafting the business plan, as experience suggests that they will have strong views on the sort of package that they will find acceptable. The lending institution will have to be satisfied that their criteria embraced in covenants are being met. This may have a limiting effect on the landlord's ability to meet the terms of the draft business plan.
- 11.5 The RSL proposing to purchase local authority housing should develop, and not inherit, the business plan. Therefore the RSL should also be involved in decisions about the promises agreed with tenants ahead of the ballot and that will need to be included in the business plan. Before agreeing to an authority going to ballot both the Office and the Housing Corporation will require evidence of involvement of the new landlord's management in shaping the transfer proposals and the supporting business plan. The Housing Corporation will also closely examine the content of the business plan when assessing whether a new organisation is ready for registration.

Drawing up a funding prospectus

- 11.6 A funding prospectus should be drawn up setting out the details of the new landlord's funding strategy and the financial requirements. It should cross-refer to the business plan and typically cover the areas listed in Annex O.

Obtaining financial advice

11.7 The acquiring landlord will operate in a financial environment very different from that of the authority. It is therefore important that it has early and continuing access to relevant financial expertise. The shadow RSL should have in place a permanent finance officer with the necessary skills and experience but where this is not possible engage experienced finance staff on short-term contracts, appoint interim financial consultants (with transfer experience) to act as managers for RSLs or contract the management responsibility to a financial consultancy firm (where possible it is desirable that this should be from a different firm from that giving financial or funding advice to avoid conflicts of interest). The shadow RSL should also seek to appoint some board members with experience of securing private finance.

What funders look for

11.8 Both the Housing Corporation and potential funders will expect committee members to have the necessary range of skills and experience to run an independent social landlord business effectively. One of the major factors that funders look for is the strength of the management team. Additionally, landlords should always check with potential funders that the proposed constitution of the board of management is acceptable.

11.9 Funders tend to look for the following:

- management track record, leadership, financial expertise, treasury management, confidence in the management team;
- business plan viability, income and expenditure ratios, peak debt, level of borrowing, adequate provision to ensure the property is maintained in good condition for the period of the loan, gearing;
- security which includes loan to income ratios, the nature of the stock, future demand, social and economic profile of tenants, warranties offered by the authority and the RSL;
- information on rent levels within the authority area for all types of tenancies;
- quality work assessing current and future demand, with rigorous policies to address the demand issue;
- the number of leaseholders, in order to estimate capacity to recover common repair costs.

- 11.10 Funders will price at a higher return transfers which involve mainly poor condition stock requiring major investment, or stock of non-traditional construction without guarantees and/or insurance. Attracting private funding for transfer of multi-storey blocks can be particularly problematic. Although the blocks may be in sound condition, financial institutions generally have concerns about funding them because the construction methods used make them often expensive to repair and because many authorities have found the management of these blocks difficult, reflecting the mix of tenure and the special demands of high rise living. There are also questions about long term demand. Each project should be considered on its merits and discussions should take place with a wide range of potential funders to help secure the most appropriate funding package in the circumstances.
- 11.11 The new landlord has to agree a financial package that will shape the early years of the new organisation. It is a matter of concern, therefore, that a frequent criticism by funders is a lack of ownership by prospective new landlords of key reports, such as the housing needs assessment and their apparent willingness to accept at face value advice that lacks quality, intellectual rigour and a clear acknowledgement of current problems. Prospective new landlords should seek to address these concerns.
- 11.12 The acquiring landlord will have to raise finance to fund the purchase of the housing and the repair and improvement Programme. As detailed in Section 6, an authority proposing transfer should have invited views at an early stage about the transfer's fundability. Once there has been a positive ballot, the prospective new landlord should move quickly to work with funders to determine the funding arrangements for the transfer.

Accessing additional sources of finance

- 11.13 ODPM published the report of a research study *Sources of Finance for Housing Stock Transfer (4)* in September 2002. The study looked at the market for funding stock transfers and discussed a number of issues relevant to LSVT RSLs securing cost-effective private finance.
- 11.14 The study found that the funding market generally offered finance that represented good VFM, although identified a number of barriers that might jeopardise this for some stock transfers both now and in the future. How these barriers might be overcome were discussed, and many of which were addressed in the consultative paper '*Housing Transfer: Removing barriers in the transfer process to facilitate innovative private finance and deliver successful transfers (2)*' The following issues are considered in detail in the Sources of Finance Report:
- the risks faced by LSVT RSLs in poor urban and large metropolitan transfers;
 - the relative merits of full or partial funding;
 - business planning and information issues;
 - transfers to existing RSLs;
 - the possibility of an intermediary body to issue bonds for financing transfers;

- some alternative financial models for stock transfer.

11.15 The report provides a good deal of information and advice about financing issues which authorities and RSLs considering stock transfer might find valuable. A full copy of the report is available on the ODPM website at http://www.odpm.gov.uk/stellent/groups/odpm_housing/documents/page/odpm_house_602596.hcsp

Funding fees

11.16 Traditionally the payment of loan arrangement fees, the fee charged up front by a funder for putting in place loan finance, has been included in the transfer set up costs and netted off the receipt. This may distort competition and, in part, perpetuates the traditional structures of funding offers. It is also thought this arrangement does not encourage any one party within the transfer process to take ownership of the issue of funding fees. The Office believes the RSL should be responsible for the arrangement fees, which would address these issues and be in line with normal commercial practice. While changing the arrangements for the payment of arrangement fees may not necessarily make a difference to the overall funding structure, (given that the higher costs to the RSL may well result in a lower transfer price), it should make for clearer accountability bringing together ownership of the decision making process and the payment. A benefit of this change may also be smaller loan facilities being put in place initially and a more transparent competition between lenders on all in costs rather than primarily on margin. The fees may be met from the initial draw down of the loan post transfer or from a loan from the local authority pre-transfer. When considering consent applications from local authorities for assistance to the new landlord to meet funding fee costs prior to transfer, the Office will expect applications to be for loan rather than grant assistance except in exceptional circumstances.

SECTION 12

Setting up a new landlord

KEY POINTS

- Consent to transfer will not be given until a landlord is registered with the Housing Corporation.
- There are three generally accepted organisational structures for transfer RSLs.
- RSLs must be independent from the authority and other organisations (except if a subsidiary of another RSL).
- ODPM must be informed of any contracts into which the authority proposes to enter with the new landlord.
- An authority can offer financial assistance to the new landlord to cover setting up costs.
- Under its regulatory framework, the Housing Corporation will undertake a series of visits to a new RSL after transfer.

12.1 Where it is proposed that transfer would be to a newly established RSL, a significant part of the transfer process involves setting up the new landlord. This section provides details on some of the issues connected with establishing a new RSL. It is not comprehensive however and an authority proposing to set up a new RSL should refer to the Housing Corporation's *Registration with the Housing Corporation (48)*, which sets out the 2004 Registration criteria, registration requirements and guidance for stock transfer and general applicants seeking to become registered social landlords.

Registration with the Housing Corporation

- 12.2 Registration with the Housing Corporation commits the landlord to complying with the registration criteria and to operating in accordance with the Regulatory Code for RSLs. The current registration criteria were set in April 2004 and are set out, together with guidance on the registration process in the Corporation's publication *Registration with the Housing Corporation (April 2004)*. To be eligible for consideration for registration, organisations must have an eligible constitution, as required by Section 2 of the Housing Act 1996. This defines them as not-for-profit bodies. Not for profit in this context does not mean that the RSL may not operate so as to make a profit or surplus. It means that it must have a constitution that does not allow payment or dividends to members nor the distribution of assets or surpluses to members. RSLs may be organisations constituted under either the Industrial and Provident Societies Act 1965 or the Companies Act 1985 and have charitable or non-charitable status. The principal role and main business objective of an applicant must be the provision of social housing. The Act requires that to be eligible, a body (except for Charitable Trusts) must have amongst its objects "the provision of housing for letting" and its other objects are restricted to those listed in S2(4) of the Act and subsequent statutory instruments setting out permissible purposes for registered social landlords.
- 12.3 In the interests of consistent standards across the social rented sector, the Housing Corporation expects landlords seeking registration to meet the same criteria regarding their governance, governing body, financial and performance criteria. Organisations planning to seek registration should contact the Housing Corporation Stock Transfer Registration Unit (STRU) as early as possible to ensure they understand the registration process and what they need to do to be certain of meeting the registration criteria. The Housing Corporation's officers will consider the composition and expertise of the shadow RSL board, how it is establishing sound governance arrangements and managing itself over the months leading up to consideration of the formal registration submission just prior to transfer.
- 12.4 Prospective new landlords must have had a final pre-registration compliance visit at the completion of the pre-registration assessment period of the registration process (see paragraph 13.5 below). Generally this should produce a positive assessment allowing the authority to proceed to finalise the transfer. Registration will not be confirmed until the Housing Corporation's Registration Committee considers that the organisation complies with the registration criteria. As transfers become more complex, with both urban authorities and group structures, so all parties need to allow time for the establishment of the new landlords organisational framework and developing the business plan for the new landlord. During the registration process the draft Business Plan assumptions and funding strategy should be discussed with STRU at an early stage. Additionally, agreeing a clear and detailed timetable with STRU and adhering to this is vital. A place on the LSVT Programme should not be seen as assurance that registration of the proposed transfer vehicle is guaranteed. The key guidance on registration will come from regular contact with the Stock Transfer Registration Unit and from the Corporation's publication *Registration with the Housing Corporation* available for download from its website. *Getting the Green Light (93)* from the NHF which outlines the registration process.

The registration process

12.5 The main milestones involved in the registration process are:

Pre-ballot/early contact

- discussion of the principles and concepts of the Housing Corporations registration criteria, Regulatory Code for RSLs, registration process and timetable;
- discussion of the proposed nature/role of the applicant entity and specific expectations of the regulatory and registration framework for the type of applicant proposed;
- submission of preliminary application form (APP1) and assignment of a lead officer from the STRU; and
- Housing Corporation (STRU officer) attendance at an early meeting of the prospective new landlord's governing body.

Towards registration after the ballot

- formal detailed registration application (APP2) assembled;
- detailed constitution, governance arrangements, organisational control, policies and procedures, business planning and financial arrangement put in place;
- the Registration Committee will consider a preliminary assessment of progress of the proposed new RSL several months ahead of the meeting where formal registration will be considered;
- Housing Corporation (STRU) regular pre registration visits/meeting with the project team and/or shadow board culminate in a final compliance visit and a formal feedback report is issued to the applicants board;
- if satisfactory, the STRU officer's registration assessment and report against the registration criteria and confirming the applicants ability to meet the regulatory code for RSLs, will be submitted for decision to the Registration Committee of the Housing Corporation.

After registration

- regulatory plan set up with Housing Corporation lead regulator and financial regulation team;
- quarterly review or more regular meetings held to monitor implementation of the plan, delivery of tenants promises and progress against undertakings given at registration;
- regulatory and statistical returns submitted;
- financial accounts/forecasts reviewed.

- The regulatory plan will normally provide for a fuller regulatory review visit to be carried out within 12/15 months of registration. This will focus on plan implementation, transfer promises and the initial effectiveness of the governance arrangements recognising that it is a new, start up RSL after one year.

12.6 It should be noted that the Housing Corporation will not register a landlord until the stock valuation/proposed sale price agreed in the applicant's business plan has been agreed by ODPM and confirmed as consistent with the final STM model submitted by the authority at the end of the transfer process.

Types of structure

12.7 The Housing Corporation's registration criteria do not place any restrictions on the size or structure of an RSL. However, a number of criteria will have a bearing on the acceptability of certain structures, including value for money for tenants and the public purse, provision of affordable rented housing, involvement of tenants, community empowerment, continuous quality improvement, facilitation of regeneration and social inclusion. You may wish to refer to *Good Practice Briefing Note NHF/6 Regulation overview for RSLs (87)* issued by the National Housing Federation.

12.8 Organisations may choose to take on one of a number of forms: a single centralised organisation, a single decentralised organisation or a group structure. If a group structure is proposed the registered entities in the group will need to comply with the Housing Corporations' group structures policy as applied to RSLs.

A single centralised organisation

12.9 A single centralised organisation is the most common structure. The majority operate within a defined geographical area and are governed by tenants and other members of the community.

A single decentralised organisation

12.10 An alternative to a single centralised organisation is a decentralised structure. This is where the RSL comprises a number of operating divisions which are not separately legally constituted as societies or companies. Depending on local circumstances, operating divisions may exist within the RSL and be given a high level of delegated authority by the main governing body of the RSL, for example they could have control of local budgets for reactive repairs or manage all development work in their area. These operating divisions have their own management committees, which can be elected locally. This enables the organisation to benefit from economies of scale whilst maximising the opportunities for local involvement in the management of houses and regeneration of local communities. It is probably most suitable where the operating divisions cover fairly small pockets of stock situated within a distinct community.

A group structure

- 12.11 In some instances, the acquiring landlord may form part of a group structure of other newly formed transfer landlords, of existing RSLs or a mixture of both. In a group structure, each member of the group has its own legal constitution. The group consists of a parent organisation and any number of subsidiaries. Individual members of the group may be registered with the Housing Corporation or may be unregistered organisations, although the Secretary of State will only consider granting consent to the transfer of local authority housing to a subsidiary registered with the Housing Corporation. Each member of the group which is registered with the Housing Corporation will be regulated as a distinct organisation. There are a number of possible permutations for the structure of such groups.
- 12.12 The Housing Corporation's policy is that the objectives for RSLs constitutional or structural relationships with other RSLs and with unregistered subsidiaries should be to:
- protect the public investment in the social housing sector;
 - protect the reputation of the sector and its ability to secure private finance;
 - protect tenant's interests;
 - ensure that the main focus of RSLs (individual and within groups) is the provision of social housing; and
 - allow RSLs to structure their operations in an efficient and business-like way.
- 12.13 The Housing Corporation's circular 6/97 includes the following requirements for relationships between RSLs within a group:
- RSLs must be explicit, in their annual accounts and annual regulatory and statistical returns, about their relationship with other RSLs and other unregistered organisations. This information must include the degree of cross-collateral liability, equity investments in subsidiaries or associates, and any on lending arrangements;
 - RSLs annual accounts must be used to make clear to lenders and other interested parties the status of the entity with which they are dealing and its relationship with the parent and the rest of the group;
 - each RSL within a group should have the potential to be financially viable on a stand-alone basis, although the Housing Corporation is prepared to consider subsidiary viability in a group structure context, initially allowing for the future growth and development of the subsidiary;
 - parent and subsidiary RSLs must have arrangements in place for dealing with situations where board members have a conflict of interest by virtue of their dual board membership;
 - parent RSLs must demonstrate that they can, if necessary, exercise control over their subsidiaries.

- 12.14 It is in meeting the Housing Corporation's group structure requirements that ODPM can be satisfied with a single ballot for the transfer to a group structure. Where the structure does not meet the Housing Corporation group structure requirements, ODPM may require separate ballots for the areas covered by each RSL.
- 12.15 In submitting details of a proposed group structure, authorities must demonstrate that the proposal does not replace one remote and out-of-touch landlord with another. Further guidance on the criteria an authority will need to meet in devising a group structure proposal is at Annex Q.

Independence

- 12.16 The prospective new landlord will have to be able to show that it is independent and free standing. To test this, the Housing Corporation will consider the composition of the governing body, in particular the number of persons associated with the transferring authority and the relationship with the authority, in particular through any continuing provision of services. The authority's membership or shareholding, whether direct or indirect, must be a minority interest.

Composition of the governing body

- 12.17 The composition of the governing body should be such that it has the full range of business skills and financial acumen to be capable of managing a large housing organisation, which is likely to have significant debt at the outset. This will be important not only for the new RSL but also for funders.
- 12.18 It will normally be most appropriate for a transfer landlord's governing board to comprise one-third tenants, no more than one-third local authority nominees, and at least one-third independent members. The Board should ensure that the total level of local authority persons or nominees on the Board does not exceed 33%, as such members will be classified as a local authority person under definitions set out in Section 69 (5) of the Local Government and Housing Act 1989, and will be interpreted as prejudicing the body's independence from the authority. Applicants should also note that these definitions encompass Council members of the Authority or a person who has been a member of the Council within the past four years; therefore a tenant who has been a Councillor within the last four years will still count as a local authority person. When considering appropriate independence from the Council at Board level you may wish to refer to *Good Practice Briefing Note NHF/6 Regulation overview for RSLs* issued by the National Housing Federation.
- 12.19 The Housing Corporation will consider proposals involving tenants forming a majority on the governing board, provided that the following conditions are complied with:
- the governing body overall is suitably skilled and experienced;
 - the governing body includes at least one third independent members (where a co-op is seeking registration, this requirement does not apply).

12.20 Where a tenant majority is likely to be the preferred options, the authority should at the earliest opportunity discuss proposals with the Housing Corporation, as it will need to take a view on how appropriate arrangements are for the Board to review its effectiveness and ensure that it is able to appoint members who bring appropriate skills and expertise that the board needs irrespective of the nomination mechanisms from stakeholder groups. This is likely to take into account the likely size of the RSL and complexity of the tasks ahead.

Minority protection agreements

12.21 Generally, lenders are comfortable with the third, third, third model of management committees. Where this is not the case, it may be necessary to have an agreement protecting the interest of a minority group on the governing body. Such agreements are often known as minority protection agreements (MPAs). In practice, MPAs potentially prejudice the nature of the landlord's constitution because they bind a particular constituent group to act in a particular way regardless of their rights under the governing instrument. However, such agreements are acceptable, provided they do not:

- prejudice the new landlord's operational independence; or
- give a right of veto to one constituent group of the governing body to the exclusion of other groups; or
- conflict with Housing Corporation registration criteria.

Geographical area of operation

12.22 In some circumstances, such as the transfer of poorer quality stock on an estate or a defined community facilitated by dowry funding, the geographical area of operation will primarily be that of the transferring local authority, enabling it to focus its activities on the overall regeneration of an area. A transfer contract can include a very restricted geographical area of operation, for example the area covered by an estate, for a period of up to five years. As an independent RSL it would not be appropriate to agree a longer term restriction on geographical operations as its commercial/business needs may make it necessary to work in other areas or other activities as circumstances change. It will not normally be appropriate for the constitution to restrict an RSL's area of operation but the transfer contract with the transferring authority may, typically in the income and receipts clause restrict the use of income /receipts from the transferred property to "primarily" being used for housing in the LA area. The word "primarily" is important as a total restriction would be regarded by the Corporation as an operational fetter on the independence of the RSL.

Proposed contracts with the local authority

12.23 Under the Housing Act 1996, authorities are able to provide services to RSLs by virtue of the Housing Act (Consequential Provisions) Order 1996 which applies the provisions of the Local Authorities (Goods and Services) Act 1972 to them.

12.24 The principles that will apply to the provision of services by local authorities are:

- where services have been contracted out or awarded in-house following competitive tendering or Best Value review, these contracts may be carried over to the acquiring landlord. Where an in-house contract period seems excessive, ODPM will expect the period to be shortened. If an authority decides to extend the period of a contract, ODPM may refuse permission to do so if the new timescale would be excessive;
- other services, agreed as part of the transfer package, where no satisfactory alternative exists, should be for no more than 12 months; and
- thereafter authorities may bid competitively to provide services. Commercial rates should be charged for all services provided and the Local Authorities (Goods and Services) Act 1972 should be complied with at all times. The onus will be on the RSL to be assured that the LA provider continues to show best value and that the provision of services has been market tested.

12.25 Where the new landlord proposes to let contracts, the value of which in aggregate exceeds 49% of its operating costs, to a single organisation, the consent of the Housing Corporation will be required. The Housing Corporation will expect the RSL to ensure that the contracts do not fetter the independence of the landlord or create undue dependence on the services of a single third party provider.

12.26 ODPM should be notified of any contractual arrangements that the authority proposes to enter into with the acquiring landlord, including those with a continuing authority DLO. Any such arrangements will have to have been agreed by ODPM before the Secretary of State will grant consent to a transfer.

Selection and transfer of staff

12.27 Selection of staff by the new landlord should be at its own discretion. For a local authority sponsored landlord, the authority may identify key senior staff to act for the new body pending permanent appointments being made. Other staff may be seconded, although with no guarantee of permanent employment. Authorities may wish to refer to *Good Practice Briefing Note NHF/6 "staff handbook" (89)* issued by the National Housing Federation.

12.28 The LA and prospective RSL should also seek to agree on the new structure below the executive team level with due regard to TUPE and the demands of RSL sector recruitment and training strategies.

12.29 Where an authority considers that the sale of the stock amounts to a transfer of undertaking, the authority and the new landlord should consider the application of the Transfer of Undertakings (Protection of Employment) Regulations 1981 (as amended) ("TUPE").

- 12.30 An authority should seek legal advice about the application of TUPE. However, in broad terms, TUPE protects employees' terms and conditions (except occupational pension arrangements) when the business in which they work is transferred from one employer to another and the business retains its identity. If TUPE applies, the transferee employer takes over the contracts of all employees who were employed in that undertaking at the time of the transfer on the same terms and conditions as they were employed by the transferor (except in relation to future occupational pension entitlement relating to old age invalidity and survivor benefits).
- 12.31 The Cabinet Office Statement of Practice on Staff Transfers in the Public Sector (January 2000) sets out a framework for public sector organisations to implement the Government's policy on the treatment of staff transfers where the public sector is the employer or the client in a contracting situation. Although it applies directly to central government departments, agencies and to the NHS, the Government expects other public sector organisations to follow the guidelines set out in this Statement of Practice when any service is being contracted out. Within local government, this is being achieved by means of Directions under the Local Government Act 2003. Sections 101 and 102 of the Local Government Act 2003 confer new powers on the Secretary of State (and equivalent powers on the National Assembly for Wales and Scottish Ministers) to require best value authorities to deal with staff matters in accordance with directions. The intention is to use these powers and directions to secure similar protection for transferring local government staff to that required for central government staff under the Cabinet Office Statement.
- 12.32 A Research Report into the effects of housing transfer on local authority staff was published in August 2003. *Large Scale Voluntary Transfers: Staff Impacts and implications*
- 12.33 Whilst the primary purpose of the transfer is to deliver improved homes and services to tenants, we would expect successor landlords to adopt a recruitment strategy and process based on RSL sector standards and the Best Practice Guidance for RSLs produced by the Housing Corporation.
- 12.34 The appointment of the Chief Executive and the Executive Team is one of the most important decisions the successor landlord will need to make. It should be noted that the Corporation's guidance for RSLs is based on good practice recommendations from employment professionals in the business sector on how companies assure themselves and their stakeholders that the best available candidates are appointed to top executive posts. Usually good practice suggests that the use of external competition when recruiting for senior executives, particularly the Chief Executive post, even when there are strong internal candidates, is the most transparent and effective way of demonstrating that the best available persons have been selected in a fair and professional manner. The prospective new landlord should refer to *The Appointment of RSL Chief Executives (53)* by Succession Planning Associates, November 1999, published by the Housing Corporation. In the case of new transfer landlords, there is also the need to reconcile the chosen recruitment and selection process with any TUPE obligations to existing authority senior staff. So before determining its executive structure and recruitment strategy the shadow board should take legal and professional employment advice. This will enable the Board to assess whether the possible benefits of testing any internal "TUPE" candidates against external competition, outweigh the costs of a possible TUPE claim, and also what the prospects are for external advertising finding other candidates that more fully meet the person specifications they have set.

The recruitment process is a decision for the Board but the Housing Corporation will expect the Board to demonstrate that it has fully considered the options open to it, as well as the TUPE rights of any senior authority officers and decided on a recruitment and selection process which is in the organisations best interests and discharges its legal obligations under TUPE regulations.

12.35 To reach the above position the successor landlord will need to obtain details of the current duties of the council's senior staff and take advice on the legal rights of those council staff in relation to the proposed senior management structure. RSL sector good practice is that all RSL Chief Executive jobs will be advertised externally as well as internally. Generally, any job that is not advertised lacks legitimacy, is not transparent, offends against Equal Opportunities, is open to challenge and, above all, may not lead to the best possible candidate being appointed. If the successor landlord is advised that a current council employee has a TUPE right to transfer into the Chief Executive post, it should make immediate contact with the Housing Corporation to discuss its proposed recruitment strategy and the Options it is considering on the basis of its legal and other professional advice.

12.36 The Corporation will recognise that the landlord needs to reconcile its obligations under TUPE with the benefits of following good practice and the external advertisement route. Determining the executive structure and all executive level job descriptions, as a whole at an early stage rather than sequentially, may enable the landlord to meet its TUPE obligations whilst avoiding a redundancy situation in the event of:

- a) there being a TUPE-matched post available within the executive structure; and
- b) the TUPE-list candidate being unsuccessful in a competition based on external advertisement for the Chief Executive post.

12.37 Staff transfer or recruitment is a sensitive and complex matter. Expert recruitment and legal advice should be obtained and close liaison maintained with the Housing Corporation. Simply accepting TUPE advice and appointing an internal TUPE candidate is not considered good practice. Landlord boards need to consider the legal advice and weigh up the consequences of following it as part of making a judgement as to the suitability of the TUPE candidate and the pros and cons of not having competition for the post and therefore confidence that they have appointed the best available candidate.

12.38 Authorities should be aware of *The Code of Practice on Workforce Matters in Local Authority Service Contracts* (the Code) which came into effect on 13 March 2003. The Code was published as statutory guidance as part of ODPM circular 03/2003, *Local Government Act 1999: Part 1 Best Value and Performance Improvement*. It broadly requires contractors to a local authority to employ new staff on no less favourable terms and conditions than any staff transferred from the local authority as a consequence of the contract, and also to offer them a reasonable pension provision. The Code specifies that it is for use in 'local authority service contracts which involve a transfer of staff from the local authority to the service provider'. Whilst a housing stock transfer to a registered social landlord would not in itself fall within this definition, the Code would apply to any service contracts which a housing transfer or ALMO landlord entered into with a local authority and which involved a transfer of staff.

Establishing arrangements for avoiding conflicts of interest

- 12.39 Once it has identified the prospective new landlord, an authority should ensure that it establishes an appropriate degree of independence to avoid conflicts of interest arising. Some officers and councillors will inevitably have a dual role working for both the authority and the prospective new landlord during the early stages of a transfer proposal and the run-up to the ballot.
- 12.40 It is important that an authority puts in place at the earliest opportunity arrangements for avoiding conflicts of interest. A report on this issue should be taken to the relevant Committee and a copy included when details of the transfer proposals are submitted to ODPM. The report should identify possible conflicts and propose structures and protocols designed to eliminate or minimise them.
- 12.41 The Audit Commission's report on *Improving Services Through Resident Involvement (102)* published in June 2004 concludes that the benefits of tenant involvement in terms of improving housing services can be considerable. In order to maximise the benefits of tenant involvement the report encourages landlords to be clear about why they are involving tenants and they should evaluate their efforts against these objectives. It recommends that the Housing Corporation and ODPM should consider whether current advice and support of the recruitment of tenant board members in LSVT associations and ALMOs is adequate to address the common misapprehension that they are there in a representational capacity. This is currently under consideration.

Members

- 12.42 The implementation in May 2002 of the new ethical framework for local Government has resulted in the simplification of previously complex guidance and regulations that had been in place since 1990. This framework had no effective means of redress for an individual who felt that a councillor had misused his position, and its complexity resulted in ambiguity and widely differing interpretations about what the old codes meant. The introduction of new mandatory codes of conduct, standards and committees within authorities and a new independent Standards Board to investigate alleged breaches of the new codes will help to address these issues and clarify the position for councillors when dealing with conflicts of interest.
- 12.43 Councillors are elected or appointed to represent and serve the community. They should ensure that, in taking decisions, they serve the public interest and not their private interests. This principle underpins both the previous national code of conduct and the new model codes of conduct. More specifically it requires councillors to declare interests they may have in matters under consideration at meetings of the council. However, this requirement does not automatically exclude a councillor from consideration of that matter.

- 12.44 The new code requires councillors to answer two questions; firstly, do they have an interest in a matter under consideration that would affect them, their relatives or friends to a greater extent than others in the authorities area? If that is the case the member should declare his or her personal interest. Secondly, is that interest one which a member of the public, knowing the relevant facts, would reasonably regard as so significant that it is likely to prejudice the member's judgement of the public interest? If that is the case the member should consider their interest prejudicial and withdraw. We believe that these terms will enable councillors to come to a more informed decision as to whether they should take part in discussions or not.
- 12.45 In relation to housing transfers, in our view a councillor's appointment to the role on the transfer body by the authority should not necessarily prevent him/her from taking part in the consideration or decision making process of the council in relation to the transfer, unless the councillor believes that (s)he would have a prejudicial interest in the outcome of that decision.
- 12.46 Furthermore, as the councillor has been appointed to sit on the transfer body by the authority, it is our view that, even when the transfer has taken place that councillor may still be able to take part in the consideration of general matters relating to the body by the council as (s)he remains bound by the provisions of the code of conduct and thus open to allegations of a breach being made if (s)he has acted improperly.

Officers

- 12.47 Since many officers may ultimately transfer to the new landlord, the authority should issue guidance on potential conflicts of interest. Particular care should be taken about conflicts after a positive ballot, when negotiations about the price and terms of the transfer will take place. Authorities should be able to demonstrate a clear split of responsibilities at this stage where staff are temporarily seconded to an RSL to act as executive support to the shadow board prior to actual transfer.
- 12.48 The authority should think carefully at an early stage about the resources it will need to manage the project in relation to the skills needed and level of resources. In particular, after the ballot, officers will be taking on new roles on behalf of the prospective new landlord and their services will no longer be available to the authority. An authority will want to ensure that officers making key recommendations in relation to the transfer are not solely those who would transfer to the new landlord and that officers who are to remain with the authority have a leading role at all times.
- 12.49 The authority should ensure that its arrangements for dealing with potential conflicts of interests are reviewed and updated regularly, and that any subsequent changes are known to all those involved in the transfer.
- 12.50 Councillors who are also members of the prospective new landlord's governing board should be made aware of the Housing Corporation's regulatory requirements relating to the avoidance of conflicts of interest and general corporate best practice.
- 12.51 An authority should consider establishing a steering group to oversee the transfer involving the full range of council interests. The steering group could be chaired by the officer who will lead the negotiations on behalf of the authority post ballot. This will help provide continuity of information and expertise, and help ensure the council gets the best deal.

- 12.52 An authority must also ensure that it has in place arrangements for handling information that is confidential to the authority during the negotiations with the prospective new landlord on the valuation of the stock and the terms of the contract.
- 12.53 The principles described above apply also to the employment of consultants, including legal, financial, stock condition and independent tenant advisers. Arrangements should be put in place to ensure there is a clear separation of interests and that no conflict can arise, including ensuring different firms of consultants are employed by the authority and by the prospective new landlord.

Assistance to cover new landlord set-up costs

- 12.54 Sections 24 to 26 of the Local Government Act 1988 allow a local authority to give persons financial assistance for the purposes of, or in connection with, the acquisition, construction, conversion, rehabilitation, improvement, maintenance and management of any property which is intended to be privately let as housing accommodation.
- 12.55 Where a new landlord is being established specifically for the purposes of transfer, the authority may apply to the Secretary of State under section 25 of the 1988 Act for consent to provide a loan to the prospective new landlord to cover its setting up and pre-transfer costs. The authority should submit an application to the relevant DHD policy adviser, including a schedule listing the categories of expenditure for which the authority wishes to provide assistance, and the amount under each.
- 12.56 Upon receipt of an application for consent under section 25, the DHD policy adviser will examine the associated schedule to check that it includes items only connected with the proposed transfer. Possible items include salaries for seconded staff, office rental, IT costs, contribution to the costs of a stock condition survey, stamp duty, registration fees and legal and consultants fees. Funders arrangement fees, which are now to be met by the RSL (see section 12.15), should be separately identified where these form part of an authority's application to provide loan assistance to the RSL under Section 25. The application should not include an allowance for contingencies or items that are not fully described. If acceptable, the policy adviser will write to the authority confirming that consent under section 25 has been granted.
- 12.57 A final application under section 25 may also be submitted with the transfer consent application and, if acceptable, consent under section 25 will be included in the letter granting consent to the transfer.
- 12.58 Historically it has been the practice for authorities to assist the new landlord to meet the cost of repayment of the section 25 loan by abating the purchase price by an amount equal to the loan repayment. ODPM believes this may not be the best way to ensure costs are given proper scrutiny and therefore expects the presumption to be that the loan be repaid unless there are good reasons. Details of section 25 costs are one of the items the authority is required to provide in support of the transfer consent application, together with confirmation of whether it intends to abate the purchase price or not.

Future conduct of the new landlord

- 12.59 The Housing Corporation is responsible for regulating RSLs. The RSL will be required to adhere to the Housing Corporation's regulatory framework, including the Regulatory Code for RSLs or any other successor regulatory code. A senior officer of the Corporation from the relevant field office of the Corporation will be nominated "lead regulator" for the new transfer RSL and will agree a "regulatory plan" with the RSL board, set out the various forms of regulatory contact and explain the main regulatory returns and financial forecasts required. About one year after the landlord has registered with the Housing Corporation, a regulatory review visit will be held assess progress against the agreed regulatory plan and compliance with the Regulatory Code. The Corporation will annually prepare a "Housing Corporation Assessment" of the RSL which will be published on its website. You may wish to refer to *Good Practice Briefing Note NHF/3 Regulation overview for RSLs issued by the National Housing Federation (87)*.
- 12.60 A new monitoring and evaluation framework will be introduced during 2004. All RSLs acquiring housing stock through transfer will be required to adopt the framework. A key objective is that it should be a useful tool for each new transfer landlord and its tenants to track the delivery of the tenants promises made in the transfer consultation, as well as for the Housing Corporation and ODPM to monitor delivery, sector wide and RSL specific. Consent to the transfer will not be granted without a completed baseline for the monitoring having been completed and submitted to ODPM and the Housing Corporation.

SECTION 13

Finalising the tenancy agreement

KEY POINTS

Transferring tenants must be offered a tenancy agreement which:

- Delivers an assured tenancy in accordance with the Housing Act 1988.
- Is compatible with the Housing Corporation's Regulatory Code and Guidance for RSLs.
- Fulfils undertakings made during the consultation period.
- Gives tenants a statutory Preserved Right to Buy in accordance with section 171 of the Housing Act 1985.
- Transferred housing is also subject to the Right to Acquire.

- 13.1 The issue of tenants rights is of particular importance in the transfer process. Local authority tenants are secure tenants but, on transfer to an RSL, they become assured tenants. Before transfer can take place, the new landlord is required to covenant with the authority to offer transferring tenants a new tenancy agreement.
- 13.2 A draft tenancy agreement should be sent to tenants as part of the formal consultation exercise (see Section 10) and the final version must be submitted as part of an application for consent under section 32 and/or 43 of the 1985 Act (see Section 16). The new tenancy agreement should aim to provide similar rights, within a contractual agreement, to those of a secure tenant. The agreement should:
- deliver an assured tenancy in accordance with the Housing Act 1988;
 - be compatible with the Housing Corporation's Regulatory Code and Guidance for RSLs;
 - fulfil relevant undertakings offered to tenants during the consultation period;
 - explain that qualifying tenants will retain a Preserved Right to Buy.
- 13.3 We will normally expect the non-statutory terms of the authority's existing tenancy agreement to remain the same or similar in the new tenancy agreement, unless changes have been explained to, and accepted by, tenants during consultation.
- 13.4 After the transfer has taken place, the new landlord is free to renegotiate the tenancy agreement with every new tenant who is offered a tenancy.

- 13.5 Local authorities should consider the impact of the Unfair Terms in Consumer Contracts Regulations that apply to tenancy agreements. The Office of Fair Trading has issued guidance designed to help landlords and suppliers of model agreements or terms to meet the requirements of the legislation. The Housing Corporation has issued a circular (R5-29/99) to RSLs that advises them to seek legal advice to ensure that their agreements and contracts do not contain terms that could be deemed unfair.

The form of the tenancy agreement

- 13.6 ODPM expects the agreement to:

- set out details of the **rent and any other charges**, the frequency of increases and the notice to be given to the tenant of any changes;
- make clear the **obligations of the landlord**, including the tenant's right to occupy, to information and to be consulted, succession rights and the landlord's statutory responsibilities for repairs;
- explain the **tenants obligations** concerning the use of the property and its state of decoration and repair; the tenants obligations in regard to nuisance and anti-social behaviour; and
- offer to tenants **such other rights** as the acquiring landlord wishes, providing that these are acceptable to ODPM and the Housing Corporation STRU. Whatever rights are offered, they should not threaten the commercial and financial viability of the landlord to a degree ODPM and STRU find unacceptable.

- 13.7 The Housing Corporation can provide advice on drawing up the tenancy agreement.

Preserved Right to Buy

- 13.8 When a local authority transfers housing to an RSL, the secure tenants who transfer will generally have the statutory Preserved Right to Buy (PRTB). This means that they retain their right to buy even though they have become assured tenants. However, there are some differences between a tenant who has the PRTB and one who has the RTB. These are listed below.

- 13.9 It should be noted, and explained to tenants early in the consultation period, that the effect of the Preserved Right to Buy changes the cost floor that may affect the price paid. This is because:

- the cost floor rule (this lets the landlords reduce discounts because of works carried out to a property) allows landlords to take account of works carried out over a 15 year period from the point of transfer rather than a 10-11 year period for a local authority; and
- new landlords are allowed to take account of works initially required to the property after transfer.

13.10 It should also be explained to tenants that:

- there is no right to the rent to mortgage scheme and service charge loans under the Preserved Right to Buy; and
- that if tenants transfer to a different Housing Association they will lose their Preserved Right to Buy.

Voluntary disposals on equivalent terms to the Right to Buy

13.11 Under General Consents local authorities or registered social landlords may dispose of dwellings to individual tenants on terms which are equivalent to the Right to Buy (see General Consents A and B under section 32 of the Housing Act 1985 issued on 4 February 1999, and General Consent B under section 133 of the Housing Act 1988 issued on 27 June 1997, respectively).

13.12 The Government's proposals for modernising the Right to Buy will affect the General Consents.

13.13 In March 2003, the Government reduced to £16,000 the maximum discount available to tenants in 41 areas in London and the South of England that were subject to the greatest housing market pressure. It has also made it easier for local authorities to impose restrictions on the subsequent resale of homes in rural areas purchased under the Right to Buy scheme.

13.14 The Housing Bill, which is currently being considered by Parliament, proposes further changes to the Right to Buy and to voluntary disposals by local authorities and by registered social landlords. They include:

- extending from two years to five years the period that a tenant must spend qualifying for the Right to Buy;
- extending from three years to five years the period during which owners must repay their discount if they choose to resell their home, and base the amount to be repaid on the resale value of the property;
- requiring tenants who enter into 'deferred resale' deals with companies to repay some or all of the Right to Buy discount they have received, as if they had sold the property in the conventional way;
- requiring owners who wish to resell properties sold under the Right to Buy up to 10 years previously to offer them back to a local social landlord before reselling on the open market;
- exempting from the Right to Buy properties scheduled for demolition;
- shortening the deadline before which a landlord can serve a 'first notice to complete' on a tenant from 12 months to 3 months.

13.15 If these proposals are agreed by Parliament, they will take effect for England and Wales two months after the Bill receives Royal Assent (eight months in the case of the Rent to Mortgage scheme). Royal Assent is expected by the end of 2004. However, the changes will not be retrospective, and so will not affect arrangements entered into before they come into force. The General Consents will be amended to reflect the changes.

Right to Acquire

13.16 The Housing Act 1996 (sections 16, 17, 20, and 24 to 25) confers a statutory Right to Acquire for eligible tenants of RSLs to purchase their home. The scheme applies to homes built or acquired with public funds from 1 April 1997. This includes housing transferred from a local authority to an RSL on or after the same date. Thus housing, with certain exceptions, transferred after 1 April 1997 will be subject to the Right to Acquire.

13.17 The exceptions include houses in designated rural areas (generally those with a population of 3,000 or fewer), groups of homes for the elderly, supported housing and any property valued at or below the landlords loan for that property. Full details of the exceptions are set out in the Housing (Right to Acquire) Regulations 1997 (SI 1997 No 619) and the various Housing (Right to Acquire or Enfranchise) (Designated Rural Areas) Orders. Tenants with a statutory Preserved Right to Buy will retain this right, and will be able to buy under either the Preserved Right to Buy or the Right to Acquire, but not to combine the two.

13.18 The Right to Acquire scheme offers tenants a discount of generally between £9,000 and £16,000 depending on the local authority area. The discount is funded by a grant from the Housing Corporation to the RSL. If a landlord does sell, it will receive therefore full market value in the form of a sales receipt from the tenant and a grant from the Housing Corporation equal to the discount. The net sales proceeds from Right to Acquire sales are required to be kept in a separate account (the Disposable Proceeds Fund) and used by the RSL to provide replacement property for social letting to help those in housing need. Net sales proceeds comprise sales proceeds and grant towards the discount less permitted deductions. The replacement property would normally be in the same local authority area, retaining the benefit of social housing for the local community. The discount for each area is set by Statutory Instrument, the current being The Housing (Right to Acquire) (Discount) Order 2002 No. 1091. Details are published on HMSO's website at: <http://www.legislation.hmso.gov.uk/si/si2002/20021091.htm>. The discount rates may be varied by subsequent orders.

13.19 For properties not eligible for the Right to Acquire scheme e.g. older properties built or acquired prior to 1 April 1997, a voluntary scheme operates at the discretion of RSLs. Details of the arrangements for the payment of Voluntary Purchase Grant to RSLs are set out in the Housing Corporation's Capital Funding Guide available on the Corporation's website at www.housingcorp.gov.uk. RSLs are invited to bid for funds to enable them to offer discounts to tenants who wish to buy their home and are not eligible for the statutory scheme.

SECTION 14

The Local Authority's housing role and functions after transfer

KEY POINTS

- After stock transfer, a local housing authority retains all statutory functions in relation to homelessness and the allocation of housing; in considering its plans for transfer it is essential that an authority plans for its role after transfer to take forward broad-based strategies.
- Local housing authorities are required by law (Homelessness Act 2002) to have a strategy for preventing homelessness and for ensuring that accommodation and any necessary support will be available to everyone who is homeless or at risk of homelessness in their district.
- Certain functions may be discharged in-house or contracted-out.
- Decisions on whether to retain in-house or contract out housing functions should be made on a Best Value basis, with consideration given to retaining functions in-house, contracting out to the stock transfer landlord or contracting out to another agency.
- Local housing authorities remain statutorily responsible for any homelessness and allocations functions that are contracted out.

14.1 Where homelessness and/or allocations functions are contracted out, authorities must have adequate monitoring and quality assurance mechanisms in place to ensure their statutory duties are being fully discharged. Nominations agreements should be drawn up with due regard to the statutory obligations of the local authority's and the RSL's statutory obligations, the Housing Corporation's Regulatory Code and to any homelessness or allocations functions that have been contracted out to the stock transfer RSL or any other party.

Ensuring continued housing services post-transfer

14.2 Following transfer, local housing authorities retain an important strategic and enabling role, and retain all statutory obligations in relation to homelessness, the allocation of housing and private sector housing. Many of these services are required by statute and the Secretary of State will not grant consent to the transfer if the authority cannot demonstrate convincingly that they will be provided satisfactorily in the future. Performance in these areas will continue to be a part of a post-transfer authority's Comprehensive Performance Assessment and future Best Value reviews.

Strategic role

- 14.3 Transfer provides an opportunity to clarify and strengthen an authority's strategic housing role. Provision of adequate resources (including staffing resources) will be vital in dealing with the wider housing market in the area and, in particular, handling the authority's relationship with the new landlord(s) and other local housing providers.
- 14.4 In its report on housing services after stock transfer *Housing After Stock Transfer; Audit Commission 2002 (100)*, the Audit Commission recommends that, in preparing for transfer, councils should ensure that existing and future service users are fully involved in shaping retained housing functions. A senior non-transferring officer should be designated as responsible for planning post-transfer housing services, in consultation with council members. These plans should cover, among other things, post-transfer arrangements on Anti-Social Behaviour Orders. Full guidance on the strategic role and its relationship with other local authority activities has been provided jointly by ODPM and the Chartered Institute of Housing at:
www.housing.odpm.gov.uk/local/stratsandplans/index.htm
- 14.5 The relevant obligations are set out in the Homelessness Act 2002 and Parts 6 and 7 of the Housing Act 1996 as amended by the 2002 Act. The Homelessness Act 2002 places a new duty on housing authorities to have a homelessness strategy based on a review of all forms of homelessness in their district. Under Part 6 (as amended), housing authorities must publish an allocation scheme. Under Part 7 (as amended), they have a general duty to ensure that advice and information about homelessness, and the prevention of homelessness, is available to everyone in their district free of charge. The detailed provisions are set out below.

Under the 2002 Act:

- 14.6 Housing authorities must adopt a strategy for preventing homelessness in their district and for ensuring that sufficient accommodation and support will be available for people who are homeless or at risk of becoming homeless. Strategies must be based on a review of homelessness and must themselves be renewed at least every five years.

Under Part 6 of the 1996 Act (As Amended by the 2002 Act):

- 14.7 Housing authorities must publish an allocation scheme and allocate housing to eligible applicants in accordance with that scheme. RSLs must, on request and insofar as it is reasonable, co-operate with LAs in offering available accommodation to people in priority under their allocation scheme.

Under Part 7 of the 1996 Act (As Amended by the 2002 Act):

- 14.8 Housing authorities must:
- ensure that the provision of advice on homelessness and the prevention of homelessness is available free of charge to everyone in their district;
 - give proper consideration to all applications for housing assistance, and make inquiries to see whether they owe any duty under Part 7;

- decide whether applicants are eligible for assistance, are homeless and have a priority need, and whether homelessness has been brought about unintentionally;
- ensure that suitable accommodation is available for people who have a priority need and are homeless through no fault of their own;
- ensure that certain other homeless applicants, for example those who do not have a priority need or who have brought homelessness upon themselves, receive advice and assistance in finding accommodation for themselves.

14.9 RSLs must, on request and insofar as is reasonable, co-operate with local authorities in helping them to discharge their homelessness functions.

Arrangements for Discharge of Obligations

14.10 The new duty under the Housing Act 2002 to produce a homelessness strategy cannot be contracted out; nor can be a housing authority's overall responsibility for homelessness and housing allocation functions.

14.11 Using their powers in section 70 of the *Deregulation and Contracting Out Act 1994* and the *Local Authorities (Contracting Out of Allocation of Housing and Homelessness Functions) Order (SI 1996/3205)* (the contracting out provisions), authorities may contract out certain homelessness or housing allocation functions to the new transfer landlord or to another agency. These functions may comprise:

- homelessness assessments and decisions;
- securing temporary accommodation;
- allocation of long term social housing;
- securing provision of advice on homelessness and the prevention of homelessness;
- the formulating and amending of an Allocation Scheme is not something that can be contracted out.

14.12 As the Audit Commission report on housing transfer emphasises, in considering how they will discharge their homelessness and housing allocation functions post-transfer, authorities should adopt a Best Value approach to deciding the best options for their district. This may involve:

- drawing up clear service specifications;
- benchmarking services with housing authorities operating in similar contexts and researching the current provider market;
- giving due consideration to the options of retaining functions in-house, contracting out to the stock transfer landlord or contracting out to another agency;
- considering the merits of packaging functions into a single contract or market testing each service separately.

14.13 When considering contracting out homelessness functions, authorities should ensure that:

- arrangements are consistent with their requirement under the Homelessness Act 2002 to have a strategy for preventing homelessness and ensuring that accommodation and any necessary support will be available to everyone who is homeless or at risk of homelessness in their district;
- a high quality homeless service will be provided, in particular the assessment of individual applicants and the provision of advice and assistance;
- both short-term and settled accommodation will be available for homeless applicants accepted as owed the main homelessness duty to secure accommodation.

Arrangements in respect of contracted out functions

14.14 Housing authorities remain statutorily responsible for any homelessness and allocations duties that are contracted out. This means that they have adequate contractual, monitoring and quality assurance mechanisms in place.

14.15 The contract should be based on a clear service specification covering all of the authority's statutory obligations. It should define the responsibilities of the authority and the contractor for policy and for securing compliance with the authority's statutory duties. It should also incorporate service standards, performance indicators and targets and make some linkage between achieved performance and contractor fees. It should also allow for continuous improvement. Provision must be made for action to be taken in the event of seriously unsatisfactory contractor performance.

14.16 The contractor will have operational responsibility in accordance with the terms of the contract (see section 72(2) and (3) of the *Deregulation and Contracting Out Act 1994*). This could include acting on the authority's behalf in making nominations to third party landlords. Where this is the case, it is essential that this function be seen by other landlords to be undertaken impartially and without reference to any landlord interests the contractor may have.

14.17 The housing authority should:

- monitor the discharge of those functions to ensure that their statutory responsibilities are being met/fulfilled;
- ensure that the operational staff are fully trained in the legislation and are familiar with the statutory Codes of Guidance and the need to have regard to the guidance when carrying out the functions;
- keep the contracted services and contract arrangements under review; this should include a short-term review to ensure the arrangements are operating effectively in practice and a full review of future options in advance of expiry of the contract term (normally five years).

14.18 Where decision-making in homelessness cases is contracted out, authorities may wish to consider retaining the review function under s.202 of the Housing Act 1996. This may provide an additional degree of independence between the initial decision and the decision on review. The same consideration applies to contracting out the allocation function; authorities may wish to consider retaining the review function under s.167 (4A)(d).

Obligations on registered social landlords and nominations agreements

14.19 Nominations agreements should be drawn up with due regard to the authority's and RSL's statutory obligations, the Housing Corporation Regulatory Code (2002) and to any homelessness or allocations functions that have been contracted out to the transfer RSL or any other party:

- the Housing Corporation's normal expectation of RSLs is for at least 50% of net vacancies to be set aside for local authority nominees. Higher entitlements may be appropriate, depending on local circumstances, e.g. pressure of homelessness, and should be negotiated accordingly;
- variations to standard terms of nomination agreements may be required to reflect the importance of the new transfer RSL in overall supply of housing in a locality;
- agreements with the transfer RSL, when this is also a contractor to the housing authority for some of its statutory homelessness/allocations functions, will need to incorporate clear understandings on procedures (e.g. for monitoring assistance to the authority, nominations to third parties etc.);
- monitoring of nominations outcomes will be required even where allocations are made under common housing register/common allocations or choice based lettings schemes.

14.20 If the transfer RSL reserves the right to refuse to allocate accommodation to certain applicants (e.g. because they have accrued rent arrears), authorities will need to ensure that suitable alternative arrangements are in place to meet the housing needs of such applicants.

Further Guidance

14.21 Further advice is given in Annex S. Official Guidance on the allocation of housing was published in November 2002. The current *Homelessness Code of Guidance for Local Authorities* came into effect in July 2002, and a revised edition is planned for publication in 2004. The ODPM published *Housing Allocation, Homelessness and Stock Transfer – A guide to Key Issues (17)* in January 2004. The document addresses also the implications of partial transfers and Arm's Length Management arrangements in this area.

SECTION 15

Drawing up the transfer contract

KEY POINTS

- The transfer contract governs the sale of the housing and the relationship between the authority and the RSL.
- The transfer contract, and a plain English summary of its contents, are key items required to be submitted in support of a consent application.
- The transfer contract should be a complete record of all agreements entered into by the authority and RSL.
- The authority may be asked to provide warranties covering certain matters affecting the transferred stock; the authority may not provide a warranty relating to the state and condition of the housing.
- Where the authority is providing support services to the RSL, these should be set out in Service Level Agreements.
- An authority will need to consider carefully how other responsibilities, such as common landscaping, will be dealt with.
- The RSL should covenant with the authority to keep any promises made to tenants during consultation, to offer transferring tenants a new tenancy agreement and to abide by the Housing Corporation's Regulatory Code for RSLs.
- A covenant to apply the proceeds of the transfer to the RSL may constitute an unlawful fetter to the authority's discretion.
- The transfer contract should detail the arrangements for sharing the proceeds from RTB sales.
- The Transfer Agreement should not contain clauses compromising the independence of the RSL.

15.1 The transfer contract governs the sale of the housing and the future relationship between the authority and the new landlord. This contract must be submitted to the Secretary of State in support of the application for consent under section 32 and/or 43 of the Housing Act 1985, together with a plain English summary of its contents.

15.2 The transfer contract should be a complete record of all agreements to be entered into between the authority and the RSL on transfer of the housing and should contain:

- the transfer agreement and warranties determining the terms of the sale (see paragraphs 15.3 to 15.12 below);
- contracts with the local authority determining the ongoing relationship between the local authority and the RSL (see paragraph 5.13 below and Section 12);

- covenants by the RSL regarding its future undertakings and obligations (see paragraphs 15.15 to 15.18 below);
- details of sharing arrangements for subsequent Right to Buy (RTB) proceeds (see paragraph 15.19 below);
- nomination rights and procedures for allocations from the housing register (see Section 14);
- arrangements for transferring employees where appropriate (see Section 12);
- an agreed disputes procedure; and
- draft conveyancing documents.

Terms and conditions of sale

- 15.3 The transfer contract should give the average price per dwelling and the gross transfer price, and set-up costs. Properties under construction may be included in the transfer by means of a covenant to sell. Special provision may also be needed to deal with any land identified as having development potential, or if any of the housing is on land which the authority will have to clear in order to execute a development plan. The agreement should provide for the adequate payment and assignment of rent arrears and the transfer of furniture and equipment. The contract should also cover any other properties such as shops and free standing garages that are part of the transfer package.
- 15.4 The transfer contract may also contain the terms, agreed as part of the transfer package, of any geographical restriction on the operation of the landlord (see Section 12).

Warranties

- 15.5 The new landlord will require the authority to provide warranties relating to certain matters affecting the property to be transferred. A warranty is, in effect, a declaration that certain types of information provided are correct. It may also apportion liability for future risks. Where the same warranties but of different lengths are given to the new landlord and lender, a clear explanation will be required by ODPM. Warranties will generally be assigned to the funder by means of a clause contained in the transfer contract.
- 15.6 Where the authority knows that, in a particular situation, there may be issues that should be drawn to the attention of the purchaser, a disclosure should be made. In order to be useful, disclosures should be very precise. If the transfer is to be to an existing group structure, warranties should be assignable as required on any de-merger.
- 15.7 Warranties generally fall into three categories: business warranties, title warranties and environmental warranties.

Business Warranties

- 15.8 These comprise statements of fact as to management issues such as the number of houses transferring, the current number of RTBs etc. Most will be easily verifiable. Employment and TUPE issues may be more complicated, involving statements that no claims are outstanding. These specific issues should be identified in the transfer contract, which should also include an agreed mechanism of redress in the event of any of these statements being subsequently proved wrong.

Title Warranties

- 15.9 Authorities will be required to warrant that they own the items being transferred. An authority should determine from its records the extent to which it can provide a clear title for all the properties being sold. In addition, lenders will seek assurances about liabilities likely to arise from houses sold through Right to Buy where the council may have an ongoing liability.

Environmental Warranties

- 15.10 Environmental warranties cover a number of areas, including land contamination, mining and underlying ground support problems, and issues associated with the construction of the properties, for example asbestos. The risk of environmental problems can vary significantly from authority to authority. In some cases, authorities will have sufficient information to confirm that the risks are low. However, where this is not the case, it is recommended that authorities undertake an environmental risk assessment. Authorities should ensure that the brief for any externally commissioned specialist report includes a requirement for adequate professional indemnity cover, the benefits of which are transferable to the acquiring landlord. Depending on the housing types included in the transfer, separate detailed structural surveys may be required in addition to the normal stock condition survey.
- 15.11 Where the subjects of sale are considered to be in a low risk category, time limited warranties may be given. Where high-risk areas have been identified, more extensive condition surveys should be undertaken and those carrying them out asked to give a view on possible remedies and likely costs. It may be possible to insure against the risk of environmental contamination. If insurance is being considered, it is recommended that, in order to avoid abortive work and duplication of costs, any surveys undertaken should not be carried out in isolation from the insurer. In addition, authorities are advised to take account of, and evaluate the effect of, any exclusions and exceptions that apply to the insurance offered. Authorities may also wish to investigate the possibility of reinsuring the risks involved.

15.12 The extent of warranties is a matter of negotiation between the parties involved, but authorities should bear in mind that they would be liable for any resultant claims. The range of factors involved is complex and will vary significantly between authorities. We recommend that the task of identifying and managing the risks associated with warranties be commenced *at the earliest possible stage*, preferably when the authority is preparing its application to ODPM for a place on the LSVT Programme. Failure to do so can result in protracted and costly negotiations in the final stages of transfer. It is recommended that authorities obtain copies of *Dealing with Uncertainty: The Role of Warranties in Stock Transfers (51)* and *CHTF – Good Practice Briefing Note Number 8 – Managing Environmental Risks (41)* which provide detailed guidance on this issue. The latter gives guidance on the factors that are likely to determine the most appropriate risk management solution, including whether authorities may wish to explore the possibility of formal or informal self-funding/insuring either alone or in combination with environmental insurance.

Support services

15.13 In general it is inconsistent with the independence of the acquiring landlord for the authority to provide it with support services. However, as indicated in paragraphs 12.23 to 12.26, some services may be provided in the short term, and thereafter the authority may bid competitively to provide services. It should not be a condition of the transfer contract that the authority will provide the acquiring landlord with services in the longer term. The cost of providing any services should be recovered from the acquiring landlord at commercial rates.

Additional responsibilities

15.14 Authorities will wish to consider how additional responsibilities, such as common landscaping and unadopted roads and footpaths, are to be dealt with. As a rule, we would not expect to see non-HRA activities being transferred to the new landlord. This is particularly relevant in areas where a high percentage of the council's stock has been sold under the Right to Buy. A common sense approach is required in relation to the transfer of amenity land on estates, as poor decisions on this front could affect the ability of the acquiring landlord to regenerate estates.

Covenants given by the RSL

15.15 The RSL should covenant with the authority to abide by any promises made to transferring tenants during the formal consultation and offer to each transferring tenant a new Tenancy Agreement. Covenants by the RSL in favour of the authority which affect the rights and welfare of the tenants should be secured by a declaration of trust by the authority in favour of the transferring tenants. The RSL will also be required to covenant that it will meet the requirements of the Housing Corporation's Regulatory Code and associated Regulatory Guidance.

15.16 The RSL should covenant that the amount of regeneration or other funding specified by the authority in its application as being towards scheme delivery works, including to leasehold properties, should be spent on the works agreed.

- 15.17 Where split or partial transfers take place, the RSLs or the RSL(s) and the authority may wish to covenant with each other to allow tenants appropriate rights of transfer.
- 15.18 ODPM considers that any covenant to apply the proceeds of the transfer to the RSL by means of a grant may constitute an unlawful fetter of the authority's discretion. The parties may, however, record their intention with regard to the proceeds of sale on the understanding that it does not constitute a binding commitment.

Proceeds from Right to Buy sales

- 15.19 The level of Right to Buy (RTB) sales after transfer is very difficult to predict accurately. It could be predicted using the previous pattern of RTB sales in the area or by looking at the individual circumstances and preferences of current tenants. But there is no guarantee that either would provide an accurate assessment of actual RTB sales in the future. To address these difficulties, ODPM encourages arrangements to divide future RTB proceeds from transferred stock in some agreed proportion between the authority and the new landlord. Precise details of such arrangements should be included in the transfer contract and notified to ODPM.

SECTION 16

Applying for the Secretary of State's consent and completing the transfer

KEY POINTS

- When deciding whether to grant consent to a transfer, the Secretary of State will apply the criteria listed at paragraph 16.2.
- An application for consent should be made at least six weeks before the date consent is required and should be accompanied by the supporting documentation listed in paragraph 16.5, which includes a plain English summary of the transfer contract.
- Prior to granting consent, ODPM will pay close attention to the proposed sale price.
- An authority should consider, in conjunction with the new landlord and funders, whether any consent other than to the transfer itself is required.
- Where levy is due, the authority should submit the required initial return to the DHD policy adviser within 28 days of completion of the transfer.
- The DHD policy adviser will write to an overhanging debt authority in advance of the transfer, detailing the arrangements for calculating the level of the one-off payment and the practicalities of repaying the housing debt.
- When applying for consent, an authority may also apply for a direction under section 80 of the Local Government and Housing Act 1989 to exclude from the HRA subsidy calculation a capital receipt from one qualifying disposal that is to be used to cross-subsidise another qualifying disposal (e.g. where one partial transfer has a positive value and another has a negative value); or a capital receipt which involves a VAT arrangement to minimise VAT exposure in respect of a payment from the RSL to the authority for a commitment from the authority to provide dwellings of an agreed state of repair in return for which the authority contracts to pay the RSL to improve the dwellings to the same standard.
- An authority which transfers all its housing is expected to close its Housing Revenue Account.
- Where housing is about to be transferred to an RSL, ODPM considers that if the transfer is of all remaining dwellings out of the authority's HRA, the Major Repairs Reserve, should, at the time of transfer, be nil. An authority should consider the implications of transfer on its Housing Benefit payments and adapt its procedures accordingly.
- An authority may apply for a direction to enable it to capitalise the additional rent allowance payments it will still be required to make under DWP transitional arrangements after transfer.

Applying for consent to the transfer

16.1 As mentioned throughout this guidance, a transfer can only go ahead if the Secretary of State grants consent to it under sections 32-34 and/or 43 of the Housing Act 1985. Section 32 enables an authority to transfer land held for the purpose of part 2 of the Housing Act 1985; whereas section 43 enables an authority to transfer housing which has not been acquired or appropriated for the purposes of part 2 of the same Act.

Criteria for consent

16.2 In considering an application for consent to the transfer under sections 32-34 and/or 43 of the Housing Act 1985, the Secretary of State will apply the following criteria:

- that the authority's consultation exercise has been adequate;
- that the majority of secure tenants affected by the proposed transfer are not opposed to it;
- that the acquiring landlord is registered with the Housing Corporation;
- that the acquiring landlord is independent of the council;
- that all houses transferred would meet the decent homes target by 31 December 2010;
- that there is a long term demand for the properties to be transferred;
- that the estimated Exchequer and public expenditure costs represent value for money;
- that the terms of the transfer are acceptable (i.e. that the sale would be at tenanted market value and wholly privately financed); and
- that the authority will be able to fulfil its statutory obligations under the Housing Act 1996 as amended by *The Allocation of Housing (Reasonable and additional preference) Regulations 1997* (SI 1997/1902) and has adequate nomination and allocation rights.

16.3 In addition the Secretary of State may consider any other matters which seem relevant.

Submitting an application and supporting documentation

16.4 Once there has been a positive ballot and the council decides that it wishes to proceed with the transfer, all parties to the transfer should agree with ODPM the date that, subject to the Secretary of State's agreement, the transfer would be completed (preferably around 6 months from the ballot and no more than 12 months) and agree a timetable for submitting a formal consent application and providing information in support of the application.

- 16.5 In addition to a letter formally applying for consent under section 32-34 and/or 43 of the Housing Act 1985, which the authority should submit to the DHD policy adviser at least six weeks before the proposed transfer date, various items of supporting information are required, as follows:
- a. formal certification that consultation has been carried out in accordance with Schedule 3A to the Housing Act 1985;
 - b. written confirmation of the ballot result;
 - c. final versions of formal consultation material;
 - d. an updated estimate of the value/proposed sale price and public expenditure implications of the transfer, either by means of an updated version of the Single Transfer Model (STM) or, if an STM was not previously completed, a written account of how these have been calculated;
 - e. details of any representations made by other parties who have an interest in the transfer, for example long leaseholders;
 - f. a copy of the proposed tenancy agreement;
 - g. details (amounts and categories) of new landlord set-up costs, i.e. financial assistance provided under section 25 of the Local Government Act 1988, and confirmation whether, and if so to what extent it is proposed to abate the purchase price by an amount equal to the loan;
 - h. details (amounts and categories) of administrative costs of and incidental to the transfer which the authority proposes to defray from the capital receipt;
 - i. details of the funding arrangements, including the amount of any loan, the lender and the length of repayment period, and a copy of the funding agreement or confirmation that the transfer would be funded under existing loan arrangements;
 - j. a revised estimate of the authority's attributable housing debt and overall debt position at transfer;
 - k. details of the proposed use of the capital receipt, including the amount to be set aside, the amount of levy due and the use of any residual receipt;
 - l. council minutes resolving to proceed with the transfer;
 - m. copies of the new landlords registration with the Register of Friendly Societies, the Register of Companies or the Charities Commission (as appropriate) and the Housing Corporation;
 - n. a copy of the transfer contract and a plain English summary of its contents (see paragraph 16.7 below);
 - o. a copy of the completed baseline for the monitoring and evaluation framework.

- 16.6 In practice, a lot of this information may already have been provided, but the authority will want to double check, as consent cannot be granted unless all the items listed have been received. We appreciate that some of the required documentation, in particular the transfer contract, will not be finalised until the end of the transfer process, near to the date when consent is expected to be granted. Nevertheless, we need adequate time to consider the proposed terms of the transfer before consent can be given and it is therefore sensible for a draft to be provided once the bulk of the details have been agreed.

Summary of the transfer contract

- 16.7 In order that we can properly consider the proposed terms of the transfer, we require authorities to provide a plain English summary of the contents of the transfer contract. This should cover the following issues:
- a. details, including a timetable, of works to be carried out to transferring properties;
 - b. formal consultative documents issued;
 - c. the proposed new (Assured) Tenancy Agreement;
 - d. legal provisions of any group structures, including the role and responsibilities of the parent and subsidiaries and a guarantee that nothing in any group structure agreement would prevent one or more group members from demerging in the future;
 - e. the rights of transferring staff under the Transfer of Undertakings (Protection of Employment) Regulations 1981 (TUPE);
 - f. provision for tenant participation, including Tenant Management Organisations (TMOs);
 - g. treatment of/rights for leaseholders;
 - h. provision for the Preserved Right to Buy (PRTB), including arrangements for RTB applications in abeyance whilst the transfer takes place; proposals for RTB receipt sharing;
 - i. a clear demarcation between the role of the new RSL(s) and the residual role of the authority in providing a housing strategy;
 - j. a clear statement on nominations/allocations policy agreed between local authority and new landlord and the procedure for resolution of disputes over nominations;
 - k. contracts (retained and assigned) covering services the RSL is purchasing from the authority for the first 12 months, and services the RSL is to provide to the authority to help it deliver its strategic role (e.g. housing needs register);
 - l. warranties and what these cover;
 - m. transfer of assets;

- n. general disputes procedure;
 - o. wider community issues, including regeneration initiatives and contribution to local strategic partnerships covering such aspects as local employment and training schemes;
 - p. race and equality targets, including meeting the needs of the BME community.
- 16.8 The summary should cross-refer to the relevant section/page number in the transfer contract (if the revision of the contract changes any of the cross-references, the summary should be revised accordingly and re-submitted). The final version of the summary should be certified by a senior legal officer to the effect that it represents an accurate reflection of the transfer contracts contents.

Final version of the transfer contract

- 16.9 We need to receive at least two copies of the transfer contract. One copy of the final bound version of the transfer contract (together with the certified summary) is for retention by ODPM, one copy to append to the letter granting consent plus as many copies as are required to be authenticated by other parties, by **3pm the day before consent is required**. In general ODPM receives four contracts and retains one copy. Where there are annexes, only one copy of the annexes need be submitted to ODPM for retention. It is our practice not to give consent to a transfer until the final version of the transfer contract has been received and agreed.

The Proposed Sale Price

- 16.10 ODPM will pay close attention to the proposed sale price as detailed (for transfers of more than 200 units) in the Pricing Model in the STM submitted in support of the consent application. Subject to the Office being content that the price reflects policy and that the assumptions are the same as the version submitted with the LSVT Programme application or initial information on a proposed SSVT, ODPM will write confirming that, subject to the Secretary of State granting consent to the transfer, it may go ahead at the price proposed.
- 16.11 Where there would be overhanging debt or a need for gap funding, the proposed sale price should be equal to or greater than the minimum valuation agreed when the authority was offered a place on the LSVT Programme. Any reduction will need specific agreement, which may not be forthcoming.

Consent Under Other Legislation

- 16.12 At the same time as it submits its application for consent to the transfer under sections 32 and/or 43 of the Housing Act 1985, the authority should consider, in conjunction with the new landlord and its funders, what consent under other legislation might be required.
- 16.13 The authority will need to provide an assessment of any further amount for which it requires consent under **Section 25 of the Local Government Act 1988** to enable it to provide a gratuitous benefit or financial assistance to the new landlord (see paragraphs 12.54 to 12.58 for details of earlier applications under section 25).

- 16.14 **Section 133 of the Housing Act 1988** states that, where consent is required for a transfer by virtue of section 32 or section 43 of the Housing Act 1985 and that consent does not provide otherwise, the person who acquires the land or house shall not (with certain stated exceptions, including under right to buy provisions) dispose of it except with the consent of the Secretary of State.
- 16.15 ODPM issued five general consents under section 133 of the Housing Act 1988 on 27 June 1997 covering the more common circumstances in which RSLs wish to dispose of land and property acquired from a local authority. They relate to:
- small disposals of land containing no dwelling-house and at a value not exceeding £50,000 (£100,000 in London);
 - the preserved or contractual right to buy for certain successors to the tenancy of transferring tenants;
 - the transfer of a freehold (or grant of a new lease for flats) where a tenant under a shared ownership lease has staircased to 100% ownership;
 - the grant of a lease of a shop; and the grant of a lease for community purposes or special needs housing.
- 16.16 Copies of these general consents are available from Mervyn Jones in Zone 2/C2 Eland House (telephone 020 7944 3615). They can also be found on ODPM's website www.housing.odpm.gov.uk. Only if the circumstances of a proposed disposal do not meet the criteria set out in one of the general consents will the RSL need to seek the Secretary of State's special consent by submitting a completed application form (also available from Mervyn Jones).
- 16.17 ODPM takes the view that the granting of a charge by way of security for a loan on any transferred housing which is subject to the preserved right to buy requires consent under **Section 171D of the Housing Act 1985** because this is considered to amount to a disposal by the landlord of less than his whole interest as landlord in the dwelling-house.
- 16.18 A general consent under section 171D(2) of the Housing Act 1985 covering all RSLs was issued on 27 June 1997. A copy is available from Mervyn Jones in Zone 2/C2 Eland House (telephone 020 7944 3615) or ODPM's website www.housing.odpm.gov.uk.
- 16.19 Newly registered and existing RSLs will also need to apply to the Housing Corporation for consent under **Section 9 of the Housing Act 1996** before they can charge the transferred properties as security for a private loan.
- 16.20 Authorities should note that, if planning consent under **Section 123 of the Local Government Act 1972 or section 233(3) of the Town and Country Planning Act 1990** is required for the disposal of non-housing land, the relevant Government Office to which such applications must be submitted will require **at least six weeks for its consideration**. Consent for the overall transfer will not be given if there is a Section 123 or section 233 consent request outstanding.

16.21 ODPM issued a new *General Disposal Consent in August 2003: Local Government Act 1972: General Disposal Consent (England) 2003: Disposal of Land for Less than the Best Consideration that can Reasonably be Obtained*. The new General Disposal Consent removes the requirement for authorities to seek specific consent under section 123 of the Local Government Act 1972 for any disposal where the difference between the unrestricted value of the interest to be disposed of and the consideration accepted (the undervalue) is £2,000,000 or less.

Confirmation of Consent

16.22 Subject to the Secretary of State agreeing that the transfer should take place, ODPM will issue a formal letter to the authority confirming that consent has been granted. This will be attached to a copy of the transfer contract, which sets out the particular terms of the transfer to which agreement has been given. At the same time we will confirm whether any other consents requested, for example under section 133 of the Housing Act 1988, have been granted.

Paying the LSVT levy

16.23 Where LSVT levy is due, the authority should take steps to submit the initial return to the DHD policy adviser within 28 days of the transfer, in accordance with the procedures set out in Annex U.

Arrangements where there is overhanging debt

16.24 At least six weeks before the proposed transfer date, the DHD policy adviser will write to an overhanging debt authority setting out the detailed arrangements for calculating the level of ODPM's one-off payment and the practicalities of repaying the attributable housing debt. The authority should refer to this letter at the appropriate time and to the guidance in Annex T. ODPM does not revisit an authority's eligibility for an overhanging debt payment once the transfer has taken place, and therefore the authority should consider its financial position with great care. In brief, the arrangements are as follows.

16.25 As well as the proposed sale price, details of which all authorities are required to provide (see paragraphs 16.10 and 16.11 above), the authority will be asked to provide an update on the other key variables in the one-off payment calculation, namely:

- a forecast of the authority's total outstanding PWLB debt at the time of transfer;
- the amount of variable PWLB loans, if any;
- a forecast of premiums associated to early debt redemption;
- confirmation of the costs it is proposed to deduct from the capital receipt; and
- the adjustment of the authority's HRA Subsidy Capital Finance Requirement (SCFR) (see paragraphs 7.4 and 7.11-7.14).

- 16.26 This information will enable the policy adviser to work out the percentage of each PWLB loan to be repaid and make a provisional estimate of the level of ODPM's one-off payment.
- 16.27 A repayment date will have been agreed, usually within 5 working days after the date of transfer, and forty eight hours before the agreed repayment date the authority will be required to notify the PWLB of its intention to repay the agreed percentage of each of its loans.
- 16.28 Upon receipt of the notification from the authority, the PWLB will confirm the level of early repayment premiums payable, which will enable the DHD policy adviser to calculate the amount of the one off payment.
- 16.29 On the agreed repayment date, solicitors acting for the authority will be required to confirm that the net transfer receipt has been paid to the PWLB. ODPM will then make its one-off payment to the PWLB and the policy adviser will confirm to the authority in writing that payment has been made.

Closing the Housing Revenue Account and associated issues

- 16.30 An authority that transfers all its stock would normally be expected to close its Housing Revenue Account (HRA). Following a review of closure policy, Ministers are now prepared to consider applications from authorities to close the HRA even where the authority has 50 or less dwellings remaining after transfer, subject to those dwellings first being taken outside the HRA pursuant to a direction by the Secretary of State. Details of the policy and the arrangements for dealing with applications for consent are set out in a DTLR letter of 20 February 2002 addressed to Chief Finance Officers in local housing authorities (available on ODPM's website at www.housing.odpm.gov.uk).
- 16.31 On closure of the HRA, any balance on the HRA accrues to the authority's general fund. From 1 April 2001, authorities are also required to keep a Major Repairs Reserve (MRR), which is separate from the HRA. The Major Repairs Reserve is the mechanism whereby authorities are required to account for the resources provided through the Major Repairs Allowance. Those resources are made available to authorities to meet capital expenditure on maintaining the future condition of their stock.
- 16.32 On the basis that authorities should meet major repairs when they fall due, any balance on the Reserve should represent provision in respect of future expenditure needs. The amounts involved could be significant. Where housing is about to be transferred to an RSL, ODPM considers that if the transfer is of all remaining dwellings out of the authority's HRA, the Major Repairs Reserve should, at the time of transfer, be nil. As well as funding capital maintenance, the MRR may also be used to fund the capital part of the repayment of housing debt.

Housing benefit implications of transfer

16.34 When housing is transferred to an RSL, any Housing Benefit payments an authority makes to the transferring tenants become rent allowances rather than rent rebates. The implications of this change for the authority and tenants, together with details of the practical arrangements that need to be made, are set out at Annex R. This needs careful planning with changes explained to tenants.

Applying to capitalise additional rent allowances

16.35 Authorities were traditionally required to make a 5% contribution to the cost of rent allowances and that this contribution is taken into account within the Standard Spending Assessment (SSA). Although transfer results in an increase in the number of rent allowances an authority is required to pay, it can take up to three years before the SSA takes this extra cost into account, meaning the authority has to cover it either from the receipt from the sale or from savings on its General Fund.

16.36 Therefore ODPM was prepared to consider requests from authorities under section 40(6) of the Local Government and Housing Act 1989 to capitalise, i.e. meet from capital resources the additional rent allowance costs for up to three calendar years after transfer. However, since April 2004 Department for Work and Pensions (DWP) has been responsible for payment of all housing benefit and authorities no longer have to make a contribution. However, there are transitional arrangements in place which mean the full effect may not be felt until 2006-07. Therefore ODPM will continue to consider capitalisation requests where there remains an adverse effect.

16.37 If an authority wishes to proceed in this way, it should submit a formal request to the relevant DHD policy adviser. This should provide an assessment of the additional rent allowances and the period it would wish the Direction to cover (up to three calendar years). The authority will need to demonstrate that the expenditure is significant and will lead to long term savings; a senior officer must certify that this is the case.

16.38 Although the authority may apply in advance of the transfer, any Direction will be issued once the transfer has been completed. It will specify the amount to be capitalised, the purpose to which the amount will be put and the financial years in which it will be applied. It will also indicate that it does not convey any view as to the propriety of the expenditure and that it is for the authority to satisfy itself that any amount to which the Direction applies is properly incurred.

16.39 An authority will not be permitted to capitalise the extra administration costs arising from processing the additional rent allowances. This is because the authority already receives the majority of the funding required to cover the administration costs over this period from the Department of Work and Pensions.

16.40 The authority should not regard the cost of additional rent allowances as a set-up cost for the LSVT levy calculation or any other purpose. Rent allowances are a continuing cost for councils after transfer and not a one-off cost of transfer as with other set-up costs.

ANNEX A

Implications of partial transfer on the Housing Revenue Account

- 1 An authority considering partial transfer should have regard to the implications for its Housing Revenue Account (HRA) and HRA subsidy entitlement. There may be an overall net cost to the HRA, which would have to be borne by the tenants who remain with the authority, or a net gain: the effect is unlikely to be entirely neutral. Where there would be additional HRA subsidy costs, ODPM needs to know about them.
- 2 Authorities will be aware that ODPM only makes an in-year recalculation of HRA subsidy when an authority's total housing stock changes by more than 10% or 3000 dwellings (whichever is less) over a two year period. Recalculation in-year can lead to more subsidy being payable, but may equally lead to a reduction, particularly where the authority expects to generate little or no receipt. It will depend on the circumstances in each case. Smaller changes in stock numbers are only taken into account in subsequent years subsidy calculations: there could be a delay of up to two years before subsidy is calculated on the basis of the new stock figures.
- 3 Provided an authority plans well ahead, there is a lot that can be done to mitigate any negative financial effects on the HRA. Early appraisal of the possible HRA and HRA subsidy effects ought to inform and influence the packaging and timing of partial transfer proposals. The best way of tackling the issue is for the authority to prepare a proposal that takes into account the subsidy threshold. The packaging of a number of partial transfers within a given subsidy period may also assist.
- 4 A model – *the HRA Effects model* – which enables assessment of some of the effects of the HRA and HRA subsidy entitlement, and which it is recommended be submitted with all partial transfer proposals, is available from Ray Kershaw HSF2, Zone 2/H3 Eland House, Bressenden Place, London, SW1E 5DU, tel: 020 7944 3588, Email: housing.subsidy@odpm.gsi.gov.uk.
- 5 The model enables the following information required in support of all partial transfer proposals to be submitted electronically:
 - the number and types of dwellings to be transferred, using the classifications which appear in the pre audit base data return for the subsidy year in which the transfer is planned, for use in estimating the changes to the preset income and expenditure items of subsidy where the proposed transfer exceeds 10% of the authority's stock or 3,000 dwellings (whichever is lower) over a two year period;
 - the estimated date(s) of transfer;
 - details of changes within the HRA:

- the estimated average actual rent per dwelling of (i) all the authority's stock and (ii) the properties to be transferred in the subsidy year preceding that in which the transfer is planned;
- the assumed average actual percentage rent increases for the authority's stock as a whole (i) if the transfer went ahead and (ii) if it did not for future subsidy years;
- the estimated number of void properties among those to be transferred at the time of the proposed transfer;
- the estimated loss in actual rent income as a result of the transfer applied for;
- the estimated average actual management expenditure per dwelling and maintenance expenditure per dwelling of all the authority's stock in the subsidy year preceding that in which the transfer is planned;
- a breakdown of estimated savings in actual management expenditure and maintenance expenditure as a result of the transfer applied for, and estimates of the remaining actual management expenditure per dwelling and maintenance expenditure per dwelling;
- the estimated HRA capital expenditure on the authority's stock in the subsidy year preceding that in which the transfer is planned, and the estimated changes in HRA capital expenditure as a result of the proposed transfer;

and details of other changes relevant to the authority's HRA Subsidy entitlement;

- the overall proportion of the authority's tenants on housing benefit, and estimated total rent rebate expenditure in the subsidy year preceding that in which the transfer is planned;
- the proportion of the authority's tenants on housing benefit in the properties to be transferred and the estimated cost of rent rebates for those tenants in the subsidy year preceding that in which the transfer is planned;
- the estimated HRA reserved receipts in the year preceding the transfer and in the year of transfer (excluding any receipt as a result of transfer) for use in estimating the effect on subsidy of recalculating the authority's Credit Ceiling to take account of these receipts;
- the estimated receipt as a result of the proposed transfer if there is one;
- the estimated HRA consolidated rate of interest in the year of transfer (i) assuming transfer does not take place and (ii) as a result of any rescheduling of debt following a receipt from the proposed transfer;
- the estimated annual other expenditure of the authority in the year of transfer (i) assuming transfer does not take place and (ii) as a result of the transfer applied for.

ANNEX B

The Single Transfer Model

What is the Single Transfer Model?

- 1 The Single Transfer Model (STM) is an Excel spreadsheet which comprises two models ODPM uses to assess transfer proposals:
 - the Cost Generation Model (CGM);
 - the Pricing, Rents and Public Sector Net Borrowing (PSNB) Effects Model.

The Cost Generation Model

- 2 The Cost Generation Model (CGM) provides a means of bringing together information, drawn from a recent stock condition survey on the housing an authority is proposing to transfer. This includes the repair and improvement work that needs to be carried out and the estimated cost over 30 years. As well as helping the authority and the prospective new landlord put together a proposed repair and improvement programme, the CGM generates the expenditure figures that feed into the Pricing Model in order to calculate the value of the housing (see paragraph 5 below).
- 3 The CGM requires descriptive and cost information on necessary repairs and improvements to be input by archetype and number of units in accordance with particular works categories and facilitates the calculation of expenditure under each of these in the thirty years following transfer:
 - **Catch-up repairs** the backlog of repairs needed to make good observable defects in a dwelling, usually works which ought to have been done in the past under cyclical or response repairs or where planned maintenance has not been carried out; these are usually carried out over 5 years post transfer.
 - **Future major repairs/planned maintenance** replacements/major overhauls necessary once catch-up repairs have been completed.
 - **Dwelling Improvements** which improve the standard of individual identifiable dwellings by providing something that did not previously exist in the dwelling, or which is to be upgraded.
 - **Cyclical maintenance** cyclical work on an annual or longer-term cycle, such as servicing central heating and repainting.
 - **Response and void repairs** derived from records of response repairs in the past.

- **Exceptional extensive works** works required to remedy particular significant defects which fall outside the definition of routine repairs and maintenance (usually works needed to provide the most effective technical solutions which will reduce future repair and maintenance costs, such as over cladding).
 - **Estate works** repair works connected to the related assets of estates, such as those to communal buildings and garages.
 - **Block improvements** works which improve the standard of a block, such as installation of entry phones, improved lift security or provision of new doors and windows.
 - **Estate improvements** works that increase the standard of the facilities provided on the estate, such as additional parking facilities.
 - **New Build Costs** costs of new builds, where these are part of the transfer scheme.
 - **Demolition Costs** costs of demolition where these are part of the transfer scheme and pre-demolition expenditure on properties to be demolished.
- 4 The CGM also includes a stock database of units transferring, less demolitions which is used for double checking the numbers of dwellings to calculate the rental income (see Pricing Model below). These numbers also feed into a Decent Homes sheet, which shows the numbers of units complying with the Decent Home objective. There is no provision for management and supervision expenditure in the CGM. Estimated expenditure on this has to be input directly into the Pricing Model.

The Pricing Model

- 5 A key criterion against which the Secretary of State considers consent applications is that the stock must be sold for a price which accords with its Tenanted Market Value (TMV) rather than its open market value. The Pricing Model calculates the TMV and sets the minimum price the prospective new landlord should pay for it (see Section 6).
- 6 The Pricing Model calculates the TMV by deducting the Net Present Value (NPV) of estimated *income* less estimated *expenditure* over the 30 years by applying a discount rate, normally between 6 and 8%. The calculation does not take account of inflation. The estimated expenditure on repairs and improvements is automatically generated by the Cost Generation Model (see above). An estimate of expenditure on supervision and management per property transferred needs to be input into the model. Estimated income is calculated by inputting various assumptions regarding rents, in accordance with the rent plan guidance, (see Annex I) and multiplying by the number of units transferred from the CGM.

- 7 Other income and expenditure is then added to arrive at the final valuation or capital receipt for the stock. Other income can include service charges, income from shops and garages and any profits from sales of land for redevelopment. Other expenditure should include service costs equal to service charge income. It could also include any regeneration expenditure, separate from the dwelling and estate works, which should form part of the transfer's overall strategy (see sections 2.38-2.48). Other income and expenditure should also capture any surplus income/expenditure from Right To Buys over and above the receipts, loss of income and decrease in expenditure as part of the sharing agreement where this is not cost neutral.
- 8 If the resulting figure were positive, the prospective new landlord would be required to pay the authority at least this amount for the stock. If the resulting figure is negative, due to the stock being in such poor condition that more money would need to be spent on it than could be collected from rents over 30 years, for transfer to proceed the prospective new landlord would require a dowry or gap funding to enable the transfer to take place. The dowry would need to be provided from the acquiring RSL's existing reserves or the local authority (see Section 11 for more details). Any gap funding provided by ODPM would only be considered after all other avenues had been explored.
- 9 A 30-year valuation represents a sensible timescale that is acceptable to potential funders. However, we are willing to look at alternative scenarios where these can improve VFM. We will therefore consider argued cases for valuations over periods longer, or shorter, than 30 years, as well as discount rates outside the 6-8% real range provided they deliver enhanced VFM. A model is available, the PRP50, which can be used to value stock between 30 and 50 years. The model would need to be completed in addition to the STM. (To obtain a copy see paragraph 19 below.)
- 10 The Pricing Model is distinct from the Business Plan that needs to be prepared by the prospective new landlord, which involves more detailed modelling, such as scope for changes in the income flow and the phasing of expenditure, and takes account of inflation.

The Fundability Model

- 11 The Fundability Model is used by ODPM to assess whether, in broad terms, the transfer could be funded. It is not intended as a substitute for, nor to second-guess, more detailed security valuation or fundability models used by valuers and funders.

The Public Sector Net Borrowing (PSNB) Effects Model

- 12 The PSNB effects model calculates the long-term public expenditure effect of a proposed transfer in terms of its impact on the public sector borrowing requirement. The analysis compares the impact on PSNB of retention by the authority with that of transfer. The precise impact varies with the authority's position on its Housing Revenue Account (HRA) and the particular details of the proposed transfer.

- 13 A key driver in the PSNB assessment is whether transfer represents a public expenditure cost or saving in comparison with retention by the authority. This partly depends on whether the authority is in surplus or deficit on its HRA subsidy calculation.
- An authority is in surplus when its assumed income (mostly guideline rental income) exceeds its assumed expenditure (mostly management, maintenance, major repairs and debt charges). A surplus authority must repay its surplus to the ODPM. Loss of this surplus after transfer is therefore a public expenditure cost.
 - An authority is in deficit when its assumed income is less than its assumed expenditure. A deficit authority receives HRA subsidy from ODPM. This subsidy no longer has to be paid after transfer and that is a public expenditure saving.
- 14 The variables when assessing the impact of transfer include:
- any **transfer receipt**, which would represent a public expenditure saving;
 - **HRA surpluses** no longer paid by a surplus authority to ODPM after transfer represent a public expenditure cost; for a proposed partial transfer, a net decrease in surpluses would count as a public expenditure cost and a net increase as a public expenditure saving;
 - **HRA deficits** no longer paid to a deficit authority by ODPM after transfer represent a public expenditure saving; for a proposed partial transfer, a net increase in subsidy entitlement would count as a public expenditure cost and a net decrease as a public expenditure saving;
 - **changes in local authority expenditure** savings in the amount of housing capital expenditure not allocated to the LA and unpooled RTB receipts where these are higher than any usable receipts from the transfer receipt would represent a public expenditure saving;
 - **housing benefit** there maybe a cost or saving in housing benefit payments as a result of the transfer.
- 15 The PSNB effects model is fairly complex and an authority should refer to the *Guidance on completing the Single Transfer Model* for more details (see paragraph 19 below).

Who Should Complete the STM?

- 16 An authority proposing to transfer more than 200 units is required to complete the STM and submit it to ODPM either by e-mail or on disk, with its LSVT Programme application or SSVT proposal (see Sections 8 and 9). This first version of the model is known as the initial STM. If an authority is given a place on the LSVT Programme, or agreement to develop its SSVT proposal further, it will be on the basis of a set of assumptions about the proposed transfer set out in the initial STM. This will form an initial valuation or transfer receipt for the stock. In the case of an overhanging debt authority (see section 7) this would need to be agreed as a minimum valuation which should not substantially change prior to transfer.

- 17 Subject to a positive ballot, these authorities are required to submit an updated version of the STM in support of their application for the Secretary of State's consent to the transfer, as explained in section 16. An authority will need to have agreed any significant changes to the assumptions used in the initial STM with DHD before the final valuation can be agreed. There should not be any significant changes to the valuation in the case of an overhanging debt.

Why Does ODPM Require Completion of the STM?

- 18 Submission of a completed STM enables ODPM to ascertain whether a transfer proposal complies with certain key criteria, namely that:
 - the stock has been valued on the basis of reasonable estimates of expenditure on repairs and improvements (the CGM);
 - the stock has been valued in accordance with its TMV and Departmental policy, including that on social housing rents (the Pricing Model) in order to produce a suitable minimum transfer receipt for the stock;
 - the transfer would be fundable (the Fundability Model);
 - the transfer would constitute value for money (the PSNB effects model).

Where Can I Obtain a Copy of the STM?

- 19 The latest version of the model *STM_2005.xls* (and the associated guidance) can be obtained from Alan M Turnbull, Zone 2/D2, Eland House, Bressenden Place, London, SW1E 5DU, Tel: 020 7944 3623, e-mail: housing.transfer@odpm.gsi.gov.uk

ANNEX C

Selection of the prospective new landlord

- 1 It is a priority that tenants have a real choice in the selection of the prospective new landlord. Therefore we will be looking to ensure that they have been both active players in both the consideration of how to approach the selection of the new landlord as well as playing an actual part in the selection process and decision making.
- 2 When considering the choice of the new landlord, local authorities have already established a number of criteria which could apply generally and which authorities will wish to consider including:

Organisational and governance issues

- organisational ethos and management style;
- local accountability;
- organisational structure;
- type of group structure proposed.

Financial information

- financial information about existing RSL;
- financial offer (including transfer price, contributions to set up costs and offer of assistance);
- ability to attract competitive sources of finance;
- assistance with central support costs.

Operational information

- policies and performance;
- track record on tenant involvement;
- quality of services to tenants;
- human resources;

- relationship with existing RSLs in the area;
- understanding of local housing issues and involvement with delivery of housing strategy;
- track record on delivery of development schemes;
- approach to community development and economic regeneration;
- programme of works offered;
- ability to deliver clear rent plan and possibly rent guarantees;
- satisfactory arrangements for transfer of council employees;
- employee policies and procedures.

3 In addition, a number of issues have already been raised by these authorities in pursuing their transfers, which authorities applying for the 2005 Programme will wish to consider when developing their proposals. These are set out below.

- *Development of specification for the choice process:* What form will the specification take will it be an output specification allowing RSLs to propose their own approach to a range of issues or will it be constrained by a predetermined view from tenants and the local authority of the best solutions?
- *What information will be made available with the specification?* Is it adequate to allow RSLs to mount effective bids, in particular is adequate stock condition information available? Does an in-house team have access to better information?
- *Basis of choice:* What are the areas on which RSLs will be asked to submit proposals? Do these cover the valuation as well as service and investment issues? Is there scope for RSLs to offer anything additional to vary the valuation given rent restructuring potentially predetermines income? Where a transfer to a new subsidiary of an existing group is envisaged, would the RSL have the right to de-merge?
- *Choice of RSLs to invite to tender:* Who will decide on the criteria used in making the selection of possible new landlords? Will those chosen be inclusive and representative of all parties interests? Is the pool of landlords identified large enough to offer real choice while avoiding involving an excessive number of RSLs in nugatory work and costs? In how many other transfers and where is it indicating an interest this year? Will there be implications if an RSL shortlisted is involved in discussions with other authorities? Will RSLs be encouraged to make presentations in partnership with possible funders? Will potential landlords be able to make presentations direct to tenants or will the Independent Tenant Adviser take on this role?
- *Arrangements for in-house bidders:* Is the in-house team separated from those conducting the competition within the authority? Is the local authority willing to adequately resource the in-house team? Is the in-house team basing its bid on delivering change or offering the familiar?

- *Bid evaluation criteria, including use of minimum standard criteria:* Is there a minimum standard based on the decent home target? How detailed are the criteria? Do they allow sufficient differentiation between the potential landlords? Who is charged as guardians of the criteria?
 - *Evaluation process, including respective roles of tenants and the authority:* What process will be used to evaluate the bids and who will be involved in the actual decision on selecting a preferred partner reached? What weighting will be attached to the various criteria? How are added benefits that bidders offer outside the criteria dealt with in the assessment? How will conflicts between different parties in the choice process be resolved?
 - *Input and views of tenants as a whole and tenants representatives:* How will tenants be put at the centre of the process? How will potential new landlords be able to put their proposals directly to tenants representatives and wider tenants groups?
 - *Timing and ballot:* How will the timing for the choice of preferred partner be decided in relation to the timing of the LSVT Programme application and the transfer ballot?
- 4 Authorities will need to ensure that all RSLs involved in a competition are capable of complying with ODPM's and the Housing Corporation's policies and criteria for housing transfers. It is therefore essential to clear with both ODPM and the Housing Corporation any brief or specification for a choice based selection, including the list of RSLs involved in the competition. The authority must also provide copies of any bids received from RSLs to the Corporation (STRU) and ODPM.
- 5 Details of how a selection process can be structured is contained in *Good Practice Briefing no 9 Choosing a New Landlord issued by the CHTF (42)*.

ANNEX D

Tenant and community involvement good practice guidance

- 1 Strong and effective tenant and community involvement is crucial to the transfer process. Through the Options Appraisal process authorities will already have been working with tenants to deliver this. It is important that tenant involvement should go beyond that and the principle of transfer and address wider regeneration and community issues. Through the consensus building approach of the Options Appraisal process there should be a significant amount of ownership of, and involvement in, the decision to make an application to the programme. This Annex brings together some key good practice points that have emerged from recent experience and research.

Existing framework

- 2 The first step is to review and build on existing tenant participation structures. The starting point is participation arrangements negotiated in local tenant compacts which aim to give all sections of the tenant community, especially those who would not normally get involved, the opportunity to participate in and influence housing decisions which affect them as tenants.
- 3 As part of Best Value, local authorities should be seeking continuous improvements in the cost and quality of their services. Key to this is looking at new and better ways of involving local communities in their plans and programmes. Many authorities and tenants are therefore developing neighbourhood compacts that go wider than housing issues and involve the wider community.
- 4 It is important to involve tenants and leaseholders in decisions on the housing strategy, not just management. This includes involving them from the outset when initial options for the future of the housing stock are being generated and explored and building on this throughout the options appraisal process as proposals are developed and taken forward. Compacts can be used to set out how tenants will be involved in considering options and developing the chosen options.

Developing an effective participation structure

- 5 Tenants compacts are designed to give all tenants the opportunity to be involved in the full range of housing services at the level they want. Compacts should also ensure that tenants have the support they need to help them take part effectively, including access to training, facilities and advice. Full details are set out in the National Framework for Tenant Participation Compacts published by ODPM. The principles of best value and tenant compacts are expected to apply across social housing, including both local authorities and RSLs.
- 6 In addition, ODPM's section 16 tenant empowerment grant programme will continue to support development of greater tenant participation and to raise the quality of local authority tenant involvement in the management of their homes. This funding gives tenants access to independent information and advice on involvement options, and training to help them develop skills, knowledge and confidence to deal with a range of housing issues, including transfer, and carry out community projects to make their neighbourhood a better place. It also supports tenants who want greater control over their housing services by setting up a tenant management organisation to take over housing management under the right to manage.

Independent advice for tenants in stock transfer

- 7 Tenants should have access to an Independent Tenants Adviser (ITA) from an early stage in the process. Guidance on the role of the ITA in the stock transfer process was published in November 2001 by ODPM. It is based on research evidence including case study work in a range of transfer authorities, a postal questionnaire to ITAs and practitioner workshops. It provides a range of good practice messages, illustrated by examples, on the potential scope and role of the ITAs, how the role can be defined to meet local needs and how ITAs can be appointed and managed effectively.
- 8 A key focus of the guide is how ITAs can work effectively with tenants, leaseholders and Tenants Panels and meet their information needs about the transfer process and the implications for their homes.
- 9 ITAs use information available from the authority and prospective new landlord to let tenants and leaseholders know what the transfer offer contains and its impact. They respond to questions on any aspect of the transfer. They do not replace the need for the authority and prospective new landlord to communicate and share information with tenants and leaseholders, but they can play a pivotal role in ensuring that tenants receive impartial advice on the housing options for their area.
- 10 Evidence suggests that it is good practice to employ an ITA at an early stage to enable tenants and leaseholders to have independent advice that can help them make an informed decision as to whether to transfer their home to a new landlord.
- 11 Clearly when to employ an ITA rests on local needs and decision making. However, the guide stresses the importance of the decision on employing an ITA being made by tenants, leaseholders and their landlord and based on the information needs of tenants and leaseholders.

- 12 The guide also provides a range of examples where the ITA has been employed post-ballot, once a decision has been made about the future of the stock. A key role identified at this stage is to meet tenants and leaseholders ongoing information needs and also to further build or develop tenant participation mechanisms in the area.
- 13 It is good practice for active tenants and leaseholders to be involved by working with the local authority on defining the ITA role, and selecting and managing them. This will help the ITA appear as independent, rather than a consultant funded by the authority and will also ensure that the ITA has a clear understanding of the issues that are important for tenants from the outset. It is good practice to consider the training and support needs of tenants to ensure that they can play an active role in the work of the ITA. Training and support needs should be identified early in the process to enable tenants to get up to speed, for example on issues around managing the tenant adviser.
- 14 More information is available in the good practice guidance, *Independent Tenant Advisers and Housing Transfer (8)*.

Drawing up an effective communication strategy

- 15 It is good practice to draw up a communication strategy setting out how the local authority will ensure that all those involved receive all the information they need as the proposals are developed. This should include consideration of how to reach all sections of the community (through the use of meetings, leaflets, videos, websites etc.), how to liaise with the local press and how to approach an anti-transfer campaign.

Ways of involving the community

- 16 It is beyond the remit of this guidance to go into detail about all the possible approaches to involving tenants. However, there has been a wide range of approaches devised to involve tenants with new methods being tried all the time. Tenants may help in developing new ideas.
- 17 Some approaches that have been used successfully are listed below:
 - Neighbourhood meetings; tenants juries; study visits; leaseholders forum; focus groups; tenants conference; meet the (RSL) Director informal sessions to get across the ethos and aspirations of the organisation.
 - Community newspaper; posters and flyers; videos; video boxes for people to state their views; suggestion box; website.
 - Exhibitions; planning for real; show flats; ideal home showing materials e.g. kitchens, bathrooms, windows etc; briefing sessions for opinion shapers; readers panels.
 - Activities for groups with special needs e.g. single sex meetings for groups where cultural tradition means that they mix only with their own sex outside the family; special sessions in sheltered accommodation; coffee mornings for people who do night shifts or who simply will not leave their home at night; special meetings with translation for BME communities.

- Open days; road shows; training for staff and decision makers, making sure that every time that a tenant interfaces with the council, key issues are put across and tenants are encouraged to get involved; special interest activities to attract hard to reach groups e.g. BME elders running cookery classes for younger people; barbecues; fun days; identifying locations where tenants gather e.g. schools at closing time, to discuss the issues; employing tenants to run events and assist with information/consultation activities.
- Policy development groups of residents who basically design their new RSL; design groups overseeing the development of any major works programmes.
- Door-knocking/home visits; helpline; telephone surveys.
- Delegated funding; tenant training.

Links with the press

- 18 It is useful to foster good relations with the local press by keeping them briefed as the proposals are taken forward. This is an important source of information as tenants may be more inclined to read the local press than the council's official consultation material. They may also take more notice of the views expressed in the newspapers. Free newspapers can be particularly useful as they are delivered to all homes and are usually keen to run stories on local issues.

Dealing with an anti-transfer campaign

- 19 Debate on the advantages and disadvantages of transfer is a useful and necessary part of the process and can help those involved to clarify their views on the proposals. Problems can arise, however, where a determined anti-transfer campaign spreads rumours and misinformation, which may frighten and unsettle tenants. Local authorities should be ready to react to such campaigns by ensuring that tenants have access to clear and factual information. Where tenants truly own the transfer proposals it is usually more difficult for those from outside the local area to campaign and destabilise the process.

Reaching all sections of the community

Black and Minority Ethnic Groups

- 20 Black and Minority Ethnic (BME) communities can face institutional barriers to involvement in the transfer process. Issues which hamper participation can include language or cultural differences; segregation from other tenants; previous experiences of hostility from other tenants; lack of encouragement from staff; lack of experience, and fear. Failing to engage BME tenants effectively means that their needs and interests may not be reflected in the development of the transfer proposal as their views will not have been heard. Even where the BME community is small in numbers, this is unacceptable.

- 21 Reaching out to BME groups requires commitment, adequate resources and intensive work. Provision should be made for this in the transfer work programme. Where a council has a well-established network to facilitate BME participation, this can be used as a starting point for the purposes of the transfer. Where a council does not have an existing network, where possible it could engage BME housing associations to act on its behalf or utilise networks of other agencies such as the police or health service that may have already engaged the BME community. BME housing associations could also be engaged to run specific participation events.
- 22 Faith centres (e.g. churches, mosques and temples) may be the focus of the BME community. Their leaders can be opinion shapers and can encourage BME households to get involved. Therefore faith leaders should be identified at the start so they can be briefed and kept up to date. Similarly, local BME councillors can also be influential and should be invited to participate.
- 23 Written material can be made available in different languages for those tenants whose first language is not English. However, some well-intended material can miss the target because the language is not appropriate. Care needs to be taken to ensure the correct dialect is used, as it may be that ordinary speakers do not understand the official language.
- 24 Local authorities should also be aware of literacy levels if these are low, written material may be ineffective. A short, easily understood written message (such as the time, place and purpose of a neighbourhood meeting) in simple English should be sufficient to enable children to translate for their parents.

Understanding needs of BME groups

- 25 Local authorities should carry out preparatory research into the needs of specific groups. This should help them establish the particular concerns of a group and the best way of consulting different communities about the transfer proposals. For instance, it would not be a good idea to hold neighbourhood meetings at evening prayer time. There may also be cultural differences which prevent men and women mixing at public meetings or which may mean that groups would be suspicious of strangers visiting their home. Collective working and deliberation may not be acceptable for some groups. Local authorities should also consider practical issues such as providing interpreters, creche facilities or appropriate refreshments where necessary. Local authorities that have set up teams of locally recruited people reflecting the community mix to carry out consultation have found this successful.
- 26 The strategy for involving any hard to reach group needs to be monitored carefully during the transfer process to ensure that it is effective. Positive action should be taken where there are shortcomings.

Older people

- 27 Transfer is potentially the catalyst to achieving a range of strategic objectives for older people, including the main objectives of the Strategic Framework for Older Peoples' Housing. Potentially, it can improve standards of accommodation and lead to more varied choices in housing, as well as support and care services, so promoting greater independence and improving health.
- 28 Transfer is an opportunity to review and, ultimately, to re-design services for older people, whilst also planning investment, to address demand issues caused by location, poor design or shared facilities.
- 29 The review process should draw upon innovation and best practice developed in the health, social care and voluntary sectors, which should lead to greater integration of services to older people, within a "whole system approach." This should involve joint planning, mapping of services and referral routes, closer working (possibly integration of teams) and generally better flows of information, thereby fitting services around people. The vision and collective will should be to create services that are integrated, client-centred and holistic to the individual.
- 30 Older people have the same rights as other residents to be involved in the decision-making process when stock transfer – either of geographic areas or of older persons' units – is being discussed. Older people do not lose their voice when they reach retirement age – they do, however, often have difficulty in making their voice heard.
- 31 When transferring organisations make the effort to engage older people they are likely to benefit from the experience brought by older residents who may, if no longer in paid employment, have more time to devote to voluntary and community activity.
- 32 Real involvement of older people in the consultation process may act as a springboard for those who may not have previously taken part in voluntary and community activities to do so, bringing mutual benefits:
- older people may act as volunteers at local schools;
 - older people might help at crèches and nurseries that will help support the economic activity of the area;
 - older people might support activities to teach life and homemaking skills to younger people;
 - the key challenge is to be able to engage older people.
- 33 Older people will be affected as much as other service users by decisions shaping their future service provision. It is important that they have the opportunity to influence these decisions, and careful consideration should be given to the most effective way to achieve this. Assumptions should not be made that a written invitation will elicit a good attendance at a consultation event, but finding common ground or a wider issue where people's experiences and skills are openly valued is important and may attract people's attention.

- 34 Some older people may not feel they have a contribution to make. Inviting them to a meeting to discuss “the future of housing your estate over the next 10 years” will not necessarily inspire them. A meeting to discuss “how we can use the experience of older people to improve life on our estate” is more meaningful. Such a meeting moves the agenda from buildings to people. This is also an opportunity to ensure the agenda covers a range of issues – not just housing-related issues.
- 35 Consultation with older people should make use of the existing consultation frameworks such as housing forums, pensioners’ associations, patient groups etc. Consultation should not concentrate solely upon immediate priorities for improvement such as replacement windows or new kitchens but should also address:
- adaptations or improved access to their home;
 - support services;
 - location/design/space issues;
 - technological innovation;
 - community safety;
 - transport issues;
 - extra care;
 - intermediate or respite care;
 - differing tenure options;
 - flexible or floating support services;
 - the role older people can play in the community development agenda, e.g. skills sharing, volunteering, foster grand parenting;
 - release of under-occupied properties; input into the future design of specialist services and accommodation.
- 36 There are, of course, a number of practical issues that need consideration if the process is to be meaningful, such as:
- the formalities of a meeting may be off-putting to some older people, so replacing minutes with a list of issues and actions may have more relevance to those not used to bureaucratic processes;
 - providing written information in larger print face to assist people with impaired vision – 14pt is preferred;
 - meeting in small groups, preferably local – sheltered housing common rooms are ideal;
 - providing transport to meetings;

- ensuring facilities for disabled people are available;
- making use of loop systems for people with hearing impairments;
- facilitating one-to-one meetings where this is preferred by the individual;
- providing a written record of meetings;
- providing information in a variety of formats and languages where appropriate;
- using the same consultation team wherever possible; this enables the development of trust and belief in the consultation team's integrity to "tell it like it is";
- facilitating meetings within peer groups, or between contemporaries, to share information and experiences of their use of services;
- using plain English and avoiding industry jargon;
- ensuring visual aids are appropriate to the client group and the facilities available;
- providing examples of proposed improvements such as example fixtures and fittings or show flats for housing improvements.

- 37 It is important that all service users, including older people, understand what transfers mean in terms of the identity of their landlord and their support provider. In some cases, for example, a local authority that has transferred its sheltered housing stock to an RSL may retain responsibility for providing warden services. It may be sensible in such circumstances for the RSL to collect both rent and, on the behalf of the local authority, any charge for the warden service. But whatever arrangements are adopted, service users should be clear who is providing the service, and to whom they should refer any comments or replaced.
- 38 Where sheltered stock is included in transfer proposals the role of warden or sheltered housing officer is crucial. Wardens can be a first port of call for advice and queries, so they need to be well briefed. More face-to-face consultation may be the best way to get the message across. Often transfer schemes will have specific proposals for sheltered stock. Therefore visits to each scheme should be arranged to find out the tenants' aspirations and concerns.
- 39 It is also important to involve tenants' families so they know what transfer is about. Some tenants may need extra help with formal consultation material and some may not be capable of making a decision on the transfer proposals. Where a relative has power of attorney this needs to be taken into account in the consultation and ballot arrangements.

Disabled tenants

- 40 The information requirements of disabled tenants should be included in the communication strategy, including the need to present information in different formats such as tape or Braille, access to meetings, helpers/carers, a clear explanation about the position in relation to particular needs e.g. how disabled adaptations will be managed and funded post-transfer.

Young people and children

- 41 Young people can have a lot to offer, but may feel intimidated by older residents, or may just be reluctant to get involved. Local authorities should consider ways of including them, maybe through some of the activities suggested in paragraph 17 above and by providing childcare, setting up focus groups for those with young families, working at youth clubs, and linking the proposals to wider regeneration initiatives. Harnessing the energy of younger tenants can often help ensure transfer becomes a focus for wider change in the area, as it is often the younger tenants who see the need for change and want to improve conditions for the future.

Transfer project team

- 42 Ideally, the project team, i.e. the council, the prospective new landlord, consultants, lawyers and ITA, should seek to reflect the ethnic mix of the community and be able to respond to communication needs. Tender documents for the new landlord, and specialist consultants and contractors, should specify that the bidder must demonstrate that they have the expertise to enable them to meet the needs of the BME community and other difficult-to-reach groups.

Involvement of tenant management organisations

- 43 All existing or developing Tenant Management Organisations (TMOs) should be fully consulted at an early stage in the process. They may have substantial housing management responsibilities and budget under their management agreement with the authority, which will be directly affected if the transfer were to go ahead. This will enable any potential issues specifically affecting the TMO to be identified as soon as possible and for the TMO to consider whether it will need to negotiate a new agreement with the potential new landlord.
- 44 TMOs also have a wider role in the consultation process as they should be well placed to know the views of tenants in the area on the proposals and their main concerns. In considering whether to consent to the transfer, the Secretary of State will wish to see that the new landlord has in place effective arrangements for working with TMOs.

Networking between tenants from different local authorities

- 45 Tenants in an area where transfer is proposed often find it helpful to speak to other tenants who are in a similar position, or who have already been through the process. Trips to other transfer authorities and contact between tenants should therefore be facilitated wherever possible.

Continuing community involvement

- 46 Tenant and resident involvement should not only focus on delivering a successful transfer ballot. It is equally important that, once the participation structures have been set up, they are not only maintained but further developed to ensure the community continues to play an active role in the life of the new landlord organisation.
- 47 Continuing support for tenant participation after the ballot is very important, regardless of the outcome, whether it is to ensure delivery of the transfer, or to engage tenants in looking at the alternative options for the housing in the future. Therefore there is a real need to ensure that the progress made in promoting tenant involvement is not dissipated at this stage. The participation structure after transfer should build on the existing framework, assuring that the need for continuous improvement is addressed.

ANNEX E

Meeting the needs of Black and Minority Ethnic and hard-to-reach communities good practice guidance

- 1 ODPM is committed to eliminating unlawful racial discrimination and promoting equality of opportunity between different racial groups. The Housing Directorate Action Plan makes clear that in developing and implementing housing policy ODPM will consult Black and Minority Ethnic (BME) groups, improve information on BME housing needs and preferences, monitor the impact of policy on BME groups and work with other organisations to tackle BME housing issues. To this end ODPM commissioned research on involving BME communities in decisions on housing stock investment and published guidance drawing on good practice examples in June 2004. *Empowering communities, improving housing: Involving black and minority ethnic tenants and communities (46)* builds on existing good practice on tenant and community involvement of BME tenants who are often depicted as “hard to reach”. Though the focus of the research undertaken by the Centre for Urban and Regional Studies at the University of Birmingham for ODPM is on BME groups many of the examples of good practice and themes that run throughout the report are relevant to involving any ‘hard-to-reach’ group.
- 2 ODPM were concerned that BME RSLs do not so far appear to have derived as much benefit from transfers as might have been expected and so commissioned, in 2003, a review of such issues relating to BME Housing Associations in local authority stock transfers. The aim of the project, carried out by MDA, a specialist research and diversity consultancy, was to provide a snap-shot of relevant issues, concerns and potential ways forward. The report *Black and Minority Ethnic Housing Associations and their involvement in local authority stock transfers* was published in June 2004.
- 3 The key messages from these reports are contained in this Annex which has now been reduced because of this work.

Empowering communities, improving housing: involving black and minority ethnic tenants and communities

Key messages

- 4 Housing organisations face many barriers to involving BME tenants. These range from basic barriers, such as insufficient information about community languages, to more difficult barriers, such as lack of trust, limited time and complexity of communities. Barriers should be assessed locally before consultation starts.
- 5 Involving BME tenants and communities required baseline mapping and good relationships with tenants and organisations. BME housing strategies and tenant compacts can provide a framework on which to build effective consultation.
- 6 Organisations must be realistic about what can be achieved in the process. They must ‘deliver on deliverables’ to increase trust and engagement.
- 7 Options Appraisal provides an excellent opportunity to reach out to BME tenants and communities, providing a foundation for later involvement. Authorities need to get the right team, get the right information and get help to include BME residents in empowerment and communication strategies. This requires capacity building at a local level with a longer timeline than Options Appraisal itself.
- 8 Independent Tenant Advisers (ITAs) can play key role in involving BME communities. ITA briefs should specify the work and skills needed for this. Authorities should consider using BME-led organisations to provide independent advice to ‘hard-to-reach’ BME groups.
- 9 Periods of formal consultation (e.g. ballots) benefit from planning and prior contact with local organisations in touch with BME tenants. Formal and informal methods should be used and their effectiveness should be monitored.
- 10 Recruiting BME tenants onto boards and steering groups can make these bodies more reflective of the communities they serve. Effective involvement is built by recruiting quality candidates, ensuring accountability to local communities and ‘tapping into’ board members networks. Succession planning is needed to refresh boards and provide skills and confidence for new members.
- 11 All tenants can be ‘hard-to-reach’. Most people don’t want to be involved in high level governance but do want the opportunity to express their views and influence decisions. A mix of formal and informal methods should be employed. Community events, local media and walkabouts can increase ‘reach’.
- 12 Many stock investment programmes have achieved wider benefits e.g. training and employment, better housing design, community cohesion, combating racist harassment and inclusion of refugees. These benefits should be sought from the outset by identifying and incorporating issues raised by BME tenants and communities. This will build trust and increase involvement.

The role of BME RSLs

Black and Minority Ethnic Housing Associations and their involvement in local authority stock transfers

Key Messages

- 13 Maintaining a diverse and vibrant BME housing sector is an important government policy objective and should be recognised in relation to transfer proposals. It is important that we see BME RSLs as key players in delivering the transfer policy, both directly and indirectly.
- 14 An initial review of issues relating to the active involvement of black and minority ethnic (BME) housing associations (HAs) in local authority stock transfer was published by ODPM in June 2004. *Black and Minority Ethnic Housing Associations and their involvement in local authority stock transfers* found that the added value BME RSLs can provide includes:
 - they have strong community base and can bring solutions to particular issues, perceptions and problems of BME communities that mainstream RSLs and local authorities cannot reach;
 - BME RSLs can assist and support mainstream equality initiatives made by local authorities and RSLs, using their contacts and knowledge. They can represent and act as a conduit between particular communities 'hard to reach' groups local authorities and mainstream RSLs;
 - BME RSLs have developed many innovative schemes in terms of specialist design and have dealt with allocation issues in areas where demand has been low from BME communities;
 - they provide BME people with opportunities for new jobs; training, experience and potential role model for other BME led organisations;
 - BME RSLs are potential models in terms of wider policy initiatives, addressing issues around social exclusion, community cohesion and regeneration;
 - they can also be an important source for enabling others involvement in new initiatives consultation and participation;
 - BME RSLs can provide constancy services as part of stock transfer process including interpretation, translation targeted at particular communities and residents;
 - they can help to develop a local BME strategy and identify BME communities needs and aspirations.
- 15 It is clear that BME RSLs can play an active role in the stock transfer process. Some key points for local authorities and mainstream RSLs should to consider are:

- BME RSLs should be involved from the very beginning of the Options Appraisal process, both (a) to ensure effective communication with BME communities, and (b) through involvement in strategy development as possible recipients of Council stock either direct or indirect involvement possibly in a partnership or secondary transfer role;
 - in addition, authorities should consider how they could promote more partnership approaches between BME and mainstream RSL. BME RSLs should form part of the 'choice of landlord' process or any 'partnership protocol';
 - in areas with substantial BME communities, pre transfer consultation should include the offer of secondary transfers to or management by other RSLs if tenants want this; BME communities would probably benefit most. There are many ways in which local authorities can help BME RSLs in stock transfer, e.g. where land is transferred;
 - authorities should also, where appropriate, consider developing a specific BME RSL strategy, and also consider involving BME RSLs as part of targeted programme whereby a proportion of properties are earmarked to be potentially developed or managed by BME RSLs;
 - authorities as part of their BME involvement policy, should involve BME RSLs as part of their strategy by identifying BME RSLs operating in their area and what they do;
 - to be of value to BME people, the BME RSLs need not be rooted in a particular community; where BME RSLs have developed procedures that promote community cohesion and/or are well known to the BME community, their contribution is likely to be especially valuable;
 - local authorities need to know that BME RSLs have a great deal to contribute to stock options and in stock transfers especially in terms of community cohesion and cultural sensitivity; as regards performance, they are no better and no worse than other RSLs in any respect.
- 16 BME RSLs are needed in all areas where there are BME communities, whether these communities are substantial or relatively isolated.

The successor landlord

Key Requirements for the Successor Landlord

- 17 Whether or not the successor landlord will be a BME RSL, they must ensure that their proposal addresses the housing and related needs of the BME communities that they will serve, in terms of:
- equality of access to appropriate housing of a decent standard;
 - involvement in management/local decision-making and community empowerment; and
 - the provision of culturally appropriate services.

Regulatory Code on Race Quality and Equal Opportunities

- 18 Successor landlords are subject to the Race Relations Amendment Act 2000 duties on public bodies and to the requirements of the Housing Corporation Regulatory Code. In addition Authorities and potential successor landlords should be aware of the Race and Housing Inquiry and seek to take onboard its key recommendations within their transfer proposal, for example:
- the production of race equality action plans with targets to drive continuous improvements across all aspects of their business;
 - the monitoring of ethnic outcomes across all aspects of their business;
 - compliance with the provisions of the Race Relations Amendment Act.

Equality and Diversity Policies

- 19 The Housing Corporation Race Equality Code of Practice (see para. 29) expects all social landlords to draw up robust diversity strategies that show their policies meet the needs of the BME communities, staff and board presentation. To this end, successor landlords should market their equality and diversity policies and build a more positive image. They need within the BME communities to promote actively and consistently their services using all possible channels, including community centres, schools, surgeries, shops and religious facilities.

Recruitment and Staffing

- 20 Successor landlords should recruit and retain a staff profile that is representative of the community it serves. A diverse, accessible and transparent organisation is more likely to provide professional and culturally aware services to local communities. Actions include the following:
- recruit and promote BME staff to create multiracial staffing at all levels, including the use of BME consultants and contractors;
 - recruit local people and provide training to develop skills amongst the BME communities;
 - Governance and Consultation Structures.
- 21 The successor landlord should maximise opportunities for active consultation of BME communities. It could set up participative mechanisms for BME communities that feed into its day-to-day business thus avoiding problems of marginalisation. Further, tenant and residents groups should only work with the successor landlord if they can demonstrate that they are working effectively with local BME tenants and communities. In addition, the following measures could be taken:
- establish BME representation on all tenants and residents groups and link estates into surrounding community by recruiting members from the community;
 - facilitate BME representation at Board level.

Community Training Strategy

- 22 The landlord should act as a catalyst for social investment in BME communities. It could convene training courses to increase the skill base of residents so they may become community development workers. The successor landlords could also support community facilities and BME organisations to deliver community development work.

Stock Re-Investment Involving BME Communities in Design Decisions

- 23 A key activity of the stock transfer landlord in the period after transfer in the management and delivery of a major stock re-investment programme. It is important that this programme reflects the needs and preferences of different BME communities. This may involve:
- developing an appropriate mix of property types to meet the household size and cultural requirements of the different communities present in the area;
 - developing estate agreements/local neighbourhood compacts with residents and tenants groups that actively encourage and achieve cross-racial involvement;
 - ensuring that, where appropriate, contractors recruit from and support training activities to enhance the employment of local BME communities in stock investment process.
- 24 ODPM wants to see authorities within their BME Strategy set targets to enable BME RSLs to receive a proportion of the housing in their areas. In addition, we expect:
- authorities to consider ways they can enable BME RSLs to compete to acquire housing through transfer;
 - BME RSLs to be involved in the initial stages when options are being considered;
 - authorities to consider how they can promote more partnership approaches between BME RSLs and mainstream RSLs;
 - BME RSLs to be used to help address under-representation in tenants organisations and general development work within the BME community;
 - transfer proposals to specifically look at secondary transfers from mainstream RSLs or look at ways small blocks of flats may be transferred or how the BME RSL can deliver the day to day management of the properties;
 - stock rationalisation plans to include ways that BME RSLs can take advantage of transfer;
 - BME RSLs to be able to develop sites where new development is planned to address the housing needs of the area;
 - direct involvement through the consideration of transfer to existing BME RSLs (indirect involvement may be through the use of existing BME RSLs to support transfer proposals to non BME RSLs).

- 25 We want to develop a sector where partnerships between new LSVT and existing RSLs and BME RSLs are evident in all areas where there are BME communities. In local authority areas with a BME population and where stock management and ownership is under review, BME RSLs should be encouraged to be part of the standard process of identifying how best to meet community needs. A clear outcome would be an increase in the number of ex-local authority stock owned and or managed by BME RSLs.
- 26 ODPM and the Housing Corporation have launched a pilot project and are supporting four BME RSLs through the process of stock transfer from local authority proposal to tenant ballot. The experience of the associations will then be used as the basis for a guide to help other BME associations involved in proposed transfers. The initial findings will be available in October 2005 and further guidance will be published in January 2006.

Legal and regulatory requirements

Race Relations Act Amendment (2000)

- 27 This extends the Race Relations Act 1976 to prevent discrimination in all functions of public authorities such as local authorities, central government and the Housing Corporation. The earlier Act outlawed discrimination by public authorities in relation to employment, housing, education and in the provision of goods and services. The Amended Act takes this further by outlawing discrimination on racial grounds directly or indirectly or by victimisation in the activities of all public bodies. Local authorities and successor landlords must ensure they comply with these new provisions in consultation with BME communities; in particular in relation to the employment of staff and hiring of consultants and the provision of goods and services.

Crime and Disorder Act 1998

- 28 The Crime and Disorder Act 1998 contains three areas that should be noted by local authorities and successor landlords in order to address the reality of racist violence and harassment during the transfer process. First, it introduces the new concept of a racially aggravated offence. This is when the offender shows hostility towards the victim at or immediately before or after the incident, or that the offence is motivated by racial hostility. The second area is the importance of anti-social behaviour orders (ASBOs). Local authorities and the police can use this order to tackle low-level harassment, alarm or distress. The third area of interest in crime disorder partnerships. These are local initiatives designed to reduce crime in local communities in each local authority in England. Race equality issues can be raised at such partnerships so that strategies can be implemented to address harassment.

Housing Corporation Regulatory Code

- 29 A Race Equality Code of Practice for Housing Associations was introduced in 2002 alongside the Housing Corporation's Regulatory Code; it applies to all stock transfer successor landlords. This sets out how associations should develop their business so that race equality is promoted and address discrimination. The Code expects all housing associations to ensure BME communities have equal access to services and are satisfied with their housing choices and the services they received. Further, housing associations should reflect the communities they serve at board and staff levels and that any contractor takes heed to positively promote race equality. The Regulatory Code follows the publication of the Challenge Report by the Race and Housing Inquiry, which called on the housing sector to renew its commitment and promotion of race equality.

ANNEX F

Collection and analysis of stock condition information

- 1 This Annex outlines some general principles connected with the collection and analysis of stock condition information.
- 2 Stock condition surveys (SCSs) are an important part of the local authority Business Planning process. Many authorities have completed or are embarking on SCSs for Business Planning purposes, so those proposing transfer should consider what information is already available before commissioning another survey. Where commissioning further work and where it is possible, successor landlords should be involved in the process.
- 3 We strongly advise authorities to refer to our *Collecting, Managing and Using Housing Stock Information (20)* guidance when planning to conduct or commission a stock survey. Authorities should also encourage any contractors who are invited to tender for stock survey work to demonstrate that they have used the guidance in developing any proposals for a stock survey in the local area. The guidance is published in three volumes. Volume 1 is aimed at staff who have strategic planning responsibilities and need a broad overview. Volume 2 is aimed primarily at those with hands-on responsibility for managing and conducting surveys, managing databases and analysing the information, and includes practical examples and techniques for survey design and implementation. Volume 3 is aimed specifically at helping authorities to design a good brief for the survey and gives specific guidance on tendering, commissioning and managing a stock condition survey.
- 4 ODPM issued a supplementary annex, entitled *Decent Homes: Capturing the Standard at the Local Level (21)*. This new annex demonstrates how social landlords can quantify the extent of non-decent housing within their stocks, and use the results to plan and monitor future action to deal with the problem. It sets out how to determine the baseline position in relation to the extent of non-decent housing, develop an investment programme and monitor progress towards eradicating the problem of non-decent stock.
- 5 We have also set up a page on our housing web site to answer Frequently Asked Questions (FAQs) that arise in connection with stock condition surveys: www.housing.odpm.gov.uk/research/stocksurveys/faqs.htm
- 6 The key principles on stock condition information that are particularly relevant to the transfer process are outlined below. Rather than repeat the detail in the *Collecting, Managing and Using Housing Stock Information (20)* guidance, cross-references are made where appropriate.

The importance of up to date and robust stock condition information

- 7 Up-to-date and robust information about the stock is critical to inform decision making about options for the stock and the timing, phasing and type of work that would be carried out on the stock as part of the transfer, including fairly radical decisions such as demolition. Many authorities are already embarking on stock condition surveys to inform their business planning process and ideally these surveys should meet the requirements of the transfer process or be updated to do so at application stage.

Sharing the stock survey with the prospective new landlord

- 8 Authorities should consider the best ways of maximising the use of the survey data and minimising duplication of effort, particularly a repeat survey by the new landlord soon after the transfer. Authorities should establish a central database or Due Diligence Library containing both up-to-date and historic information on their stock which will give RSLs and other stakeholders, including funders easier access to reliable information. It should enable RSLs and their funders to carry out due diligence effectively, and to avoid duplication of effort by the RSL and the local authority. The authority could achieve this either by including it in their Disposal Prospectus or creating a dedicated transfer library which would be accessible to all potential bidders or funders. In addition authorities could consider involving RSLs in the procurement of the Stock Condition Survey if it has not already been completed prior to the RSL selection, and working with the RSL in developing a conveyancing strategy to prevent the duplication of effort.
- 9 Data that is collected in a flexible way (see paragraph 18 below) which avoids pre-determined data collection in the field should be capable of being used by a variety of users for a variety of purposes, allowing them to make different assumptions and to model different scenarios to meet their own needs. Authorities may wish to develop a strategy early on for sharing the stock survey information with the prospective new landlord. It is particularly important that there is a shared understanding about how the survey has been designed and managed, so that there is a shared perspective about the purpose and scope of the survey. It is also important that there exists a shared understanding of how the data has been interpreted, analysed and used to develop the proposed repair and improvement package. It is also important that the SCS contractor is content to provide such collateral warranties and other legal comfort as may be required by the new landlord and other third parties such as funders should the transfer proceed.

Sample surveys

- 10 Stock condition surveys are expensive to undertake, with a large proportion of the cost going towards the fieldwork process. Decisions should weigh cost against reliability. We advise against undertaking a 100% survey of the dwellings, as this is unnecessary and also very difficult to achieve. Information is only required for a sample of the dwellings that it is proposed be transferred. Sample surveys provide robust data at a much lower cost.

- 11 There is no one fixed sample percentage that will suit all purposes. The most appropriate sample size will depend upon the purpose of the survey and the size and make-up of the stock. Authorities should have a view on desired level of accuracy required as this is a key driver of required sample size. It is important to have all types of property represented in the sample, rather than large samples of all the same type. If the stock is very diverse the sample may have to be increased to provide an efficient assessment of all dwelling types. In contrast, sample sizes can be reduced if, in advance of selecting the sample, dwellings can be grouped into batches with like characteristics where these characteristics (such as dwelling size, construction type and condition) are likely to be reflected in costs. The ease with which stock can be grouped to take account of these factors will depend on the available stock databases and knowledge of the stock.
- 12 Stratified rather than simple random samples are often the most effective in ensuring that concentrated problems in particular types of stock or area are included. For groups of dwelling stock where works costs are likely to be low with little variation then small sample sizes can be selected. Groups likely to generate high and variable repair costs will require a larger sample. This kind of approach can maximise the accuracy of results while minimising sample size.
- 13 Chapter 6 of Volume 2 of *Collecting, Managing and Using Housing Stock Information (20)* provides an overview of sampling principles and procedures. More information on sampling error is outlined, particularly in relation to the variation around costs that are generated from the survey in respect to different sampling approaches.

Overcoming surveyor variation: the importance of operating to common standards

- 14 Sample error can be much less a problem than surveyor measurement errors, although the latter is often overlooked and the former can be given undue emphasis. It is essential that all those involved in collecting and collating of information on stock condition operate to a common standard and that they fully understand the principles on which the information is being assembled. The key ways of overcoming surveyor variation are:
 - giving clear briefing about the scope of the survey, including some practical work to enable common standards to be discussed while assessing dwellings in the field;
 - restricting what is recorded to direct observations and leaving interpretation to the analysis stage where consistent assumptions can be made;
 - careful management, including spot-checks in the field.

Collecting key information

- 15 The emphasis for a SCS should be on collecting information about significant items of expenditure on dwellings or key building elements (e.g. kitchens and bathrooms) rather than overloading the surveyors by asking them to collect a large amount of cost-insignificant information (e.g. door fittings). A significant proportion of the main works costs (50-70%) is generally attributed to works covering heating, kitchens, bathrooms, electrics, heating, windows and doors. Typical inspections can deal with around 40 assessments. In the Cost Generation Model (CGM), key building elements in terms of cost are placed at the head of the preferred list of building components, enhancing the ability for authorities and their partners to use the CGM as a tool for reviewing costs and assessing options.
- 16 Annex B of Volume 2 of *Collecting, Managing and Using Housing Stock Information (20)* provides more information about building elements and their contribution to the overall cost of dealing with disrepair. Annex B also illustrates the type of information which needs to be collected to provide a fully rounded picture of the stock, including elements which are external to the dwelling, but still need to be assessed and included in a comprehensive repair and maintenance strategy, such as common areas in blocks of flats and shared facilities and services on estates. The Cost Generation Model requires specific information on this, so it is important that this type of information is collected.

Stock condition surveys and the decent home

- 17 The *Decent Homes: Capturing the Standards at the Local Level (20)* supplementary annex outlines the type of information which is needed to set a baseline, plan and investment strategy and monitor progress towards the Decent Home. It is important to stress that the type of information needed for this should already be part of a standard stock condition survey and other records about the stock, provided the information has been collected in a flexible way. Chapter 5 of the supplementary guide outlines the type of design, age, attribute and condition information that contributes to the Decent Home measure.

Collecting flexible data

- 18 A problem with some SCSs is that they collect data in the field in a very predetermined way, which cannot then be analysed to meet a range of different information needs. For example, some surveys collect data in the field on pre-set archetypes, which can become out of date very quickly, or may not meet different policy needs.
- 19 Rather than labelling each dwelling in the field as belonging to one archetype or another, a flexible approach to collecting data on stock type requires the surveyor to collect data on the age, size, tenure, building type and type of area which can then be used to construct whatever archetypes are appropriate.

- 20 The archetype definitions that are used in the CGM are outlined in Annex B (more detailed definitions are provided in *Completing the Single Transfer Model (8)*). However, it is particularly important that authorities ensure that they and their consultants follow this flexible approach and avoid collecting data in the field on pre-set archetypes. Authorities may wish to use the stock survey data for a variety of other purposes and the transfer archetypes may not meet all needs.
- 21 Similarly, rather than classifying in the field the state of repair as backlog, or catchup, the guidance recommends a flexible approach to collecting information about the state of repair by collecting:
- the type and age of the element;
 - whether there is a defect, and if so type of defect;
 - the type of initial action needed;
 - the scale of the action needed;
 - the timing of the initial action/longest allowed delay;
 - remaining elemental life once action is completed.

A just in time approach for planning maintenance and renewal expenditure

- 22 If data is collected in line with paragraphs 17 to 20 above rather than to one fixed lifetime assumption, it will allow authorities to test out and cost the consequences of using different assumptions, with a view to developing a more cost-effective approach to renewal and maintenance. We are keen that transfer proposals reflect the principles of the just in time approach to planning maintenance and renewal expenditure that is set out in section 4.4 of *A new financial framework for local authority housing guidance on business plans*.
- 23 A just in time approach to maintenance and renewal assumes longer life cycles for building components than the industry standard (which may be slightly conservative), as a result of the more flexible approach to assessing the remaining life of an element. Collecting data in line with the paragraph above rather than determining in the field that it is catch-up etc. allows more flexible analysis that will allow practitioners the scope to investigate options for prioritising maintenance and repair work in order to achieve the most efficient use of available resources.
- 24 We are keen that these principles should be employed in the transfer process. We may wish to pursue this analysis further with applicants, to ensure that the range of options has been thoroughly analysed and the implications for bringing some works forward or deferring them have been clearly considered.

Integrating a stock survey with other surveys

- 25 It is possible to combine a stock survey with other surveys such as an energy survey or local housing needs assessment. The cost of combining surveys may be lower as the administration/manpower costs associated with two separate surveys are reduced. The data collected can also be of higher value as a more accurate analysis of aspects about both the dwelling and the household will be achieved.
- 26 However, care should be taken when agreeing what information needs to be collected during the survey. A survey should be as concise as possible to increase the response rates and prevent respondent fatigue. Also, if authorities attempt to collect too much data, there is a danger of the survey becoming unworkable.

Environmental issues

- 27 The prospective new landlord and its funders may also want to be informed about any potential environmental issues. It may therefore be appropriate to under take an environmental risk assessment while carrying out a stock condition survey or commission a separate survey. However, a standard stock condition survey is based on what can readily be observed in the field rather than obtrusive or investigative techniques. Authorities should therefore consider whether they need to procure a specific survey or otherwise adopt another approach to risk assessment.

ANNEX G

Devising energy efficiency measures

- 1 Housing with poor quality heating or insulation is bad for tenants well being. Their heating bills are too high, and they may not be able to heat the accommodation to a comfortable level, which could lead to health problems, particularly for older people and young children. Heating problems is one of the major reasons for tenants being dissatisfied and for properties being unpopular and suffering high voids. In developing a transfer proposal, an authority should consider ways of dealing with this and improving the energy efficiency of the housing.
- 2 The Government has set a target to bring all homes up to a decent standard by 2010 and transfer is one of the options open to local authorities to enable it to deliver against this target. One of the essential components of a decent home is that it provides a reasonable degree of thermal comfort by having both efficient heating and effective insulation.
- 3 In drawing up a transfer proposal, the local authority will need to assess the current condition of the housing and identify dwellings that do not meet the decent home standard. It will then need to put together a programme of repair and improvement works to bring the housing up to a decent standard.
- 4 When putting together the proposed programme of works to address failure to meet the thermal comfort criterion, as recommended in *A Decent Home: the revised definition and guidance for implementation* (22), the local authority and prospective new landlord should consider ways to improve the energy efficiency of the dwelling:
 - where loft insulation is being fitted, landlords should install insulation which is much thicker than the 50mm^[1] required to meet the decent home standard;
 - where new heating systems are being installed or existing systems replaced, landlords should take the opportunity to install energy efficient boilers, i.e. those with a SEDBUK A-C rating, where this is possible;
 - where it is not possible to install energy efficient boilers, cavity wall should be insulated (if there are cavity walls that can be insulated effectively).

[1] 50mm of loft insulation or cavity wall insulation is the minimum requirement to meet the thermal comfort criterion where the home is heated by gas or oil programmable heating. Where the home is heated by electric storage heaters or programmable LPG/solid fuel central heating, 200mm loft insulation and cavity wall insulation is required for the home to meet the thermal comfort criterion.

- 5 In putting together the programme of works, the authority and prospective new landlord should consider undertaking an energy rating of the stock, in accordance with the latest Standard Assessment Procedure (SAP) requirements. This will help to identify where improvements should be made and the most cost-effective energy efficiency improvements.
- 6 Where stock has existing but outdated community heating, modernisation to up-to date standards should be considered, because it can provide heating for tenants at lower cost than individual central heating. Up-to-date community heating will also have lower landlord maintenance costs, for example one boiler to be checked annually rather than many. Where the modernised community heating can be run in conjunction with combined heat and power (CHP), this can also mean cheaper electricity costs. Landlords can sell electricity directly to tenants. New community heating may also be possible. Funding for new and refurbished community heating schemes is available through the Community Energy Scheme, managed jointly by the Energy Saving Trust and the Carbon Trust. Advice on contractors and consultants is available from the Energy Saving Trust and the Combined Heat and Power Association, contact details for which can be found in the Contact Details Other useful addresses section of this manual.
- 7 The local authority and the new landlord might wish to consider one of several programmes now in place to provide social landlords with additional resources for carrying out energy efficiency programmes, more information about which can be found on www.defra.gov.uk/environment/energy.
- 8 The **Energy Efficiency commitment**, which obliges gas and electricity suppliers to encourage or assist domestic customers to take up energy efficiency measures.
- 9 **Transco Affordable Warmth scheme** which has introduced Affordable Warmth leases targeted at social landlords. (Specific contact details for this programme can also be found in the Contact Details-Other useful addresses section of this manual.)
- 10 As part of their work to promote energy efficiency in managed housing stock the Energy Savings Trust operate an online database of sources of energy efficiency funding and information for housing associations and local authorities. The database can be found at www.est.org.uk/housing
- 11 A programme of training front line staff in energy advice could be implemented. In addition energy advice can also be integrated into working practices and targets could be set for staff to achieve recognised qualifications such as City and Guilds 6176 Energy Awareness. Tenants could be given advice on energy efficiency and how they can reduce their fuel bills.
- 12 The government has a target of achieving 10% of its electricity generation from renewable sources by 2010. Social housing has a role to play here and finance is available from the DTI through the Major Photovoltaic Demonstration Programme for the installation of solar panels that produce electricity that feeds directly back into the grid. Consideration should also be given to Solar Water heating and ground based heat pumps as a source of energy for tenants homes.

- 13 Housing authorities have set targets under the Home Energy Conservation Act 1995 for improving the energy efficiency of the housing stock in their area. Improving energy efficiency of stock that is transferred would contribute to meeting these targets and the transfer proposal should contain details of the mechanisms by which the new landlord will report to the authority on energy efficiency improvements made to the dwellings to feed in to the annual report it is required to make under this Act.

- 14 The Housing Corporation's scheme development standards include cost effective energy efficiency measures and a test of compliance that energy efficient homes are delivered. Whilst it is not a requirement of transfer that measures to address fuel poverty over and above those required to deliver decent homes are applied, authorities and prospective new landlords will wish to be aware of these standards when considered planned work programmes.

ANNEX H

Drawing up an “Egan compliance” action plan

- 1 When drawing up the repair and improvement programme, authorities should incorporate the principles set out in *Rethinking Construction (103)* the report of Sir John Egan’s Construction Taskforce, and the principles of Best Value. Measurement of performance is at the heart of both the modernisation of local government and of construction procurement practices generally and is a key element in the drive to deliver value for money.
- 2 Contracts let on a Best Value (rather than a lowest cost) basis must include requirements that contractors measure and monitor their performance. Performance requirements within contracts can help to eliminate defects and reduce the costs and time to completion of a project or programme of work and improve their predictability. The *Construction Key Performance Indicators (104)*, produced by the Construction Best Practice Programme, are a useful starting point for obtaining these measures.
- 3 The Housing Corporation is committed to the Government’s Rethinking Construction agenda and from the commencement of the 2003/2004 bidding round has only allocated funds from its Approved Development Programme (ADP) to housing associations that are committed to achieving Client’s Charter status. Whilst many authorities have been developing proposals to implement the Rethinking Construction agenda, others may be less well advanced. In developing a transfer proposal, an authority is required to draw up a draft action plan which sets out the steps it has already taken and how these might be developed by the prospective new landlord to ensure commitment to Rethinking Construction agenda within a reasonable period. Such authorities may wish to demonstrate commitment by following the Client’s Charter route. This route would be particularly relevant to future transfer landlords that might wish to be in a position to have access to possible future funding for new developments. Further information about the Client’s Charter can be found at www.clientsuccess.org.uk or in the National Housing Federation’s *Implementing the Clients Charter (70)*.
- 4 The authority and prospective new landlord may also wish to get in touch with the Local Government Task Force (LGTF) which is overseeing a programme of demonstration local authority projects in repair, maintenance and new build programmes. The LGTF works closely with the Housing Forum, both forming part of the Rethinking Construction initiative. The Housing Forum has for some time overseen a similar programme of demonstration projects among RSLs and in the private sector, and the LGTF can give can give advice on more innovative practices in contracting. Many demonstration projects have succeeded in increasing co-operation between the contracting parties, identifying new techniques and materials (such as prefabricated components) to increase overall efficiency and reducing the potential whole-life costs of a development to aid sustainability. The Contacts details section of this manual contains contact details for LGTF and the Housing Forum.

- 5 The draft action plan will be assessed by the Housing Corporation and, subject to tenants voting in favour of the transfer, feedback given to the new landlord prior to the transfer. An approved action plan must be in place before the Corporation will register the new landlord or, if an existing RSL, before the Secretary of State will grant consent to the transfer.

ANNEX I

Drawing up a rent plan, treatment of service charges and Supporting People Grant

Background

- 1 As detailed in Section 6, an authority needs to draw up a rent plan, to be agreed with ODPM which, should the transfer go ahead the new landlord would be obliged to comply with. The rent plan should provide ODPM with a written account of the proposed rents as part of the authority's application and provide the rent figures in the Single Transfer Model (see Annex B). Tenants should be consulted on the rent policy agreed with ODPM.
- 2 Rent plans must be consistent with the Government's social rent reforms, introduced in April 2002. General details of the reforms can be found in *Guide to Social Rent Reforms (ODPM March 2001 (2))*. The specific approach for RSLs is set out in *Implementing the rent restructuring framework, Housing Corporation October 2001* on the Housing Corporation website and updates from December 2001 about rent caps and January 2002 about valuation for supported housing. The plan should show how the proposed rents agree with rent policy. Further guidance on how the rent plan might best be reflected in the formal consultation document is at Annex O.

Other assumptions in the Pricing Model

- 3 As well as the level of transferring tenants and relet rents, and the annual level of increase, the Pricing Model requires other assumptions that affect the total rental income to be made:
 - the **relet rate**, i.e. the proportion of the housing which would be relet to new tenants each year. Recent local authority experience may provide a useful starting point, although in areas where the relet rate is currently high, we would expect to see it fall once catch-up repairs and other major works had been completed;
 - the **void and bad debt rate**, i.e. the proportion of the housing that would be empty or not generating rent. Again, the recent local authority record will be a useful starting point but, if the rate is currently high, we would expect it to reduce following the provision of more efficient management and improved housing by the new landlord;

- the level of **new build** and **demolition** rent can be input, based on numbers generated by the CGM. These rents will need to be separately agreed by ODPM. We would expect new build rents to be higher than for transferred stock though with annual increases still within the RPI + 0.5% + £2 per week maximum.
- **rent guarantees:** Whilst they were useful when the rent regimes in the local authority and RSL sectors were different, we no longer consider rent guarantees to be particularly meaningful now that rents in the two sectors are to be set on a similar basis. They may still be given however, as long as they do not exceed five years in length or prevent convergence from being achieved by April 2012. A proposed rent guarantee is not considered an acceptable reason for making use of the 5% discretion and we would query a guarantee where large rent increases would be required after the guarantee period in order for convergence to be achieved. There may be case for one-off initial increases above the maximum on moving into a new build property and convergence with the target rent later than 2011/12. This would be an exception though which would need to be fully justified and agreed with ODPM with tenant fully consulted on the increases and shown to be in agreement with the proposals.

Service charges

- 4 Arrangements for service charges should be fully explained in the application and entered in the STM. Tenant consultation documents should also set out in detail service charges under the new landlord, with any changes to the current local authority service charges highlighted. For 2005 LSVT Programme applications, we will expect service charge details to include proposals for separating service charges from basic rent in order to ensure that tenants are only paying for the services they receive as individuals, such as concierge services. Housing Corporation guidelines for the treatment of service charges are set out in *Implementing the Rent Restructuring Framework*, Housing Corporation October 2001 on the Housing Corporation web site.
- 5 Similarly, local authorities financial modelling and planning should include service charge income and expenditure based on full separation from basic rent which should be reflected in the pricing model in the STM (see Annex B). Service charges should not increase by more than RPI + 0.5% per annum. Proposals for the separation of service charges and recoverability of service charge income in place of rent pooling, and their impact on the valuation, should be fully explained and agreed with ODPM.

Supporting people

- 6 Account should be taken of the introduction from April 2003 of Supporting People grant arrangements. This required housing related support costs to be separately identifiable from housing-related service charges. Supporting People involved a change in the funding arrangements as housing benefit no longer meets the costs of support services and instead local authorities are allocated new Supporting People grant. Local authorities financial planning and RSL business plans should reflect these changes.

- 7 The income and costs relating to Supporting People should be excluded from the ODPM model as they should not affect the valuation of the stock. It is recognised that for the RSL business plan the risk attached to any assumed income will grow over time. Therefore, as an RSL will be recovering personal support costs it will have to respond to changes in Supporting People grant and adjust its cost base accordingly.
- 8 RSLs and local authorities need to have regard to the windfall and transitional protection arrangements under Supporting People. In the lead up to the introduction of Supporting People authorities that had not previously identified the cost of the provision of support (or associated charges) from within their HRA were required to unpool these costs. The amount identified then formed part of the Supporting People grant. To avoid a situation where tenants who had not previously been charged for support but due to the introduction of Supporting People and the unpooling exercise were now faced with a charge the ODPM proposed authorities transitionally protect these existing tenants (as at the 31 March 2003). The ODPM took the decision not to claw back from the HRA the costs of this support – the windfall. Authorities are required to use the windfall to transitionally protect tenants from any increase in the cost of support until the first full service review. More information is available on the Supporting People website: www.spkweb.org.uk

ANNEX J

Capital finance and the treatment of costs associated with transfer

Capital Finance

- 1 As detailed in section 7, one of the key considerations when developing a transfer proposal is working out whether it will result in a capital receipt for the authority and, if so, the amount of that receipt that it will be required as provision against housing attributable debt held by the local authority.

Pooling

- 2 The pooling arrangements put in place in regulation 12 of the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 (pooling of receipts from disposals of housing land) do not apply to receipts from a “qualifying disposal”. This is defined as a disposal of an interest in housing land which is a qualifying disposal for the purposes of section 135 or 136 of the Leasehold Reform, Housing and Urban Development Act 1993. It is the intention that pooling should also not apply to receipts from Small Scale Voluntary Transfers. This will be provided for in subsequent amendment regulations.
- 3 Where the transfer receipt is greater than the authority's housing attributable debt as defined by its Subsidy Capital Financing Requirement (SCFR) it is the local authority's responsibility to ensure it makes provision for the repayment of this debt. After transfer the Office will no longer have any liability for subsidy payments in relation to the debt.
- 4 Where a transfer produces a useable receipt, ODPM would expect the authority to use the resources to deliver its sustainable community agenda at the local level.
- 5 As they form part of the transfer contract and price consideration subsequent capital receipts derived from a disposal under a Right to Buy sharing agreements are also exempt from pooling arrangements.

The receipt

- 6 The receipt may be used at any time to meet any expenditure for capital purposes or it can be used for the repayment of debt. When submitting details about a proposed transfer to ODPM, authorities are asked to state to what use they intend to put the receipt.
- 7 Authorities that are transferring their entire stock may choose to become debt free. That is a local decision but one that should be notified as part of the transfer.

The treatment of costs associated with Transfer

- 8 In developing transfer proposals, authorities will incur expenditure that can conveniently be broken down into pre-ballot costs, consultation costs and post ballot costs. In summary, in ODPM's opinion, only the costs incurred by an authority in discharging its statutory duty to consult under section 106A of schedule 3A to the Housing Act 1985 can be debited to the Housing Revenue Account (HRA) as expenditure on the management of the authority's housing stock. This would include the cost of conducting a ballot. Administrative costs of and incidental to a qualifying disposal may be defrayed from the capital receipt (section 9 Local Government Act 2003). Any other costs should be met from the General Fund.
- 9 A local authority may provide financial assistance to the new RSL landlord. Where the financial assistance is in the form of a loan, Ministers are of the view that the presumption that the loan should be recovered where possible (see 12.15). There could be cases where an authority assists the new landlord to meet the cost of repayment of all or part of that loan by abating the purchase price by an amount equal to the loan repayment. This is likely to be where the new RSL is unable to cover the costs through additional commercial loan finance. On 1 May 1995, ODPM issued Circular 8/95 The Housing Revenue Account to local authorities, advising them on various aspects of the HRA. This guidance is not intended to be an authoritative interpretation of the legislation and authorities should take their own legal and accounting advice as necessary. They will need to satisfy their auditors about their decisions.
- 10 The costs which are incurred in undertaking a transfer can be conveniently described as follows:

Local Authority costs:

- Pre-ballot costs, including consultants fees, legal fees and additional staff costs, the cost of the stock condition survey and the valuation, the costs of informal tenant consultation prior to statutory consultation and of providing tenants with independent advice about the transfer.
- Statutory consultation costs, incurred in carrying out the consultation required under section 106A of the Housing Act 1985, including the cost of issuing the formal consultation document (and any summary which might be issued with it) and the statutory further notice to tenants and of conducting the tenant ballot. It would not include newsletters serving a wider purpose.
- Post-ballot costs, including the costs of arranging and implementing transfer, on going consultants fees, legal fees, warranties and staff costs.

New landlord costs:

- For RSLs set up specifically to receive the stock, these include pre-transfer costs such as the initial costs of renting of office accommodation, staff salaries and the acquisition of computer equipment. All RSLs employ lead consultants, legal advisers and funding advisers and meet the costs of the transaction itself, including stamp duty, funder's arrangement fees, legal fees and registration fees.

- For existing RSLs, these normally include costs associated with the transaction only.

Costs which are a charge to the Housing Revenue Account (HRA)

- 11 HRA Circular 8/95 explains that costs borne by the HRA will be those in connection with the management of dwellings within that account.
- 12 Expenditure incurred in carrying out the consultation required under section 106A of the Housing Act 1985, including the cost of any ballot, is considered by ODPM to be in connection with the management of dwellings held within the HRA and therefore must be charged to that account. Other costs of transfer, such as pre-ballot and post-ballot costs are, in ODPM's view, not incurred in connection with the management of houses held within the HRA and therefore must be met from elsewhere, as described below.

Costs that may be defrayed out of the Capital Receipt

- 13 Sections 9 to 11 of the Local Government Act 2003 defines capital receipts, non money receipts and sets out provision for the use of Capital receipts. Section 4 of the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 goes into further detail. Section 14 lists by what, for the purposes of calculating the specified amount, the capital receipt in relation to the disposal of the interest in housing land shall be treated as reduced by.
- 14 In ODPM's view, the administrative costs of and incidental to a disposal include legal fees, surveyors fees, valuation fees and costs, consultants fees (not incurred as part of the consultation exercise and whether incurred pre- or post-ballot) and staff costs providing they were incurred in connection with the surveying and valuing of property and drafting, completing and executing the transfer contract. Such costs need not be met from revenue; they may be defrayed out of the capital receipt.

Costs to be charged to the General Fund

- 15 Any costs of transfers must be charged to any revenue account within the General Fund other than the HRA if they may not be charged to the HRA or met from capital receipts.
- 16 Authorities may also choose to meet the administrative costs of and incidental to a transfer from any such revenue account.

Costs of Abortive Transfers

- 17 Abortive transfers do not generate a capital receipt from which any of the costs may be defrayed. Therefore costs must be borne by the HRA or the General Fund, as described above for successful transfers, depending on whether or not they are incurred in connection with the management of housing. To date the Office has been unwilling to permit the capitalisation of such costs.

New Landlord costs

- 18 Authorities may apply to the Secretary of State for consent to assist the prospective new landlord with the pre-transfer and transaction costs. ODPM will consider applications for consent under section 25 of the Local Government Act 1988 to enable an authority to make a loan to an RSL to meet these costs. Whether the making of the loan is capital expenditure for the authority and whether repayment of the loan generates a capital receipt will depend upon the purpose for which that loan is given.
- 19 Loans for the following purposes are, in ODPM's view, examples of expenditure to be treated as capital:
- the acquisition of computer equipment;
 - the acquisition of office accommodation.
- 20 The making of a loan to a third party for capital expenditure purposes counts as capital expenditure for an authority. An authority could fund such expenditure from revenue or usable capital receipts. When the loan is repaid, it will be subject to 50% pooling, because it is a capital receipt by virtue of section 7 of the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003.
- 21 Loans for the following purposes are not, in ODPM's view, to be treated as capital expenditure:
- staff recruitment and salaries;
 - research and consultancy costs;
 - legal fees;
 - stamp duty;
 - land registry and other fees;
 - training;
 - publicity, stationery, telephones, photocopying etc.
- 22 No pooling will be required from the repayment of such loans.

- 23 Where a transfer is aborted and amounts borrowed by the RSL are unspent, then they should be repaid to the authority. Where none remains unspent, the authority must write off the loan.

Pension Fund Deficits

- 24 Local authorities will have a long-term strategy for managing their employees' pension contributions within the Local Government Pension Scheme. Therefore the pension fund for those local authority staff moving to the new landlord may, at the time of transfer, be in deficit. The responsibility for this deficit rests with the employer at the time the deficit accrued. How the deficit is addressed will be important for staff and must be agreed between the local authority and new landlord as part of the transfer negotiation. Some local authorities may decide to make good this shortfall from their own resources in advance of the transfer, thus bringing the fund up to the correct level at the time of transfer. Alternatively, both parties may agree that any shortfall is met by the new landlord and reflected in a reduced valuation, thereby reducing the capital receipt received by the local authority.
- 25 Local authorities should be aware that making good the shortfall from their own resources falls outside the definition of set-up cost and, as such, may not be subtracted from the capital receipt when determining either the amount of set-aside or levy payable. This is because set-up costs are defined as costs incurred by a local authority which relate to a disposal, including costs incurred by the authority in discharging its statutory duty to consult under section 106A of and Schedule 3A to the Housing Act 1985, and administrative costs of and incidental to the disposal defrayed by the authority. As the pension deficit will be in existence and will need to be addressed whether or not there is a transfer, it cannot be considered as a cost incurred because of the transfer.
- 26 It is not intended that gap funding should be used to cover an employer's liability in respect of pension contributions.

Criteria for a use of a Transfer Receipt towards further Negative Value Transfers

- 27 Under the 1989 Act local government capital finance arrangements the Office would agree to requests from authorities to recycle, rather than set aside, receipt(s) from proposed positive value partial transfer(s) to fund proposed negative value partial transfer(s) that take place at or around the same time.
- 28 Since the introduction of the provisions within Part I of the Local Government Act 2003 this arrangement is no longer in place. However the Office considers there remain circumstances where a local authority, pursuing a mixed model approach to delivering the decent home, may wish to use receipt(s) from proposed positive value partial transfer(s) to fund proposed negative value partial transfer(s) that are part of the authority's decent home delivery strategy as set out in a signed off Options Appraisal strategy.

- 29 While there is no longer a requirement for set aside, an authority's housing revenue account subsidy will be adjusted to take account of the receipt. For this not to be the case an authority must seek ODPM agreement prior to the positive value transfer where it wishes to use receipts from positive value partial transfers to fund negative value partial transfers that are part of the authority's decent home delivery. This should be in writing to the housing transfer policy branch within the Decent Homes Division.

Criteria

- 30 The criteria that will be used to assess any requests are:
- (i) The transfers must form part of a decent homes delivery strategy with a resolution from the authority to seek to deliver both the positive and negative value schemes.
 - (ii) This strategy must result from the decent home Options Appraisal and have been signed off by the relevant Government Office for the Region.
 - (iii) The authority must be able to satisfy ODPM that its decision to split the transfer is consistent with and in response to ODPM's criteria as set out in this guidance. For example, it could have been made in response to the wishes of tenants and ODPM to enable competition from RSLs for transfers.
 - (iv) Minimum valuations (both for positive and negative value transfers) will need to be agreed between ODPM and the authority. These will be set out in the letter to the authority granting it a place on any LSVT Programme (in the same way as is currently the case for overhanging debt transfers). These valuations will need to be backed up by recent stock condition surveys. Where there is a net receipt it will be used in calculating the attributed debt repayment required and any associated overhanging debt payment.
 - (v) In the event of the sale price of the transfers being less than the minimum valuation, the authority will have to meet any shortfall required to fund the negative value transfer(s) and to pay off the agreed amount of HRA debt from its own resources. An exception to this would only be considered if ODPM were satisfied that the changes arose from exceptional circumstances outside the control of the authority.
- 31 If the Secretary of State grants consent to the authority to transfer, he will also, under section 80 of the Local Government and Housing Act 1989, direct that the capital receipt received by the authority in respect of stock shall be nil when calculating J in paragraph 6.2(2)(b) of the Housing Revenue Account Subsidy Determination 2004-05.

ANNEX K

Programme For Disposals (Applications) Direction 2005

The First Secretary of State, in exercise of the powers conferred on him by section 135(5) and (12) of the Leasehold Reform, Housing and Urban Development Act 1993, and of all other powers enabling him in that behalf, hereby makes the following direction:

Citation and application

- 1 (1) This direction may be cited as the Programme for Disposals (Applications) Direction 2005.
(2) This direction applies to local authorities in England only.

Revocation of direction

- 2 (1) Subject to paragraph 2. (2), the Programme for Disposals (Applications) Direction 2004 (the 2004 Direction) is hereby revoked.
(2) The 2004 Direction shall remain in force for any disposals programme application sent prior to the date of this direction.

Manner of application

- 3 (1) An application by a local authority for the inclusion of a disposal in a disposals programme for the financial year commencing on 1st April 2005 (a disposals programme application) shall be sent to the Decent Homes Division, Office of the Deputy Prime Minister, Zone 2/D2, Eland House, Bressenden Place, London SW1E 5DU and shall be accompanied by 2 copies.
(2) A copy shall also be sent to the relevant Government Office for the Region; the Community Housing Task Force; and the Housing Corporation's Stock Transfer Registration Unit.

Date of application

- 4 A disposals programme application shall be submitted by no later than 28 January 2005.

Information to be included in an application

- A disposals programme application shall contain the information listed in Annex M of Housing Transfer Manual 2005 Programme.

Anne Kirkham
Decent Homes Division

ANNEX L

Transfer proposal summary sheet

Local Authority.	
Whether a proposed LSVT or SSVT.	
Whether whole stock or partial stock.	
If partial stock, give the name of area or that by which transfer proposal is known AND number of units and % of total housing stock that would transfer.	
If whole stock, how many units would transfer?	
How many leasehold properties would transfer?	
How many units that are currently tenanted would transfer?	
How many decent units would transfer?	
How many non-decent units would transfer?	
Date by which all properties would meet the decent homes target.	
How many (if any) new build properties would be available for social rent?	
How many (if any) new build properties would be for sale?	
How many (if any) properties would be demolished?	
Details of prospective new landlord (whether existing RSL, subsidiary or new RSL) and whether part of group structure?	
Where the new landlord has not been selected, timetable for the choice process.	
Proposed sale price/gross receipt (total and per dwelling).	
Estimated net receipt (gross receipt less set up costs).	
Estimated PSNB effect (total and per dwelling).	
Estimated private finance required to fund transfer.	
Estimated attributable housing debt.	
Estimated levy payable.	
Estimated usable receipt.	
Where there would be overhanging debt, estimate of one off payment necessary.	
Debt Redemption Premia.	
Proposed dates for formal consultation.	
Proposed date of ballot.	

Proposed date of Housing Corporation registration (if appropriate).	
Proposed date of transfer.	
Date of Options Appraisal sign-off.	
Full Name and address, including e-mail of lead local authority officer/project leader.	
Full Name and address, including e-mail of the Council's Chief Executive.	
Full Name and address, including e-mail of the Leader of the Council.	
Full Name and email address where possible of local MPs (i.e. whose constituencies fall within the transfer area).	

ANNEX M

Information to be provided on a proposed transfer

The following information must be provided with an application for a place on the 2005 LSVT Programme or as a part of the ‘initial information’ on a proposed SSVT.

- The information required at Annex L – a *summary* of the proposed transfer including its nature (LSVT, SSVT, whole stock or partial or part of a mixed model approach), the number of tenanted and leasehold units that would transfer, the type of housing concerned, the general condition of the housing, the nature and name of the prospective landlord, the estimated transfer price or, if negative value, the source of funding and whether there would be overhanging debt and what the scheme would entail.

Programme Criteria	Demonstration of compliance with criteria
Options Appraisal and preparatory work	
a. Whether the authority has undertaken an Options Appraisal exercise and transfer has been identified as the preferred route for decent homes delivery.	Provide evidence that the GO-R has formally signed off the Options Appraisal.
b. That the proposal can demonstrate that it provides value for money for the authority and that it forms a coherent part of the authority's HRA Business Plan, Local Strategic Partnership and Community Partnership and that these have been drawn up after the Options Appraisal in which tenants were involved and which was informed by a housing needs assessment and a stock condition survey.	Details of <ul style="list-style-type: none"> • the investment appraisal and tenant involvement in this; • how transfer fits into the authority's HRA Business Plan; • the Housing needs assessment undertaken in Options Appraisal; • how transfer provides value for money for the authority as identified in Options Appraisal; and • the CHTF, GO-R and where appropriate NDC's role in advising on the scheme.
c. That there would be long term demand for the housing it is proposed to transfer, how it is proposed it would be sustained and, if not, details of the strategy in place which will address demand problems.	Details of <ul style="list-style-type: none"> • the extent of long-term demand for social housing in the region, borough and wider area, and for the types of housing being proposed for transfer and whether this is likely to be sustained; • any demand and/or unpopular housing issues and proposed measures to address them; • how much detail will be available to tenants at the proposed time for ballot of any demolition proposals.

The remaining information requirements are listed beneath the Programme criteria to which they relate.

Programme Criteria	Demonstration of compliance with criteria
<p>d. The extent to which the transfer would contribute to the authority's strategy for building sustainable communities and achieving the Government's wider regeneration, social and economic objectives.</p>	<p>Provide:</p> <ul style="list-style-type: none"> ● an explanation of how transfer would contribute to achieving the Government's sustainable communities strategy and its regeneration, social and economic objectives; and ● if the transfer is part of a larger regeneration scheme, give details of the roles of stakeholders delivering the project and whether bids have been made to finance the project and the stage reached in the approval process; how the transfer will fit in with not only the NDC's strategy but also the authority's wider Options Appraisal.
<p>e. The level of support amongst Councillors, tenants and stakeholders for the proposed transfer.</p>	<p>Details of:</p> <ul style="list-style-type: none"> ● the informal consultation on the proposed transfer carried out to date and the views of tenants expressed so far; and ● the council's resolution to pursue transfer, in particular the composition of the Council and the level of support for the proposed transfer amongst Councillors, leaseholders and tenants federation and other stakeholders.
<p>f. That the proposed timetable for completion of the transfer appears achievable and that the authority has a project plan that allows sufficient time for the various key stages.</p>	<p>Details of:</p> <ul style="list-style-type: none"> ● the outline timetable, including proposed dates for tenant consultation, ballot, registration with the Housing Corporation and completion of the transfer; and ● the planned activity and milestones between Options Appraisal sign off and a place being granted on the LSVT programme.
Decent Homes	
<p>g. That the authority has validated information on the extent of condition of decency within its current stock and how the proposal would ensure as a minimum delivery of the decent home target by 31 December 2010 for all homes transferred.</p>	<p>Details of the condition of the stock to be transferred including</p> <ul style="list-style-type: none"> ● the type of housing concerned; ● any problems faced by it and an indication of how these have arisen, e.g. poor initial design, subsequent misuse, inadequate maintenance, lack of routine repairs etc. and ● an assessment of the stock to identify appropriate energy efficiency improvements.
	<p>Details of the repairs and improvements works the new landlord would carry out and an estimate of their cost over 30 years, broken down into the following categories (which correspond to those in the cost generation model):</p> <ul style="list-style-type: none"> ● Catch-up repairs ● Future major repairs/planned maintenance ● Contingent repairs ● Cyclical maintenance ● Response and void repairs ● Exceptional extensive works ● Estate works ● Improvements

Programme Criteria	Demonstration of compliance with criteria
	An explanation of how the works expenditure data has been gathered and calculated, including the date and nature of any stock condition survey.
	Details of proposed energy efficiency measures and advice, installation or updating of community heating systems and mechanisms for the new landlord to report to the authority on energy efficiency measures.
	A draft action plan setting out how the prospective new landlord would achieve “Egan Compliance” and Gershon Efficiencies for its procurement principles.
	A timetable showing the years in which various portions of the transferred housing would reach the decent home target.
<p>h. Where partial transfer is proposed, that the authority has a coherent strategy for the delivery of decent homes.</p>	<p>For a proposed partial transfer</p> <ul style="list-style-type: none"> ● an explanation of how the properties were selected; ● plans for the rest of the stock, including any other small or large scale transfer proposals and/or PFI, ALMO or retention proposals in the HRA Business Plan; ● an assessment of the net effect on the authority’s HRA and HRA subsidy entitlement for future subsidy years, using the HRA Business Plan; and ● details (number and location) of any properties transferred to the prospective new landlord in the five years prior to the proposed transfer date.
Tenant Involvement	
<p>i. Following on from the work on Options Appraisal, how tenants have been instrumental in developing the transfer proposal and will continue active involvement throughout the proposed delivery stages including considering and choosing landlord options and, where there is a competition for the prospective new landlord, that tenant representatives are included on the assessment panel.</p>	<p>Provide</p> <ul style="list-style-type: none"> ● a description of the authority’s tenant participation policy and procedures and whether these have been brought together in participation compact. Where a compact does not exist, details of the arrangements established to involve tenants in the development of the transfer proposal, including the repair and improvement plans and the post transfer monitoring; ● information on whether an Independent Tenant Adviser had been appointed and, if so, at what stage, details of how tenants were involved in their selection, the length of the appointment, i.e. whether it will extend beyond the formal consultation period, and brief details of their remit; ● details of the future consultation strategy; ● what the process will be for selecting the new landlord;

Programme Criteria	Demonstration of compliance with criteria
	<ul style="list-style-type: none"> ● whether the prospective new landlord had yet been selected and, if so, how tenants were involved in considering the alternatives and choosing the landlord; ● whether the authority has considered that the recipient landlord reflects the make-up of the tenants and whether a role for BME RSLs has been considered; and ● if the prospective new landlord has yet to be selected, how it is proposed to involve tenants in considering the alternatives, drawing up any shortlist and making the final selection.
<p>j. How the transfer would provide greater tenant participation opportunities across all communities within the transferring stock.</p>	<p>Details of</p> <ul style="list-style-type: none"> ● the policies and procedures that the new landlord would put in place to ensure all tenants would be more effectively involved in the management of their homes and decision making post-transfer; ● any discussions with existing TMOs or TMOs that are in the process of begin established; and ● how the authority has engaged local BME communities and other hard to reach groups.
Landlord Issues	
<p>k. That the prospective new landlord is registered or is likely to achieve registration with the Housing Corporation and that any group structure complies with policy on operational independence and de-merger.</p>	<p>Details of</p> <ul style="list-style-type: none"> ● discussions with the Housing Corporation Stock Transfer Registration Unit and name of contact. <p>Details of prospective new landlord including:</p> <ul style="list-style-type: none"> ● whether an existing RSL, a subsidiary of an existing RSL or a new RSL, and whether it is would become part of a linked group; ● whether it is or would be a not-for-profit Companies Act company or Industrial and Provident Society, and whether it has or would seek charitable status; ● if it is or would become part of a linked group, the nature of that group and the distribution (by local authority area) of housing stock owned by members of the group; and ● the actual or proposed make up of the governing body and the management structure. <p>Details of the arrangements to be put in place to avoid conflicts of interest on the part of officers and councillors in addition the report of the council should be attached as an Annex.</p>

Programme Criteria	Demonstration of compliance with criteria
l. That the prospective new landlord would not become a predominant owner of social housing in the region.	<p>Details of</p> <ul style="list-style-type: none"> ● what the landlord's vision of its role within the area is, its growth strategy and other stock it has in the area; ● how the landlord's proposals fit in with the authority's priorities are in the area e.g. sustainability, liveability, and growth; and. ● what other RSL presence is there in the area.
m. That there is a strategy to deliver a higher quality housing service for tenants and take into account the findings of previous Best Value Reviews and Housing Inspectorate reports.	<p>Detail of</p> <ul style="list-style-type: none"> ● what the authority's current star rating is for its housing service and what is its strategy for improving the rating or for ongoing improvement; ● how the transfer would deliver a higher quality housing service for tenants; ● any Best Value Reviews and Housing Inspectorate reports on the services that would be transferred, together with details of their findings and how these have been taken into consideration in drawing up the proposals for the prospective new landlord's housing service; and ● an outline plan for Best Value reviews by the prospective new landlord after transfer.
Financial appraisal	
n. That ODPM is satisfied that the transfer would provide value for money for the taxpayer.	<p>Details of how this has been assessed by the authority.</p> <p>Include a copy of the value for money assessment supporting transfer as the choice of option.</p>
o. A Single Transfer Model has been completed for an authority proposing an LSVT or an SSVT involving 200 properties or more.	<p>A written account (the figures and their derivation) of the following assumptions in the Pricing Model:</p> <ul style="list-style-type: none"> ● Relet rate ● Initial rents for transferring tenants ● Initial rent for new tenants ● Void and bad debt rate ● Per unit supervision and management expenditure ● Discount rate.

Programme Criteria	Demonstration of compliance with criteria
<p>p. That the proposed terms of the transfer are acceptable, including whether the price would take account of the housing's Tenanted Market Value, which has been calculated on the basis of a rent plan which conforms to government policy and reasonable estimates of expenditure.</p>	<p>Whether it is proposed to transfer the freehold or the leasehold interest in the property and, if the latter, an explanation of why this is necessary.</p> <p>Details of the prospective new landlord's proposed rent plan, including an outline strategy for delivery of the rent reforms by 2011/12, how rents for new tenants would be set, the level and length of any rent guarantee and an explanation of the proposals for handling service care and support charges.</p> <p>The proposed sale price and, for proposed SSVTs of less than 200 properties where a Pricing Model has not been completed, an explanation of how this had been calculated.</p>
<p>q. That the transfer would be fundable and, where an authority would have overhanging debt, the transfer receipt would be sufficient to cover set up costs and the remainder used to offset part of the PWLB loan and premiums.</p>	<p>Where the stock has a negative value, the proposed source of dowry and whether a firm commitment has been secured.</p> <p>An estimate of the private finance needed to fund the transfer, whether the new landlord intends to fund from within existing loan facilities or take out a new loan and details of any feedback from potential funders.</p> <p>Where there would be overhanging debt</p> <ul style="list-style-type: none"> ● confirmation that the proposed valuation is based on expenditure requirements revealed by a recent stock condition survey and the date of the survey; ● confirmation that funders have indicated that the transfer would be fundable on the basis of the proposed valuation; ● an estimate of the total PWLB debt at the time of transfer; ● an estimate of the premiums payable on the early debt redemption of the attributable housing debt; and ● an estimate of the one off payment necessary to enable the attributable housing debt to be redeemed and details of how this has been calculated.
<p>r. That the proposed use of any usable capital receipt from the transfer would benefit the delivery of the sustainable community.</p>	<p>Provide</p> <ul style="list-style-type: none"> ● an explanation on what the receipt will be used for; ● an estimate of the capital receipt (gross receipt less set-up costs); ● an estimate of the authority's attributable housing debt at the time of transfer, how this has been calculated and an estimate of the overall debt position; ● an estimate of the amount of levy payable; ● whether the authority will become debt free; and ● where whole stock is proposed, confirmation that the authority intends to close its HRA.

Programme Criteria	Demonstration of compliance with criteria
Monitoring	
s. That the authority and prospective landlord have in place proposals to ensure they comply with ODPM and Housing Corporation requirements to monitor delivery of the transfer proposal and promises made to tenants.	What plans the authority has in place to monitor delivery of the transfer proposal and promises to tenants.
Authority	
t. That the authority has appointed a project manager and where necessary a support team to see through the transfer.	Name and their involvement in the transfer to date.
u. That the authority has assessed the corporate impact of the proposed transfer and not identified any insurmountable problems, that the authority has worked with its staff to consider the implications of the housing transfer on their employment arrangements agreed an acceptable way forward for all parties and that it has in place a change management plan.	Provide <ul style="list-style-type: none"> ● an assessment of the impact of the transfer on the authority's other services and, in the case of whole stock transfer, on the authority's corporate structure, together with proposed solutions to address any potential problems identified; and ● details of staff involvement in the process to date and the authority's approach to managing the change that the transfer will constitute for its staff.
v. That the authority has set out clearly how it will undertake its strategic housing function and other statutory housing functions post transfer.	Provide <ul style="list-style-type: none"> ● evidence of a strengthening of the strategic role of the council following transfer; ● details of how the authority would continue to fulfil its statutory obligations in respect of social housing, including maintenance of a housing register and an allocation scheme.

ANNEX N

Consultation material good practice guidance

Introduction

- 1 The main purpose of this Annex is to help authorities proposing transfer to prepare a Stage 1 notice, more commonly known as the formal consultation, or offer document. It is aimed at improving the content and presentation of consultation documents so that they are accessible to tenants. They must also meet the statutory requirement for tenant consultation and this guidance sets out how this may be achieved.
- 2 This guidance was drawn up after research and in light of experience, to improve the readability of the consultation document, ensure a degree of consistency in approach, and address concerns that the documents can be unwieldy, difficult to follow, and expressed rather too legalistically to be widely read and understood.
- 3 Research indicates that tenants prefer to receive comprehensive information about the proposed transfer at one time, presented in simple, concise language, without unnecessary repetition and with a clear explanation of why they are being sent the material information not slogans. Tenants can keep the consultation document for future reference. These views correspond with ODPM's who want the document to provide complete information on why the transfer is being proposed and the terms of the offer presented clearly and accurately, while emphasising the consultative nature of the process at this, pre-ballot, stage. Effective presentation is clearly vital and advice on this aspect is given below.
- 4 Tenants will have been engaged as part of the authority's Options Appraisal exercise and its outcome. We would therefore expect this to be built upon in the consultation process for the transfer proposal and referred to in consultation material. Although tenants must be formally consulted about a transfer proposal at key stages, this is always the climax of an informal awareness-raising exercise, beginning at the Options Appraisal stage, although this generally increases as soon as the transfer process gets underway. The purpose of the informal stage is to inform tenants of the key facts and features of the proposal as it develops and ensure that they are prepared for the arrival of the formal consultation document. Advice and guidance on how this informal material should be handled in relation to the Stage 1 and 2 notices is also given below. This guidance also gives advice on the question to be asked on the ballot paper.

- 5 Councils should ensure that the information provided gives a full and fair picture of the proposed transfer so that they can demonstrate that tenants have been properly consulted and informed. They should tailor their consultation document according to specific local circumstances and with particular reference to the interests and needs of their tenants. Issues that should be covered in the document, and advice on how best to do this, are also set out below. This is not necessarily a comprehensive list, authorities should consider and explain any further issues that are relevant to the specific circumstances of their proposed transfer.
- 6 Although this guidance is primarily concerned with the formal consultation document, the whole consultation process whether formal or informal should be coherent and leave tenants in no doubt as to the terms or implications of the transfer proposal. The informal consultation stage will follow an investment appraisal involving a wide range of tenants in the decision making process.

Informal consultation material

- 7 In advance of issuing the formal consultation document, authorities generally use a range of informal methods to raise awareness explain key features of the proposals, keep tenants informed and seek feedback on developments with the transfer proposal, and to generate and maintain interest in the process. ODPM expects to have an early opportunity to see and comment on this material (drafts, scripts, etc) in the same way as it sees drafts of the formal consultation documentation.
- 8 ODPM wants to ensure that authorities only produce accurate and balanced material that reflects the development of the transfer proposals, although the style and presentation of the material can vary significantly. Informal material should always contain sufficient information to allow tenants to form their own views of the proposal and to ask relevant questions of either the authority and/or the independent tenant advisors if necessary.
- 9 **Material produced by the authority should explain clearly the options that are available to address the housing investment and management needs. It should state both the possible benefits and disadvantages of the options as determined by the investment appraisal. Whilst the authority may well have resolved to pursue transfer, it should ensure material on other options, such as Arms Length Management Organisations and the Private Finance Initiative, remains accessible to tenants.**
- 10 The informal material should never be written in such a way that tenants feel the authority is actively promoting a yes vote by presenting only the pro-transfer arguments. Neither should it include logos or chartermarks which claim that the information presented is any one of the following: honest/truthful/legal/fair/approved by ODPM. The Office's role when considering and commenting on this material is to ensure that it is accessible to tenants, consistent with Government policy, and reflects our understanding of what the transfer proposal is intending to deliver. Logos and chartermarks of the type described could deter tenants from raising issues with the authority about the terms of the proposal.

- 11 As part of the strategy it would be helpful to tenants to keep an ongoing index, accessible by tenants, of what information is available to them. Tenants should retain copies of all consultation material produced for future reference. Some authorities have adopted what could be described as a transfer marketing strategy from an early stage in the process. Whilst such a strategy may be acceptable in terms of considering how best to raise tenant awareness (e.g. tabloid style newsletters, videos, etc), authorities must be very careful about the extent to which any strategy is carried forward into the informal material and formal consultation document. Under no circumstances should the strategy take precedence over the need to explain comprehensively the detail and consequences of the transfer proposal. Tenants need to know from the earliest stage onwards that an authority is proposing to transfer the ownership and management of its homes to a new landlord. The concept of transferring ownership and management should be consistently and fairly presented in all the information provided to tenants, even where an authority decides as part of its marketing strategy to adopt a tabloid style in its informal material.
- 12 Any details about the transfer given in the informal material must be carried through to the formal consultation document, or if changes are made, the reasoning should be explained.

Formal consultation document or Stage 1 notice

Style and Presentation

- 13 Good practice on how consultation documents are presented continues to evolve and ODPM encourages better documents. Research has shown that there are a number of key issues for tenants.

Covering letter

- 14 The council should include a covering letter, introducing the consultation document that sets out the offer being made to its tenants. The Leader of the Council or the Chair of Housing should sign the letter. Alternatively it might be appropriate for a senior officer such as the Chief Executive or Director of Housing to sign it.
- 15 The letter should be brief (preferably no more than a page) and be used to highlight the purpose of the document (especially its consultative nature) and emphasise the importance of tenants views at this stage of the process. It should make clear that the transfer is still at the stage of a proposal and that the detail can still change.
- 16 A separate letter is more likely to be read than one included in the printed document. If it can be addressed to each tenant by name, they are even more likely to read it.
- 17 Attention should be drawn to the response form on which tenants views/comments can be recorded and to the deadline for submitting comments. An indication of the later stages of the process should be given i.e. that any amendments to the offer which are made as result of tenant comments, or other circumstances, will be included in a further (Stage 2) notice which will be issued before a ballot is held.

Front cover

- 18 The impact of the front cover can not be underestimated. It should encourage tenants to read further. It should inform tenants that the document is important because it concerns the proposed transfer of their home to a new landlord, and make clear that this is a proposal on which they are being consulted and on which decisions have not yet been taken.
- 19 Using colour printing, representative photographs or relevant pictures on the front page can make the document more inviting and therefore more likely to be read by those who receive it. A plain cover may suggest that a document will be formal and heavy going and might discourage tenants from reading it.

Response form

- 20 A response form should be enclosed with the document or clearly flagged within it on a tear out page which:
- is easy to find;
 - has space for comments on the terms of the offer;
 - has tick boxes to indicate initial voting intentions or whether a recipient is undecided;
 - makes clear that it is not the formal ballot;
 - indicates clearly the date for its return;
 - is self contained and does not need a separate envelope; and
 - has prepaid postage.

Size of document

- 21 The aim should be to keep these documents as undaunting and as manageable as possible, which generally tends to mean short. Some documents have exceeded 120 pages, and fewer than half of these pages covered specific information about the actual transfer proposal and its implications. A4 or A5 size pages are easiest to handle.
- 22 Some consultation documents have been produced as a number of separate booklets, sometimes up to five. This has been done by putting key sections and appendices into individual booklets which have then been put together in a folder. This may be a useful approach if the single document is becoming too long (see comments above), but there are drawbacks in that some booklets may become separated from the rest and such an approach can encourage unnecessary repetition and information overload.
- 23 If a multiple booklet approach is adopted, each booklet should be clearly numbered in relation to the others (i.e. 1 of 4, etc.).

Contents page

- 24 A contents page, reflecting the subheadings used in the document, is a key requirement as it allows each separate section to be easily located. It should provide details of the page and paragraph reference for each heading, and headings should be easily understandable to those with no specialised knowledge.

Use of annexes

- 25 Annexes are frequently used although they add to the overall length of the document and often repeat information covered in the main body of the document. Our research has shown that a bulky consultation document has a deterrent effect on tenants willingness to read it, and this is of obvious concern. In particular, tenants find the material that is commonly found in these annexes to be unwieldy and off-putting. Tenants who have read it, have expressed concern that they maybe being given different information from that which is set out in the main body of the document. This can give rise to suspicion that the whole picture is not being made available to them in a coherent way, and that the purpose of the annexes is to hide the detail.
- 26 In general, we therefore advise against the inclusion of unnecessary annexes wherever possible. Where an authority wishes to draw tenants attention to material such as the Assured Tenants Charter, biographies of Board or Shadow Board members, the Grounds for Possession of Secure and Assured Tenants, and the Detailed Comparison of Rights Before and After Transfer, it is preferable to provide clear information on where and how an interested tenant can get hold of an individual copy. Authorities should put in place mechanisms to ensure this material can be made readily available on demand.
- 27 Ideally, there should be no need for glossaries or guides to jargon as all terms should have become familiar in earlier consultation material and any new unfamiliar terms should be explained in plain English as and when they occur. If one is to be included this needs to follow the format and explanations used by the council in earlier consultation material.

Presentation of contents

- 28 The contents of the document are likely to be clearer and more easily read if the following principles are applied:
- use a reasonable size print anything less than font size 12 is hard work;
 - ensure sentences and paragraphs are short and well spaced;
 - although bullet points are succinct and easier to read than long, unbroken paragraphs, they should not be so succinct that they become meaningless;
 - avoid long horizontal lines of text by giving generous margins or breaking text into two columns;
 - headings and sub-headings, distinguished by larger print, different type face or colour, can help readers find their way around;
 - use tables to give comparative information, but ensure they should have sufficient space within the document, are clearly labelled, and any assumptions used are fully explained on the same page as the table itself;
 - present information on one subject in one place, together with cross references to other subjects if necessary;
 - provide an explanation of an unfamiliar term in a highlighted box positioned close to where the word appears;

- a question and answer format (perhaps placed in boxes) can be helpful in conveying information less formally about particular aspects of the offer;
- key statements can be highlighted or repeated in the margin to draw attention to them and encourage more detailed reading;
- colour can highlight key points and create interest but too much colour can appear extravagant and raise cost concerns;
- relevant photographs, drawings and plans can add interest to a document and break up text into more manageable sections;
- concrete examples which illustrate a point can provide useful clarification; and
- tenants should be informed about where exactly they can see or obtain a copy of any material that is referred to in the document but not appended.

Language and tone

- 29 It is crucial that the consultation documents should be expressed in plain, jargon free, English. If specialist language or unfamiliar terms have to be used, their meaning should be explained in simple words straightaway.
- 30 The document should be honest and open about the reasons for and implications of the proposals. It should avoid statements implying that decisions have already been taken when they have not, and throughout the document the future conditional tense (i.e. would, rather than will), should be used to describe the implications of a proposed transfer. Tenants should be left in no doubt that any undertakings being made about a proposed transfer are conditional on the majority of tenants who take part in the ballot voting in favour of the transfer.
- 31 Vague or subjective terms should be avoided. For example, referring to a rent increase as modest, or an investment programme as massive should be avoided because ideas of what may be modest or massive will vary. Words like similar and general should be used with care, as they may suggest that information is being hidden.
- 32 Statements such as ‘Some of this may be difficult to follow’ should always be avoided: not only can they appear patronising, but also every effort should be made to ensure the document is as easy to follow as possible.
- 33 Addressing tenants as ‘you’ rather than referring to ‘tenants’ is a more personal approach, which engages more effectively.

The Structure and Content

- 34 Consultation documents are more likely to be accessible and relevant to tenants if they follow a sensible and logical structure. They should provide detailed information on the key areas in one place. In general, the document should:
- begin with a clear explanation of the transfer proposal and the reasons for it;

- give information on any one subject logically grouped together under a key heading so that it is easy to find;
- provide information which is of most practical interest to tenants, e.g. on improvements and on rents, near the beginning;
- use plain English; and
- use annexes sparingly, if at all.

35 ODPM considers that consultation documents should provide detail on the following:

- reasons for proposing transfer;
- basic facts about the proposed transfer;
- tenancy agreement;
- information about the proposed new landlord;
- proposed capital expenditure programme;
- rents and other charges;
- management standards (including repairs, specialist services for elderly people etc.);
- arrangements for tenant representation, consultation and participation; and
- tenants rights after transfer.

36 The following paragraphs give an indication of the information that we consider should be included under the above headings. This is not intended to be a comprehensive blueprint for a document, and authorities should give careful thought to other issues which will have an impact on the proposal and about which tenants should be made aware. At the formal consultation stage ODPM does not believe it is necessary to rehearse the range of other possible options, as these will have been addressed in the informal consultation.

Reasons for Proposing Transfer

- 37 Tenants need to understand why the council is proposing to transfer their housing, but should not feel that the main purpose of the consultation document is to sell the transfer; rather, it should give neutral information. A balanced and informative approach is needed, which provides brief information on all the options that have been considered.
- 38 If the transfer is being proposed to enable significant investment to be made in the stock, tenants should be told why it is not possible for the council to make that investment. Housing finance is a complex area, but the Office's research indicates that some tenants may be broadly aware of policy in this area and the constraints under which local authorities operate and they appreciate having the specifics of their council's position explained to them. Anecdotal evidence suggests that where tenants are informed in some detail of the council's particular financial circumstances, they are more likely to understand why a transfer has been proposed.

39 Other information that should be available is:

- how the value (sale price) of the housing covered by the proposal has been calculated, and why this is different from the price a tenant would pay for the property under the right to buy;
- how the council proposes to use any proceeds from the sale;
- details of how the council's interest in the stock would continue through the transfer contract; and
- information on the housing role the council would retain post transfer.

Basic facts about the Transfer

40 Information should be included on:

- identification of housing to be transferred (e.g., whole stock, named estates);
- identity and status of proposed new landlord;
- summary of consultation requirements, stressing that tenants views are sought at this stage and can make a difference;
- details of ballot, and mandate which will be required for transfer to go ahead;
- proposed timetable for consultation, ballot, consent application and transfer; and
- contacts for advice and further information, including named independent tenant adviser and council contact.

Information about the proposed New Landlord

41 Tenants may not be familiar with the terms registered social landlord or non-profit distributing company so these concepts should be clearly explained.

42 Other information should include:

- name and status of the proposed new landlord (whether registered or seeking registration with the Housing Corporation, intention with regard to charitable status, if applicable);
- the regulatory framework within which it will operate, including information about the Housing Corporation's role and Regulatory Code for RSLs;
- why the proposed new landlord would be able to borrow money when the council cannot;
- from whom it would borrow, and the length of the repayment period;

- what safeguards will exist if the proposed landlord cannot repay the money it has borrowed;
- composition of the voluntary Board or Shadow Board of Management, including information about relevant experience;
- an explanation of how tenants, independents and Councillors have been selected as Shadow Board Members (if a new LHC is proposed) and how this process will work in future, or, where a transfer is proposed to an existing RSL, details of the tenant representation structures that will be put in place;
- objectives of the proposed new landlord; and
- information on other properties managed by the same landlord, where appropriate, so that tenants have an idea of its track record.

Capital Expenditure Programme

43 The programme of repairs and improvements that will be offered to tenants is one of the key benefits of transfer and is important in delivering the Government's decent home objective. Consultation documents should enable each tenant to identify the works that will be carried out to his/her home if the transfer goes ahead. In doing so, tenants should be aware of:

- the works that would be carried out;
- whether tenants can opt to have additional works undertaken for which a separate charge will be made;
- the proposed timescale for carrying out work;
- the existence of a planned maintenance programme;
- whether tenants would have to move either temporarily while work is carried out, or permanently where demolition is being proposed and what are the arrangements and entitlement to compensation; and
- who, in broad terms, will carry out these works, e.g. whether the council's DLO will transfer, or carry out the works under contract, or whether the proposed new landlord will contract out the work to a range of businesses.

Rents and other Charges

44 Rents are one of the key issues for tenants. They should be presented in a clear and accessible way. In the light of the Government's rent reforms, we would suggest something along the lines of the following for the beginning of the rents section to put the prospective new landlord's rent plan into context.

Background

The Government believes that:

- *social housing rents, i.e. rents charged by local authorities and RSLs, should be affordable and well below those in the private sector;*
- *social housing rents should be fair and consistent;*
- *there should be a closer link between the rent a social housing tenant pays and how they value their home; and,*
- *unfair differences between the rents charged by local authorities and by RSLs should be removed.*

Therefore, in December 2000, the Government announced its rent reform proposals that aim to ensure rents charged by local authorities and RSLs are set on a much fairer and consistent basis. Rent reform will enable local authorities and RSLs to provide their tenants with a much more reliable prediction of the rent they will pay in the future.

To achieve rent reform, a target rent will be calculated for all social housing property using a formula made up of three elements:

- *the market value of the property compared with the national average value of social rented property in the sector (i.e. the RSL or local authority sector);*
- *local average earnings compared with national average earnings;*
- *the property's size, in terms of the number of bedrooms it has.*

It is expected that it will take local authorities and RSLs to 2011/12 to reach their respective target rents. Both will then be required to set their rents in line with the annual target levels.

Because the Government thinks the current differences between local authority and RSL rents are unfair, on average local authority rents will need to increase more quickly than RSL rents if rent reform is to be achieved by 2011/12. Subject to any future Government policy, this is likely to mean an average annual increase of 0.5% above the rate of inflation (inflation +0.5%) for RSLs and on average 1.5% above the rate of inflation (inflation +1.5%) for local authorities. This will be on top of the annual increase needed to meet the target rent, which cannot exceed £2 per week in either sector.

Though the target rent calculation will not result in exactly the same figure for both sectors, because of differences in the age, type and condition of local authority housing compared to that in the RSL sector, it will be based on the same formula, as described above. At the end of the 10-year period, social housing tenants should be paying similar rent for a property of a similar standard, size and location, whether their landlord is a local authority or an RSL. This is the Government's aim.'

45 *The consultation document should then go on to describe the rent plan appropriate to the proposed transfer.*

Rent Comparisons

- 46 ODPM does not consider a ready reckoner type comparison of RSL and local authority rents which features a range of transferring rents now and in 10 years time will be particularly helpful given rent reform as it will be difficult for an individual tenant to relate the table to their rent with any certainty. The Office suggests as a minimal approach the following wording:

'If the transfer goes ahead, the annual increase in the rent charged by your new landlord would not exceed inflation +0.5% plus an amount needed to achieve the Government's rent reforms which would be no greater than £2 per week. This is the same approach as the local authority would adopt. Once the target rent has been achieved, the rent charged by the new landlord would be broadly similar to that charged by the local authority had the transfer not gone ahead.'

- 47 If the partners to the consultation document wish to include any further details of rent increases, ODPM would prefer average percentage increases, rather than sample weekly or annual rents, allowing tenants to make a general comparison of rents that would be charged by the new landlord or the local authority. This could read as follows:

'If the transfer goes ahead, your rent would be likely to increase annually by x% on average over 10 years from [date] in order to reach the RSL target rent, then by inflation +0.5%. If the transfer does not go ahead and you remain a tenant of the local authority, it is estimated that your rent would increase annually by z% on average over 10 years from [date] in order to reach the local authority target rent, then by inflation + 0.5%.'

- 48 This could be accompanied by a comparison of the estimated overall average weekly or annual rent over 10 years under the local authority and RSL, with an explanation of the assumptions used. The figures could be further broken down by bedroom size. Authorities will wish to decide whether this would be more confusing than helpful. *In any event, we would wish to agree the proposed wording on rents.*

- 49 ODPM does not consider that rent guarantees of RPI + a set percentage are necessary under the rent reform proposals as these already provide proposed rent increases to a set target over 10 years. However, if after consultation with all parties the Council believes that there remains a case for offering a 5 year rent guarantee as part of its transfer proposal, this should not prevent rent reform (i.e. convergence with the RSL target rent) and must first be agreed with ODPM.

- 50 To link rents to the repairs programme, a further paragraph could read:

'Despite additional Government finance for local authorities, the council is still unlikely to be able to afford the same level of capital investment in the housing over the same period of time as that proposed by the new landlord. As a result, the properties under the council are likely to remain at a lower overall standard, in the coming years with rents reflecting the standard and size of the property.'

- 51 In providing the suggested text on rents, it is assumed that elsewhere in the consultation document the authority has provided an explanation of what an RSL is.

52 Other issues to be covered in the rents and other charges section are as follows:

- (i) *Service Charges*. It is not enough to say that service and other charges under the proposed new landlord will be treated in the same way as under the council how they will be treated should be explained in precise terms, which include:
- what service charges would cover and how they would be calculated;
 - the notice period tenants would receive of any increase in these charges;
 - how the proposed charges compare with charges paid to the council (which may currently be included in the rent);
 - treatment of payments to utility companies where these are at present collected by the council or included in the rent;
 - that service charges would also be subject to rent reforms and would be expected to increase by no more than inflation +0.5% (see Annex I); and
 - that service charge proposals will be required to take account of the introduction of Supporting People Grant arrangements from April 2003 (see Annex I) with service charges expected to be separated from basic rent (see Annex I). The council should explain whether they would intend to separate service charges should the transfer not go ahead.
- (ii) *Rent increases for improvements*. Tenants should be told as part of the consultation process which, if any, improvements would attract additional rent increases above those necessary for rents to reach the RSL target rent; at what point these will be charged; and whether these are permanent increases. ODPM would expect improvements attracting such increases to be those which would increase the capital value of the property above that of a local RSL property or a minimum decent home. Again, it is not sufficient to say that such additional increases would be charged in line with the council's existing policy; if this is the case, the policy should be stated, clearly. It should be clarified for tenants why some improvements attract additional rent increases while others do not.
- (iii) *Arrangements for payment of rent*. Tenants should be informed of any changes to existing arrangements for payment of rent; for example changes in the location of offices where payment can be made, or in the methods of payment. Similarly, tenants should be informed that no change to the present arrangements are being proposed, if this is the case.
- (iv) *Housing Benefit*. Tenants need to know that they will continue to be eligible for Housing Benefit, where they can obtain advice, and who will pay the benefit.
- (v) *Policy on rent arrears*. The document should explain the proposed new landlord's policy on rent arrears and, if applicable, how this differs from the council's existing approach. The document should also explain the position for tenants who have a Notice Seeking Possession or a Possession Order issued against them by the council, because they will not be treated as qualifying tenants should the transfer go ahead, unless or until their arrears have been cleared.

Management Standards

- 53 An equally important reason for proposing a transfer is to deliver improved housing management services to tenants. The document should explain the standards of service that will be offered by the proposed new landlord, making clear in precise terms where these differ from and improve upon the council's current standards. Bland phrases such as 'seek to improve upon' should not be used. Although the council will have to judge which aspects are of particular interest in respect of individual transfers, taking into account tenants views on the existing service and how much detail is needed, this section is likely to include information on:
- response times for routine repairs and maintenance. These can be presented in a table comparing the RSL and the Council. Examples should be given of what would qualify as an emergency, urgent or routine repair, where these terms are used;
 - responsibilities and regulatory code for maintenance of common areas, e.g. cleaning, grounds maintenance, maintenance of security systems;
 - responsibilities and regulatory code for any specialist services, e.g. warden services in sheltered housing and other care links for elderly people and disabled people;
 - complaints procedure and ways of contacting the proposed new landlord.
- 54 This section could also contain a statement of the proposed new landlord's lettings policy. This is of concern to existing tenants because of the perceived impact which lettings have on the character of an area or estate, and because their children and friends may wish to become tenants in future years. The proposed new landlord's future relationship with the council (e.g. maintenance of Single Housing Register) should also be described.

Tenant Participation, Representation and Consultation

- 55 Ministers attach particular importance to delivering a greater tenant role in the management of their homes. Therefore, this section should explain the proposed new landlord's policy on tenant participation, and involvement in the management of their homes and decisions on housing matters that affect them. Given that Tenant Participation Compacts are now in place, it should explain the ways in which the proposed new landlord would consult tenants and what support and training it would give to tenants organisations and representatives to develop and sustain active tenant engagement.
- 56 Tenants are often unclear about the different levels of participation that are available to them as local authority tenants. Some clarification of the existing tenant association network and other participative structures at local and area-wide level, as well as the arrangements that are being proposed for the future, may serve to engage tenants further. The document should explain which bodies are open to all tenants, to which bodies only tenant representatives are invited, and what their roles and responsibilities are, and whether any fees are payable. It should also state the arrangements that have been agreed for electing tenant representatives.

- 57 If there is already a TMO in place, or in the process of being developed, the document should explain what role and responsibilities it would have within the proposed new landlord's structure, and the level of support that will be provided to enable TMOs in development to complete. The presumption should be that existing and proposed TMOs will continue and, where there is demand, new TMOs developed.

Tenants Rights after Transfer

- 58 The document should explain what rights tenants would have if the transfer were to go ahead. The proposed new tenancy agreement will incorporate the majority of statutory rights that secure tenants have, and tenants should be clear that, should the transfer go ahead, **their rights would be based on contract (the tenancy agreement) rather than statute.** Tenants should be made aware of those rights that would not be retained contractually should the transfer proceed.
- 59 Some explanation of the extent of the rights that would be given contractually is necessary, some tenants may not remember the existing rights that they have as secure tenants. A table can be a simple way of giving tenants information about the rights they currently have with the council, those they would retain and would lose if the transfer were to go ahead, and the rights that new (assured) tenants of the RSL would have. Further detail, summarising the position in plain English, should be provided on at least those issues set out below.
- 60 The document needs to explain that, like the council, the proposed new landlord would be able to recover possession of a property only if it obtains a court order, and that the reasons for which a court may grant possession are broadly similar. Examples, such as that rent has not been paid, an obligation of the tenancy has been broken, the condition of the house or flat has deteriorated due to acts of neglect by the tenant or anyone else living in there, the tenant or anyone else living in or visiting the house or flat has been guilty of conduct likely to cause a nuisance, etc. should be provided in broad terms.
- 61 The additional grounds for possession available to RSLs that may be used against existing tenants in the event that the transfer goes ahead should be explained. There is, however, no need to reproduce in full the grounds for possession available to RSLs that would only apply to new tenants. The Council may, however, tell tenants where they could obtain a copy of this information should they wish to see it.

Right to Buy and Preserved Right to Buy

- 62 The document should explain the Right to Buy for council tenants and the Preserved Right to Buy (PRTB), **including the fact that tenants would continue to qualify for discounts if they were to move to another council home or to another property owned by the proposed new landlord.** An explanation of the cost floor should be provided, together with the maximum regional discount available under the cost floor rules. The Right to Acquire should be explained in relation to new tenants.
- 63 The position in relation to introductory tenants should be covered. If the transfer goes ahead, they are given a contractual Right to Buy on the same terms as the PRTB for secure tenants.

- 64 In the case of commercial properties, the council has to decide whether it intends to transfer the freehold of the properties or retain it and lease any homes above to the proposed new landlord. Should the council decide to lease the properties, the tenants in these properties should be informed that, if the transfer goes ahead, and they decide to exercise the PRTB, they would be purchasing a long lease from the RSL. In addition, the arrangements for insuring, improving and maintaining the building (interior and exterior) should be detailed.

Right to succession

- 65 This should explain that (at least) the same people would have the right to take over the tenancy as with the council, and, if applicable, that any previous succession will be ignored.

Right to exchange homes

- 66 The proposed landlord's intention to participate in a national mobility scheme should be explained, together with the arrangements that would apply to transfers within the transferred stock.

Right to sub-let

- 67 The arrangements for sub-letting and taking in lodgers that would apply should be explained.

Right to repair

- 68 This section should explain that approval would be needed for tenants to carry out repairs and improvements, on what grounds this could be withheld, and in what circumstances compensation would be payable for work carried out by the tenant.

Right to be consulted and receive information

- 69 The Housing Corporation's requirements on the proposed new landlord to consult and provide information about management, maintenance and other policies should be covered.

Rent to Mortgage

- 70 This is a right which tenants would lose (i.e. it would not be contractually replicated) if the transfer takes place. In many cases, it is a right that has been exercised seldom, if at all, and it is worth drawing attention to this fact.

Right to Manage

- 71 Although the proposed new landlord could not be obliged, in law, to transfer management to a Tenant Management Organisation (TMO) in the same way that a council can, ODPM would expect the new landlord to honour the existing arrangements and support the development of new TMOs.

The Stage 2 Notice

- 72 The Stage 2 notice is a statutory requirement and must be laid out as a formal letter, rather than a newsletter or other format. It should draw attention to the fact that the Secretary of State may not give his consent to a transfer if it appears to him that a majority of tenants are opposed to the transfer, and should specify a period of at least 28 days during which tenants may send any objections they have to the Secretary of State.

- 73 As a ballot is usually held to test tenant opinion on the proposal, the Stage 2 notice is often used to announce when the ballot period begins and ends. Ballots normally run for at least four weeks to ensure maximum voter turnout and ODPM would usually expect the ballot period to end at the same time as the period for objections to be made to the Secretary of State. It is not acceptable for a ballot to close before the 28-day period for objections to be made is over.
- 74 In addition, the Stage 2 notice is required by law to describe any significant changes to the proposal. In practice, and for the avoidance of doubt, this means any variation to the terms of the offer set out in either the formal consultation document or in any subsequent informal consultation material. Details of the changes (which have variously been described as amendments, clarifications, variations, revisions etc.) should always be included within the Stage 2 notice, together with an indication of the corresponding page and paragraph number in the formal consultation document for ease of reference. The details should not be attached as an Annex or included in an accompanying newsletter.
- 75 It may be necessary to change the terms of offer at Stage 2 for a number of reasons, and some explanation of the change should be offered. The Stage 2 notice should not, however, be used to repeat the main terms of the offer which have already been set out in the consultation document.

The Ballot Paper

- 76 ODPM is aware that the phrasing of the question on transfer ballot papers varies between transfers. The Office believes it is important that the question posed is as unambiguous and direct as possible and reflects the terms in which the consultation material has been expressed. Like the Electoral Reform Ballot Services organisation, who conduct the majority of transfer ballots, and for the avoidance of doubt, we would always wish to see tenants being asked the question:

'Are you in favour of the Council's proposal to transfer the ownership and management of your home to [proposed new landlord]?'

- 77 Where an authority proposes to use a different phrasing on the ballot paper, ODPM would expect to be consulted. Tenants should then have the choice of ticking either a yes or a no box.
- 78 Frequently, ballot papers include an introductory paragraph that serves to set the question being posed in context. This should not be used to restate the benefits or summarise the rationale behind the proposal.

ANNEX O

The RSL business plan and key contents

- 1 Prospective new landlords will need to prepare a draft business plan for the proposed RSL. With the aid of local authority officers seconded to the shadow RSL and its lead consultants, this will need to be built up in negotiation with the transferring authority so that a detailed base business plan is agreed for consideration as part of the registration process with the Housing Corporation and for inclusion in, or to accompany the Funding Prospectus when issued.
- 2 The RSL business plan will evolve from the original financial projections, stock condition information and Single Transfer Model as submitted to the ODPM by the authority when securing a place on the programme. The shadow board will need to assure itself that it has a robust business plan for the acquisition of the stock, demonstrating the future viability of the RSL. It will also need to liaise closely with the disposing authority (from the position of being an independent entity negotiating to purchase the stock) and the authority will expect to be able to appraise the content and assumptions of the plan and assess how it affects the final valuation of the stock if this differs from the original STM valuation. It is not uncommon for the business plan valuation to change as the financial projections are updated in line with the validation of the stock condition survey and updating to current prices of the projected costs of repairs and improvements.
- 3 The range of housing consultants working with stock transfer landlords will be able to advise on model business plan content and underlying financial computer models for financial projections and sensitivity testing of key assumptions and variables upon which the plan is based. A good practice guide to business planning (*Ahead of the game – Housing Corporation September 2003 (60)*) and other guidance on risk management is available on the Housing Corporation website: www.housingcorp.gov.uk
- 4 The most crucial and desirable attributes of a transfer RSL business plan are:
Statement of visions and business objectives
- 5 These should be based on the transfer consultation agreed with the local authority including the promises made to tenants in the formal offer and will reflect the nature of the housing stock being transferred to the new landlord.

Executive Summary:

A synopsis and key messages

Description of the Landlord:

- Form of Constitution.

- Governance Arrangements, board (governing body) composition and operation, details of chair and individual board members.
- Executive structure and capacity.
- Staffing – structure and numbers (reference to TUPE, training and recruitment and specialist services e.g. DLO, Wardens etc. The association's key stakeholders, partners and membership policy.
- Tenant involvement in management of organisation and outline of local housing management.
- Reason for formation of RSL and reference to tenants ballot in favour of transfer. (Track record of RSL if applicable.)

Details of Stock:

- An accurate schedule of all property included in transfer proposal, including number of homes by property type, shops, garages, offices, depots and any land.

External environment and role in local housing market:

- Demographic, demand and housing needs information/analysis and key aspects of stock profile and stock condition information, links to regeneration and neighbourhood renewal.
- Any strategies/plans to deal with supply issues or low demand supported by market analysis.
- Relationship with local authority and other housing agencies.
- Proposals for tenant mobility, e.g. HOMES mobility and tenant exchange schemes.
- Policy on care in the community and special needs provision (access to supporting people grant).

Financial Details: financial and operational assumptions, forecasts, income projections, risk assessment ,scenario projections & contingency plans

- A comprehensive Financial Plan, which should support the planned purchase and repairs, maintenance and improvement proposals.
- A 30 year cashflow model showing financial projections and assumptions in the required format supported by a 30 year funding strategy.
- A disk containing the cashflow spreadsheet model.
- The repairs and improvements plan (capital works programme) based on the offer being made to tenants and the indicative purchase price/transfer valuation with supporting details to justify the figures.
- A definitive 30 year funding strategy showing how the transfer will be funded, and what arrangements are in place to ensure funds will be available to deliver the capital works programme and other promises to transferring tenants.

- If joining an existing landlord there is still a requirement to produce a distinct Business Plan for the transfer business stream.
- Details of all assumptions used, and information to demonstrate the reasonableness of the key assumptions underpinning the financial projections.

Opening assumptions:

- Number of units in ownership, (allow for RTBs in pipeline), transfer rent levels (using the local authority's current rent levels and future projections based on rent restructuring plans and proposals to meet target rents for social housing landlords set by the ODPM).

Rental policy:

- A rent policy based on a detailed rent plan and increases projected to consistent with government rent restructuring policy and achieving target rents by 2012.
- Separate identification of service charges if applicable.

Voids/bad debts:

- Details of initial levels and projected trends.
- Arrears and arrears recovery performance of authority as indicator of future performance. For profit & loss account projections cash flows treat all rent as collectable with allowance for voids and bad debts being sufficient to offset arrears. For efficiency assessments information on arrears and arrears recovery in the RSL will be required.

Other income:

- Details of any other income if applicable, and the basis of calculation. e.g. Supporting People Grant, gap funding or dowries, land transactions etc.
- Particularly identify recoverable VAT especially if the applicant intends to enter a contract with the authority that allows VAT to be recovered.

Management costs:

- Details of management cost included in the proposal.
- Staffing structure related directly to this proposal.
- Overhead/office costs relating directly to this proposal, broken down by costheading (e.g. office rent, heating), and separately identifying VAT.

Asset Management strategy and details of:

Planned maintenance/major repairs expenditure:

- Details of major repairs projected, separately identifying VAT.

Cyclical maintenance:

- Details to support the costs included under this category, separately identifying VAT.

Reactive maintenance:

- Details to support the costs included under this category, separately identifying VAT.

Improvements:

- Details of any planned improvement expenditure, if applicable, separately identifying VAT.

Special services/service costs:

- Details of any costs included under this category, separately identifying VAT and implications for service charges /recovery of service costs.

Other costs:

- Details if applicable e.g. service level agreements with the authority.

Transfer costs:

- Details of transfer costs, broken down into component parts and with VAT separately identified.
- Allowable and non-allowable costs should be included and identified.

Inflation:

- Details of assumptions on future inflation as measured by the RPI.+/- formula: the annual RPI assumed; build cost inflation, management cost inflation, repairs/maintenance cost inflation.

Interest rates:

- Details of assumptions regarding future interest rates and margins over base rate or LIBOR.

*Reference to Treasury Management Plan, IT plan and HR plan**Commentary:*

- A commentary on any important issues not covered elsewhere, e.g. 30-year cash surpluses, sensitivity analysis.

Sensitivity analysis:

- Sensitivity tests must be run against all key variables to identify the potential riskd facing the organisation and the impact on the debt profile.

Housing Management and Service Proposal:

- The form of Tenancy Agreement to be issued.
- Details of tenants rights including Right to Buy and succession.
- Allocations policy.
- Estate management policy.
- Rental policy including details of all service charges to be levied, and methods of collection.
- Policy for rent recovery.
- Policy on provision of special needs housing.
- Arrangements for factoring in relation to owner occupiers within estates subject to transfer.
- Complaints and appeals procedures.

- Proposals for tenant participation and consultation.
- Methods of service delivery and proposed location of office(s).
- Nomination arrangement with local authority.
- Equality and Diversity Policy.
- Equal Opportunities policy.
- Current performance reports.

Technical Information:

- Policy and proposals for repairs and maintenance including opening space maintenance and special services, e.g. lifts, laundries.
- Proposals for future maintenance needs. These should be categorised in accordance with the definitions of maintenance described above, and details of proposed works identified under each heading and costs shown.
- Planned maintenance, major repair works projected.
- Improvement works.
- Cyclical works.
- Safety policy and provision for dealing with emergencies.
- Plans for dealing with the capital works programme, including any partnering arrangements.

Staffing:

- Proposed staffing structure.
- Details of proposed transfer of local authority staff.
- Terms and conditions of employment.
- Training policy.
- Equal Opportunities policy.

Role in Local Housing Market:

- Proposed relationship with local authority and other housing agencies.
- Proposals for tenant mobility, e.g. HOMES mobility and tenant exchange schemes.
- Policy on care in the community and special needs provision.

Outcome of tenant consultation:

- Report on consultation undertaken.

ANNEX P

Contents of funding prospectus

- 1 There should be discussions with potential funders as early as possible. A funding prospectus should be drawn up by the prospective new landlord setting out the details of the funding strategy and the financial requirements in order that potential funders can make proposals. It should cross-refer to the business plan and typically cover the following areas:
 - The name of the body seeking funding and its governance; *together with the Company or I & P registration number.*
 - Details of Board members.
 - Details of executive staff, or appointment arrangements.
 - Details of all domestic and non-domestic assets which are to transfer.
 - A detailed updated stock condition survey or stock condition validation, together with any specialist stock reports, including the nature of the stock and the requirement to undertake a programme of repairs and improvement.
 - An independent Funders' Valuation report.
 - An assessment of likely demolition and/or build costs and proposals for how any variation will be addressed.
 - An assessment of likely future demand.
 - An assessment of the proportion of the stock eligible for Right to Buy.
 - Details of any other additional sources of income, and areas of activity which the RSL will become involved.
 - Details of the procurement process (whether internal or external); together with any plans for partnering which have already been put into place.
 - Whether Direct Labour Organisation is included or excluded. If included, projected income and expenditure assumptions, whether the DSO is to be a stand-alone unregistered subsidiary or not, and copies of any independent healthcheck and action plan.
 - How the body will be affected by rent restructuring and how this will be dealt with.
 - An agreed rent plan and subsequent compliance with annual rent increases of RPI +0.5%.

- Group structure issues including meeting the Housing Corporation's Group Structures policy collateralisation or lack of it and whether there are any plans for future de-mergers.
- The draw-down of acquisition loans and improvement finance, together with nature of funding instruments to support each part of the financial support of the housing organisation.
- A funding model which outlines the net borrowing requirements of the cashflow assumptions included in the Business Plan.
- An integral section of the funding model will also make reference to the sections in the Business Plan incorporating income and expenditure accounts and balance sheets.
- The funding models will also consider the timing of the facilities that are required and whether the type of finance to be attracted is to be fixed or variable. Sensitivities will be built into the financial model to assess risk. This will include an assessment of the interest rate margins and structures, together with alternative funding options.
- A full detailed Treasury Management Policy outlining the roles and responsibilities of the Management board, any other committees and staff, and the nature of the extent of exposure that the housing organisation is allowed to enter into. The Treasury Management Statement is beneficial in advising funders of the most adequate type of finance to make available.
- The debt profile will be intricately linked to the interest rate cover ratios specified in normal commercial lending practice. The valuation of the assets will also offer security for lending and there is also likely to be a necessity to attract long term investment in conjunction with short term finance to meet funding deficits.
- Financial covenants will include a section on asset cover ratios with future projections and also a range of other ratios such as cashflow ratios. Total interest and income against expenditure ratios and possibly other ratios such as total indebtedness per unit. Discussions with interested funders may suggest different covenants or ratios according to the individual funder and type of funding offered.

Security over the assets will be included in the section with arrangements on whether fixed charges or floating charges are to apply. The consent for granting the security and the legal formalities leading to a clear transfer of title will also be included.

ANNEX Q

Proposed group structures

Introduction

- 1 The movement of whole stock transfer into urban and metropolitan areas with large stock holdings, has led to the creation of RSL group structures to receive the housing stock. Therefore the Transfer Review Group, as part of its wider review of housing transfers, has examined how large transfer RSL group structures have evolved so that key principles can be shared.
- 2 This guidance has been agreed with the Housing Corporation. It advocates local choice rather than a prescriptive one model fits all approach, while setting out what Ministers and the Housing Corporation consider works best in RSL group structures so as to deliver the policy of stable and successful social landlords offering their tenants a genuine partnership.

Background/Context

- 3 Recent growth in transfer RSL group structures is linked to the former upper guideline limit of 12,000 dwellings. An RSL with around 10,000 dwellings is regarded as achieving critical mass whereby it is of sufficient size to attract good quality staff and board members but small enough to be receptive and responsive to tenants priorities.
- 4 To date, Tameside Metropolitan Borough Council, Coventry City Council, Sunderland City Council, Bradford and Walsall have transferred their entire housing stock to new local housing company RSLs within group structures wholly formed for the purpose. In each case the structure and approach differed, reflecting both local circumstances and also lessons learnt from its immediate predecessor.
- 5 In considering whether or not ODPM will support group structure proposals, a key objective will be to ensure that one large monolithic landlord is not simply replaced by another, but that there is an effective group structure with distinct subsidiaries as landlords providing local level housing management services. Housing Corporation Group Structures' policy requires a transparent structure with clear roles and responsibilities for each entity within the Group and that the parent has ultimate strategic control, e.g. subsidiary RSLs develop and propose their own annual business plan and budgets but they have to be agreed with the parent within the group business plan and budgets. Although the example of a monolithic structure will mean different things to different people, the key tests can be broken down into a number of core components. These are set out below and provide the framework for the guidance that follows.

Ownership

- 6 In the majority of housing transfers involving a new group structure RSL, the freehold of the transferring homes initially passed from the local authority to the parent company RSL, and then the parent company RSL passed on the freehold to the subsidiary RSL companies. Through genuine ownership at the lowest level, subsidiaries may be better equipped to develop and evolve as organisations responsive to their tenants needs and for delivering the landlord function, but there is not “one size fits all” and it is important to work with all the partners to ensure the best outcome.
- 7 Although passing the freehold interest immediately to subsidiaries remains the *preferred option*, ODPM is prepared to consider proposals whereby a parent company would grant each of its subsidiaries a long leasehold interest. However, where this is proposed, the authority and new RSLs will be required to demonstrate that the lease:
- is not unduly complex and is understood by tenants;
 - would not unreasonably restrict the subsidiaries operational autonomy or its ability to influence the future policy and strategy of the housing service;
 - would be consistent with the intra group agreement and relevant service level agreements as one would expect with a transfer of the freehold to the subsidiaries; and
 - would not include restrictive covenants, financial or otherwise, beyond those to be associated with a transfer of the freehold to the subsidiaries.

Roles and Responsibilities

- 8 The nature of the relationship between a parent company and its subsidiaries is critical if an overly centralised and remote landlord is to be avoided. In business terms, this relationship is the mechanism by which the efficiency gains and economies of scale that are in part the driver behind the decision to form a group structure are realised. For example, a company providing central support services to a collection of independent stand-alone landlords would offer economies of scale, without the formal parent/subsidiary relationship. However, to maximise the financial benefits for example VAT exemption on intra-group business activity a formal parent and subsidiary relationship is required. In practice this is achieved where the parent RSL is a member of each subsidiary RSL and has powers to appoint the majority of each subsidiary’s board. It is however important that these arrangements are supported by an intra-group agreement (IGA) or similar procedural agreement which defines the nature of the relationship between the parent company and its subsidiaries. The chosen structure should avoid an overly centralised and remote landlord. The legal requirements needed to establish a group structure and the definition of subsidiary status is in sections 60 and 61 of the Housing Act 1996.

- 9 Similarly, it is recognised that funders see benefits in the existence of a strong parent with the levers to monitor group activity and address poor performance within the group subsidiaries. The ultimate expression of these control levers is the power of the parent company to appoint and remove subsidiary board members. However, depending on the constitution of the group, parental control can also be exerted in a less obvious way, for example through the final decision on business plans and group policies.
- 10 Clearly, if a parent company is ultimately responsible for the financial and service delivery of its subsidiaries, it must have at its disposal the means to monitor and measure their performance and if necessary the levers to bring about change.
- 11 The key issue is to deliver a sound business structure that can also accommodate distinct, autonomous and empowered subsidiary landlords. Consequently, authorities and prospective RSLs should consider how best to ensure the parent company is involved only in what is strictly necessary to provide business efficiency and meet the governance and control tests to comply with company law and the Housing Corporation's registration requirements. It is vital therefore, that the terms of the intra-group agreement are clear and that subsidiary boards have meaningful input into group level strategies, which as a matter of course will balance the interests and priorities of other parts of the group.
- 12 In determining roles, ODPM expects to see group structures in which each subsidiary group member has reasonable operational autonomy, real influence over future strategy for delivery of the landlord function, and real input into the group business plan. In essence, the procedural or intra-group agreement should provide for the parent and subsidiaries to agree the level of resources needed by each subsidiary to enable them to manage the local housing service, and for subsidiaries to deliver those services in the context of their own tenants' wishes, but within the strategic plan of the group. Ministers believe strongly that a parent company should not play a direct role in the delivery of the day-to-day landlord function, nor unduly influence its design. Therefore, as a minimum, the Office would expect a subsidiary board to have the right to:
- negotiate and approve the terms of an intra group agreement to govern the roles and responsibilities of each entity within the group;
 - prepare a business plan setting out its local housing and regeneration investment strategy and (among other things) the power to set and collect rent; agree all future core group policies before such policies are applied to the landlord function;
 - customise core group policies for use by the subsidiary to better meet and respond to the needs of their community;
 - agree clear service level agreements and be able to benchmark and review intra group services to apply Best Value and ensure efficient; and
 - purchase services from whom it chooses without penalty, where existing services provided do not deliver value for money or the quality determined at the outset.

- 13 It is recognised that in granting these rights to each subsidiary, the effect and timing of their execution would be determined to an extent by the parent. For example, local adaptation of group policies would only be acceptable where it was an improvement on the core standard. In terms of timing, customising a core group policy is unlikely before a subsidiary and its tenants have had sufficient time to see how the initial arrangements bed in. Similarly, a decision by a subsidiary to purchase services from outside the group would be a commercial decision and presumably only occur once all intra-group procedures to rectify the problem had been explored but failed to remedy the poor performance and lack of value for money. Nevertheless, these rights are a safeguard of the autonomy and operational interests of the subsidiary landlords and therefore the Office expects each subsidiary in a transfer RSL group structure to be given these powers.
- 14 An authority proposing to transfer its housing stock to a group structure should provide the following:
- the main provisions of the intra-group agreement and the rationale for the proposed structure and the benefits (including financial, operational and greater tenant empowerment) that will be realised;
 - a clear breakdown of the roles and responsibilities of each member within the group with regard to policy development and delivery of the housing service;
 - confirmation that the shadow boards of the subsidiary companies and tenants are satisfied with the division of responsibilities and draft intra-group agreement.
- 15 The proposed group structure and supporting agreements will need to demonstrate that the structure will be within Housing Corporation Group Structures Guidelines and to demonstrate that it provides transparency and effective governance at a parent and subsidiary level.

Governance and Control

- 16 In line with the ODPM objective to increase tenant empowerment and responsibility, there is scope for authorities to transfer their housing stock to an RSL governed by a Board of Management on which tenants are in the majority. Indeed within the transfer RSL group structure context, it is argued that tenant led subsidiary landlords are the appropriate counterweight to concerns about a strong and overly influential parent company. This is true so long as the subsidiaries in question have the ability and flexibility to customise their housing service to meet the needs of their tenants.

- 17 It has been argued that a parent company board with a tenant majority is the ultimate guarantee that the interests of tenants are central to decisions about the housing service. As larger group structures are created to take on local authority stock in areas facing complex and multiple problems, it is vital that the composition of the parent company board is the right one. However, its mix of skills and experience determines the suitability of an RSL board rather than a rigid split between tenants, the authority and independents. Therefore, Ministers are prepared to consider proposals for a tenant majority on the board of a parent company of a transfer group structure, where the subsidiaries of the parent company are also tenant led, so long as the skills commensurate with the tasks in hand are represented. However it should be borne in mind that the Housing Corporation might find it difficult to accept proposals where large and complex organisations are apparently to be governed by boards with a relatively small number of “independents” and limited scope to appoint suitably skilled and experienced people with the requisite corporate and business management skills.
- 18 Other authorities and their tenants may decide against a tenant majority on the parent company board, but wish to ensure that the subsidiaries within the group are the effective power base. An option would be a parent constitution that allowed tenant board members to be selected from among those serving in this capacity on the board of each subsidiary within the group. This approach would ensure continuity and again demonstrate that tenants needs were at the heart of the group’s activity. Ministers are prepared to consider proposals for tenant board members of subsidiary companies to act in that capacity on the board of the parent company of a transfer group structure, where the independent members of the parent company board do not serve in this or any other capacity on the board of the subsidiary companies and the proposal has support from the Housing Corporation.

Future Independence

- 19 Proposals for the transfer of housing stock to a new group structure must include clear arrangements for the parties to consider future restructuring of the group. For example, there should be no constitutional or contractual constraints preventing a subsidiary from de-merging from the group and adopting a stand-alone basis. However ODPM believes it to be appropriate for the agreement of the parent RSL to have to be secured by any subsidiary wishing to de-merge. This is on the basis that the parent will consider the impact of the de-merger on other subsidiaries and not withhold agreement unnecessarily. The right to de-merge is critical if the subsidiary judges that the long term interest of its tenants is best served by going it alone as an independent landlord. Therefore, the Secretary of State will not grant consent to a transfer if any other constitutional or legal obstacle exists to fetter the operation of a de-merger clause. The subsidiary must demonstrate to the parent and other subsidiary RSLs that its proposal to de-merge will not materially damage the financial position of the group nor trigger a breach of covenant. It will also have to demonstrate to the Housing Corporation that as a stand-alone RSL, it will be financially viable and able to fully comply with the Regulatory Code for RSLs. Clearly, therefore, the operation of a de-merger proposal would be discussed with lenders.

ANNEX R

Housing Benefit implications of transfer

Payment Frequency

- 1 At the point the housing is transferred to an RSL, any Housing Benefit (HB) payments the council makes will become rent allowance rather than rent rebate. Each case will need to be considered with regard to Regulation 90 of the HB (General) Regulations 1987, which provides for the frequency of payment of rent allowance. A change to Regulation 90 from 7 October 1996 means that authorities are required to pay HB in arrears to RSL tenants who claim on or after that date. If direct payments are in place, then payment must be made four weekly or monthly in arrears.
- 2 However, transitional provisions were made to exempt those entitled to, and in receipt of, HB in respect of the dwelling they occupied before 7 October 1996, from the new provisions. When the housing is transferred, the authority will need to review affected claims on an individual basis and determine whether or not the transitional provisions apply. If the case is transitionally protected, then payment of the rent allowance must be made in accordance with Regulation 88 and Regulation 90 in its pre-7 October 1996 form.
- 3 Claimants not covered by the transitional provisions (i.e. who first occupied their dwelling on or after 7 October 1996 or have had a break in entitlement since then) will therefore be subject to the new provisions of Regulation 90, i.e. the rent allowance will be paid in arrears.
- 4 Comprehensive guidance on this subject was provided in HB/CTB Circular A9/96.

To whom should payment be made?

- 5 In rent rebate cases, payment of HB is simply credited against the claimants rent account. However, when housing is transferred to an RSL, HB is paid as rent allowance. Generally, rent allowance payments should be made direct to the person entitled (Regulation 92 of the HB (General) Regulations 1987).
- 6 In some circumstances, it will be appropriate to pay rent allowance directly to the landlord under Regulations 93 and 94. Authorities will need to look at each case individually and consider whether the provisions of Regulations 93 and 94 (outlined below) apply. It is important that claimants are not put under pressure to have their rent paid direct; there must be a genuine choice presented.

- 7 The circumstances in which authorities must make direct payments (Regulation 93) are where:
- the tenant is in receipt of Income Support and has deductions from their benefit for rent arrears;
 - the tenant is eight weeks or more in arrears with their rent.
- 8 The circumstances in which authorities can choose to make direct payments (Regulation 94) are where:
- the tenant consents to, or requests this;
 - the authority is satisfied it is in the tenant's best interest to make direct payments, for example if they have a history of rent arrears.
- 9 Additionally, in deciding whether to make direct payments, authorities should give consideration as to whether a landlord is a fit and proper person to receive such payments. Guidance on the fit and proper concept is in Circular HB/CTB A48/97.

RSLs and Referrals to Rent Officers

- 10 RSL tenancies attract rent allowances. The general rules on such tenancies are that an authority is not required to refer them to the rent officer for determination unless it considers the rent to be excessive, or the accommodation overlarge for the tenant's needs. Where a tenancy is referred to a rent officer, Housing Benefit would be restricted to a maximum rent in the usual way, and the authority must state the reasons for referral when seeking the rent officer's determination. The relevant regulation is Regulation 12A(2)(b) of the Housing Benefit (General) Regulations 1987, which states that a referral to the rent officer is not required for certain excluded tenancies. Excluded tenancies are listed in Schedule 1A of those regulations, paragraph 3 of that Schedule refers to Housing Associations. Where a tenancy is not referred to the rent officer, the full contractual rent, less any ineligible charges, is used to calculate Housing Benefit.
- 11 However, where there has been a transfer, there is no requirement to consider whether there is a need to refer to the rent officer until the first rent increase after the stock has been acquired (paragraph 11A of Schedule 1A refers).
- 12 Information concerning a claim for HB should only be released to a 3rd party where the law allows or customer consent is gained. Therefore with the transfer of stock to an RSL any details concerning HB should only be shared where the customer has provided specific consent for that sharing to take place. It is recommended that this consent is gained to maintain a close working relationship with the RSL and address issues of rent arrears. It is important though that customers are not pressured to supply this consent, but make a genuine decision to allow this data sharing and the advantages it brings.

ANNEX S

Further Guidance on discharging statutory obligations in relation to the allocation of housing and homelessness

Introduction

- 1 Chapter 14 of this guidance sets out the statutory obligations in relation to the allocation of housing and homelessness that are retained by authorities after transfer. The ODPM published *Housing Allocation, Homelessness and Stock Transfer – A guide to Key Issues (17)* in January 2004. The document also addresses the implications of partial transfers and Arms Length Management arrangements in this area.
- 2 It provides outline guidance on arrangements for discharge of these obligations including the options of retaining in-house, contracting out to the stock transfer landlord or contracting out to another agency. Issues arising in the event of contracting out of any allocations and homelessness functions are identified including the impact of obligations on registered social landlords and nominations agreements.
- 3 This annex supports the Chapter by providing more detailed guidance and some of these issues. In particular it provides guidance on some of the options and considerations for transfer authorities in relation to:
 - Broad Options on service delivery.
 - Determining the division of operational responsibilities.
 - Service Packaging.
 - Drawing up Service Specifications and Contracts.
 - Nominations Agreements.
 - Testing the Market.
- 4 Guidance on the allocation of housing was published in November 2002. The current edition of the *Homelessness Code of Guidance for Local Authorities* came into effect in July 2002.

- 5 Detailed freestanding guidance on stock transfer and allocations and homelessness based on research currently in progress was published by ODPM in January 2004. That document also addresses the implications of partial transfers and Arms Length Management arrangements in this area.

Broad options on service delivery in discharge of statutory obligations for allocations and homelessness

- 6 Chapter 14 includes full details of the relevant statutory responsibilities. After transfer all housing authorities (landlord or non-landlord) retain all their homelessness functions under Part 7 of the Housing Act and the Homelessness Act 2002. Under Part 7, housing authorities have a general duty to ensure that advice and information about homelessness, and the prevention of homelessness, is available to everyone in their district free of charge. Part 7 also requires authorities to assist individuals and families who are homeless and apply for help. Depending on the circumstances, the assistance to be provided may range from securing accommodation to providing advice and assistance to help applicants secure accommodation for themselves.
- 7 The Homelessness Act 2002 requires housing authorities to have a homelessness strategy based on a review of all forms of homelessness in their district. The first strategy should have been published by July 2003 and strategies must be renewed at least every 5 years. This new duty cannot be contracted out, nor can a housing authority's overall responsible for allocations and homelessness functions.
- 8 In addition to statutory duties, authorities should also take account of the Housing Corporation's Regulatory Code (2002), which will govern the operation of the stock transfer landlord. Under this Code RSLs must:
- co-operate and contribute to the local authority strategic role and homelessness strategies;
 - make available a reasonable proportion of their stock for local authority nominees and as temporary accommodation for homeless households; and
 - adopt clear, documented criteria on the rehousing eligibility of nominees.
- 9 Using their powers in section 70 of the *Deregulation and Contracting Out Act 1994 and the Local Authorities (Contracting Out of Allocation of Housing and Homelessness Functions) Order* (S.I.1996/3205) (the contracting out provisions), authorities may contract-out certain housing allocation and/or homelessness functions to the transfer association or to another agency. Housing authorities remain statutorily responsible for any allocations and homelessness duties that are contracted out. Under the Act, the duration of such contracts should be limited to 10 years or less and, in practice, 5-year terms are typically adopted. These functions may comprise:
- homelessness assessments and decisions;
 - securing temporary accommodation;

- allocation of permanent housing; and
 - securing provision of advice on homelessness and the prevention of homelessness.
- 10 A local authority transferring its housing may also wish to make provision for continued operation of a central housing register (although under the Homelessness Act 2002 there is no longer any statutory duty on local authorities to maintain such a register), perhaps in the form of a common housing register (CHR). A CHR can simplify the process of accessing social housing from an applicants perspective and, at the same time, assist the authority in meeting its continuing statutory requirement to assess aggregate housing needs. Again, an authority transferring its housing stock can opt to retain or contract out the management of a central housing register (whether or not this exists in the form of a common housing register).
- 11 As the 1994 Act stresses (S72), the final responsibility for any action carried out by a contractor in the exercise of a contracted out function will rest with the authority. Therefore, it is essential to keep such functions under regular review and, where it is found that contractor performance falls short of expectations, to take appropriate action. This is best achieved by provisions for periodic joint reviews of contracted services, incentives for continuous improvement and a full options appraisal in the period running up to the contract expiry date. This could result in bringing the function back in-house or letting to another external provider. The Best Value principle of challenge (see below) suggests that authorities should retain an open mind and assess outsourcing/retained management options on the merits of the case.
- 12 In planning post-transfer allocations and homelessness services, local authorities (and, where relevant, their contractors) will also wish to consider:
- how applicant choice might be enhanced; including whether to switch to a choice-based lettings approach (where such an assessment has not already been made); and
 - how these services will contribute to their strategy for preventing homelessness.

Determining the division of operational responsibilities

- 13 Any authority planning stock transfer should weigh up the options for in-house retention of allocations and homelessness services as against the possibility of contracting these out to an external agency. As well as taking account of the relevant legal and regulatory obligations, such an assessment should conform to Best Value principles by considering service quality as well as cost. Authorities will also need to bear in mind the implications of proposed arrangements for their ability to discharge key strategic housing responsibilities (e.g. aggregate housing needs assessment).
- 14 In general, in-house provision offers the potential for exercising greater control over day-to-day service delivery. Because it also implies the direct employment of a body of housing staff it may help to ensure that housing issues continue to command attention within the authority. Access to strategically valuable operational data is also likely to be safeguarded through in-house retention of services.

- 15 Contracting out, on the other hand, may have the advantage of being the most cost-effective options, particularly where the contractor agency is the transfer landlord itself. This could reduce the inefficiencies inherent in traditional nominations processes (see below). It could also have the important advantage of reducing the potential for day to day tensions between the Council and its stock transfer partner in relation to nominations. Nominations between these bodies will not need to take place, but will still need to be accounted for (see below).

Service Packaging

- 16 In considering outsourcing allocations and homelessness services the most obvious Options is to bundle them together as a single package. The interrelationships between these services and the potential inefficiencies inherent in having them carried out by separate organisations seem to underpin the logic of such an approach. On the other hand, there could be an argument in favour of contracting each service separately to stimulate competition. Some existing transfer authorities have also taken a view that the strategic case for in-house retention of homelessness assessment is particularly strong, so that only housing register management has been contracted out. There are also specific arguments in favour of housing advice being provided by a non-landlord agency see paragraph 33.
- 17 Within the homelessness assessment function authorities may wish to consider separating operational responsibility for assessment and decision making. Although the legal requirement for local authorities to retain the latter was removed in 1996, local authorities must still retain overall policy control and must now have an overall homelessness strategy. A counter-argument is that the inter organisational liaison required under such a system is inherently inefficient and could contribute to the duration of temporary accommodation placements. Where decision-making as well as assessment is contracted out, regular review meetings between the council and its contractor could be held to review recent marginal cases. This would provide an opportunity for the authority to provide a policy steer to inform contractor judgement in future cases.
- 18 Where decision-making in homelessness cases is contracted out, authorities may wish to consider retaining the review function under s.202. This may provide an additional degree of independence between the initial decision and the decision on review.

Drawing up service Specifications and Contracts

- 19 Market testing an in-house provision options against possible external competitors will involve drawing up a clear service specification or specifications. Such specifications need to incorporate service standards, performance indicators and targets. They may also provide some linkage between achieved performance and contractor fees. For example, in relation to homelessness, it is advisable to provide specific incentives for any external contractor to minimise the use of temporary accommodation. Provision must also be made for action to be taken in the event of seriously unsatisfactory contractor performance e.g. circumstances that would justify invoking a contractual break clause.

- 20 A specification for homelessness assessment and/or housing register management will need to include a requirement for any appointed external contractor to act on the authority's behalf in making nominations to third party social landlords. It is important that this function is seen by other social landlords to be undertaken impartially and without reference to the contractor's own landlord interests.
- 21 All specifications and the contracts for which they may provide a basis also need to:
- determine clear responsibility for policy making between the local authority and any appointed external agency;
 - define the provision of operational monitoring data by the contractor agency to the local authority define responsibility for the submission of statutory or regulatory returns (e.g. CORE, P1E); and
 - allow for continuous improvements to the service, including consultation with users and refinements of contractual terms (e.g. service standards or performance targets).
- 22 Inter-agency liaison in the immediate post-transfer period is likely to be made easier by the mutual familiarity of staff in the local authority and the transfer landlord. A recognition of this reality may lead the parties to downplay the importance of formal contractual terms between the two agencies. It is, however, important to appreciate the necessity for such relationships to be underpinned in a formal way, particularly so as to allow for the impact of subsequent changes in key personnel. A related point is that all contracts should incorporate a requirement for a review after a limited period so that it is possible to take on board lessons gained from experience.
- 23 In developing service specifications and contractual terms, a proper balance should be struck between taking account of best practice elsewhere and reflecting local circumstances and requirements. A local authority planning to transfer or reviewing existing arrangements in relation to an established transfer may find that agreements developed by other authorities form a useful starting point in this process. Achieving stakeholder ownership of an agreement, however, makes it essential that such documents are thoroughly customised to the local situation.

Nominations Agreements

- 24 After transfer nominations agreements should be drawn up with the stock transfer RSL with due regard to the authority's and RSL's statutory obligations, the Housing Corporation Regulatory Code (2002) and to any allocations or homelessness functions that have been contracted out to the stock transfer RSL or any other party.
- 25 Where a local authority retains operational management of either homelessness assessment or allocations functions (including housing register management, choice based lettings schemes etc.) it is likely to need a nominations agreement with the transfer landlord. The Housing Corporation's normal expectation of RSLs is for at least 50 per cent of net vacancies to be set aside for local authority nominees. Higher entitlements may be appropriate, depending on local circumstances e.g. pressure of homelessness and should be negotiated accordingly. The system for nominating statutory homeless households may need to be applicant led rather than the traditional vacancy led approach.

- 26 Given that the new landlord is likely to be pre-eminent within the district, it may well be that the terms of any nominations agreement between a post-transfer council and a transfer landlord will differ from the standard terms adopted by the authority in existing agreements. Considerations here might include:
- The allocations required by the authority in discharge of its homelessness duties.
 - The decanting requirements of the stock re-investment programme being undertaken by the stock transfer RSL.
 - The housing management and community regeneration objectives agreed between the local authority and the stock transfer RSL which may impact on allocations (e.g. through local lettings schemes).
- 27 Agreements with the stock transfer RSL or any other agency that is also a contractor to the housing authority for some or all of its statutory homelessness/allocations functions will need to incorporate clear understandings on procedures (e.g. for monitoring assistance to the authority, nominations to third parties etc.).
- 28 In any case, however, nominations agreements will need to incorporate understandings on issues such as:
- the scope of the agreement which lettings it covers;
 - the definition of key terms e.g. net lettings;
 - the council's entitlement probably in terms of a percentage of net lettings;
 - day to day liaison procedures and response time targets;
 - the grounds on which the transfer landlord may legitimately reject nominees;
 - monitoring arrangements; and
 - methods for dispute resolution.
- 29 Particular issues arise where the stock transfer RSL has a role in nominating applicants to other RSLs on the authority's behalf. Where this is the case it is essential that this function be seen by other landlords to be undertaken impartially and without reference to any landlord interests the contractor may have.
- 30 It is open to a transfer authority and its RSL counterparts to agree a common allocations policy (CAP) possibly as part of a common housing register (CHR) system. In this case there are implications for both the stock transfer RSL and the local authority:
- RSLs need to demonstrate their independence. If an RSL chooses to enter a CAP then, provided that the CAP agreement clearly demonstrates that it responds to local need, has a clear timetable for review and the RSL has a clear exit strategy should business needs dictate they need to exercise it, this should be sufficient to demonstrate the RSLs independence.

- The authority needs to secure the co-operation of the RSL in its allocation and homelessness duties. To do so it must ensure that the RSL has systems in place for monitoring how many lettings are made, how vacancies are being filled and that percentages re: nominations agreements are being met.
- 31 Even where all allocations and homelessness services are contracted out to the transfer association nominations agreements would still be important not least as a useful fall back should an RSL leave a CAP. Again, there is also the need for RSLs to demonstrate how they are co-operating with/assisting the authority with meeting their statutory duties. A nominations agreement would define expectations and the RSL would need to be able to clearly demonstrate that they were meeting their obligations to the local authority.
 - 32 Authorities and transfer RSLs may also be considering the introduction of a choice-based lettings scheme. Such schemes will need to be drawn up to ensure that the authority continues to be able to discharge its statutory homelessness and allocations duties, and that the RSL can demonstrate its co-operation with these duties.
 - 33 If the transfer RSL reserves the right to refuse to allocate accommodation to certain applicants (e.g. because they have accrued rent arrears), authorities will need to ensure that suitable alternative arrangements are in place for such applicants.

Testing the Market

- 34 In considering the arrangements for discharging their allocations and homelessness functions, transfer authorities have tended to see the choice as being limited to in-house provision versus contracting the transfer landlord. Consideration should also be given to the possibility of third party provision. Such third party contractors arguably benefit from being free of potential conflicts of interest experienced by transfer landlords running these functions. Particularly if the agency manages no local stock of its own, it may be easier for it to focus on its role as an appointed agent of the local authority. It would, however, be clearly essential for such an agency to establish its own local office, should it be appointed to carry out this function.
- 35 A third party contractor may have a particular appeal in the case of housing advice. The ability to operate free of potential conflicts of interest with landlord bodies has traditionally been seen as beneficial in this area, since this removes the possibility that the agency's role as a consumer advocate might be compromised.
- 36 Housing advice services will form a key part of authorities homelessness strategies. It will be important for them to monitor the operation and effectiveness of these services, particularly where they are contracted to the stock transfer RSL or other agency. Authorities will need to establish that good quality and timely advice is available and that this contributes to the prevention of homelessness. Quality assurance measures might include reviewing the level and availability of information through for example mystery shopping and setting and monitoring standards for the training of advisers in the relevant legislation, code of guidance and information on housing supply and welfare benefits.

ANNEX T

Dealing with overhanging debt payment

Introduction

- 1 This annex contains guidance for local authorities in England that are undertaking or considering a housing transfer but would have overhanging debt in respect of the transferred housing remaining in their Housing Revenue Account (HRA) after the transfer has taken place.

What is overhanging debt?

- 2 Overhanging debt arises where the net capital receipt from the sale of local authority housing and associated assets is less than the attributable housing debt.
- 3 Following consultation of local authorities in England, their representative organisations and other interested parties it was decided to assist local authorities to repay their housing debt by way of a one-off payment to cover that part of the outstanding Public Works Loans Board (PWLB) principal not covered by the capital receipt. To date, arrangements have been applied only to whole stock transfers. However, whether arrangements should apply for partial transfers was considered as part of the recent review of decent home delivery vehicles and it was agreed that arrangements should be extended across to partial transfers. We will consult on the most appropriate way to determine the amount of debt to be repaid on a partial transfer. It is our intention that any arrangement should be equitable to all parties.

How the Scheme Works

- 4 An authority's HRA debt is repaid by using a combination of (a) the capital receipt from the sale of the housing and other assets together with (b) a one-off payment from central Government. The net capital receipt i.e. capital receipt less set up cost should be sufficient to cover set up costs and the remainder must be used to repay part of the outstanding housing related PWLB premium and loan principal; the one off payment will cover any remaining PWLB premium and principal. Authorities should as always take their own legal advice before proceeding in this way. The remainder of this note sets out in detail how the scheme works.

Gaining a place on the Transfer Programme

- 5 Each year ODPM invites local authorities to apply for a place on the Housing Transfer Programme. The criteria used for assessing applications are set out in this Housing Transfer Manual. In assessing applications from authorities with overhanging debt, ODPM will require the following additional pieces of information:
 - a. an up-to-date valuation based on a recent stock condition survey;
 - b. confirmation of the authority's portfolio of debt, including that held with the PWLB, and an estimate of any sums payable on the premature repayment of principal to repay HRA debt; and
 - c. amount of housing variable loans with the PWLB. This is because the amount of premiums relating to variable loans would not be known until after the variable loan principle is repaid.
- 6 Before giving an authority a place on the Transfer Programme ODPM will scrutinise the valuation to ensure that the sale price is expected to be the best that could be obtained. Because the resources available to ODPM to make one-off payments to cover overhanging debt will be limited, in order to ensure that ODPM can fund all the potential transfers the office propose to agree a minimum valuation for the housing and other assets before an authority gains a place on the programme. Authorities applying for a place on the programme are advised to consult funders or obtain a security valuation, to help confirm that the valuation of the stock would be fundable under the normal criteria for loan security.
- 7 Agreeing a minimum valuation is necessary to ensure that those transfers that gain a positive tenants ballot can go ahead. This should provide authorities with certainty about the level of assistance they will receive, and central government with an accurate forecasting mechanism. Where the final sale price is less than the minimum valuation, the local authority will have to meet the shortfall from within its own resources, except where ODPM is satisfied that the changes arise from exceptional and unforeseen circumstances outside the control of the local authority.

Local Authority contribution to Debt Repayment

- 8 Local authorities with overhanging debt are required to use the net receipt (capital receipt less set up costs) from the sale of their housing stock to repay part of their attributable housing debt. ODPM allows authorities with overhanging debt to deduct costs that meet the test of administrative costs of and incidental to the disposal as set out at section 9 of the Local Government Act 2003 and section 4 of the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003.

Gaining consent to Transfer

- 9 ODPM will assess applications for consent to transfer against the programme. The Secretary of State is unlikely to grant consent to a transfer unless he is convinced that the authority's housing debt can be repaid and the set up cost of the transfer met. ODPM will confirm the level of support to be provided to deal with the authority's housing debt at the time of granting consent to the transfer.

Capital Receipt from the Sale

- 10 When granting consent to a transfer, ODPM require the local authority to use the net capital receipts (i.e. capital receipt less set up costs) from the sale of the dwellings and associated assets to help repay the authority's HRA debt.

Level of Debt to be Repaid?

- 11 In the case of whole stock transfers, the total amount of debt to be repaid will be equal to the authority's HRA debt normally its SCFR. This will reduce the SCFR to zero, and automatically stop any further entitlement to HRA subsidy.

Which Debts will be Repaid?

- 12 ODPM will repay a percentage of each authority's PWLB loans, which will leave the authority in a broadly neutral position.
- 13 The amount of debt percentage to be repaid will be calculated by taking the amount of HRA debt as a proportion of the authority's overall PWLB debt. Each PWLB loan will be reduced by this percentage. In consultation with the PWLB the amount of premiums or discounts will be calculated based on the percentage of each loan repaid, and hence the amount of debt covered by the capital receipt and the level of support required from ODPM to meet the outstanding principal and premium. This should deliver broad neutrality in terms of average interest rates on remaining debt.
- 14 However, ODPM is prepared to consider an alternative methodology for selecting debt where a local authority can demonstrate that repayment of HRA debt immediately after transfer could be achieved via a one-off contribution from central government at less than the cost of the preferred method.
- 15 In some cases this could leave some of the loans remaining in the authority's portfolio with very small amounts of principal outstanding. The office are therefore content that authorities negotiate with the PWLB to rationalise their loan portfolio provided that the amount of the one-off payment from the Government is not affected and the SCFR remains at zero.

When will the Debt be Repaid?

- 16 ODPM will discuss with the authority the date it selects for the debt repayment; normally within the week after the transfer. ODPM will make its payment on the same day to cover the balance outstanding after the authority has made its payment. A worked example is set out below.

Local Authority Assumptions	
Total LA debt	£200m
HRA debt (Subsidy Capital Financing Requirement) 75% of total debt	£150m
– Initial Stock Valuation	£75m
= Indicative overhanging debt	£75m
Step 1: Agreeing a Minimum Valuation	
HRA debt (Subsidy Capital Financing Requirement)	£150m
+ Estimated premium costs based on repayment of 75% of total debt	£40m
– Agreed minimum valuation	£75m
+ Estimated LA Set up costs	£2m
= Maximum central government assistance	£2m
Step 2: Gaining Consent to Transfer	
HRA debt (Subsidy Capital Financing Requirement)	£150m
+ Premium costs	£40m
– Final sale price	£80m
– LA costs	£2 m
= Central government assistance	£112m
Step 3: Date of Repayment of HRA Debt	
LA pay to PWLB	£78m
= Premium costs	£40m
+ Partial repayment of outstanding principal	£38m
= Outstanding PWLB principal of	£112m
– Exchequer payment of Outstanding to PWLB	£112m
= Repayment of HRA debt	–

What if there is a Private Sector Loan i.e. the PWLB Debt is less than the HRA Debt?

- 17 There is no ODPM assistance to meet private sector loan repayments and premiums. In cases where an authority's outstanding PWLB principal is less than its Subsidy Capital Financing Requirement (SCFR), the authority's net receipt must be sufficient to meet both premiums and outstanding principal on private sector loans equivalent to the difference between the value of outstanding PWLB principal and the SCFR. ODPM accepts this as a first call on the receipt after set-up costs are deducted. Any remaining available receipt will then be used to meet a proportion of outstanding PWLB premiums and/or principal. ODPM will discuss and agree with the authority which private sector loans should be repaid.
- 18 Where the capital receipt from the sale of the housing and other assets is less than the premiums payable for the early repayment of the authority's HRA debt, ODPM will meet the costs as part of the one off payment.

ANNEX U

Calculation and Payment of the LSVT Levy

Background

- 1 This is not intended as an authoritative statement of the law and should be read in conjunction with the two relevant determinations: the Disposals Levy (Deduction) (England) Determination 2004 ('the 2004 Deduction Determination'), and the Disposals Levy (Administration) (England) Determination 2004 ('the 2004 Administration Determination'), which can be found at the end of this section. You may also wish to look at Section 136 of the Leasehold Reform, Housing & Urban Development Act 1993 – which is the legislative framework governing the LSVT Levy. Please note that s136(3) of the 1993 Act was amended by the Local Authorities (Capital Finance) (Consequential, Transitional and Saving Provisions) Order 2004 (SI 2004/533).

Circumstances under which the Levy is Payable

- 2 Authorities are legally required to pay the levy when:
 - more than 499 dwellings are transferred to the same Registered Social Landlord over any 5 year period;
 - the First Secretary of State's consent is required under section 32 or section 43 of the Housing Act 1985; and
 - the capital receipt (as defined by section 136, Leasehold Reform, Housing and Urban Development Act 1993 ("the 1993 Act")) received by the authority from the sale of its stock is greater than the housing debt attributable to those dwelling-houses.

Such a transfer is referred to as a "qualifying disposal". Levy is not payable where the attributable debt is greater than the capital receipt.

Clarification of which set-up Costs are Deductible

- 3 There has been some confusion over the set-up costs that are deductible under item **'B'** in the levy formula. Set-up costs are those costs relating to leviable assets (i.e. the dwelling-houses) which were incurred by the authority in pursuing the transfer. These costs include the costs incurred by the authority in discharging its statutory duty to consult – under Section 106A of and Schedule 3A to the Housing Act 1985 and the administrative costs of and incidental to the disposal defrayed by the authority. These costs may include such costs as those of the costs of Lead consultants, Legal consultants, Tenant advisors, Ballot or opinion survey, Public information and consultation, Staff change and consultation, Accommodation, Board appointment and training, Staff training and IT. Any costs incurred by the local authority of meeting any shortfall or deficit in their pension scheme at the time of transfer are **not** considered to be a 'cost of and incidental' to the transfer and as such may **not** be included in the set-up costs.

Calculating the Levy

- 4 Set out below is the formula used for calculation of the Levy which in its simplest terms is the leviable receipt multiplied by the levy (**P**) which for the 2005 Programme will equal 20%. The leviable receipt is derived by taking from the capital receipt four deductible items (**A, B, C & E**) which collectively form item **'D'**. A more detailed description of the formulae and definitions for calculating the levy are set out in the Levy Deduction Determination 2004 and Section 136 of the Leasehold Reform, Housing & Urban Development Act 1993.

L = (CR – D) x P, where

L = the amount of the levy;

CR = the capital receipt of the transfer;

D = **A+B+C+E**

Where:

A is capital receipts relating to any non-leviable assets transferred (i.e. the value of any assets transferred that are not leviable assets, where leviable assets means dwelling-houses disposed of in a qualifying disposal) i.e. hostels, free-standing garages, shops and public houses;

B is set-up costs relating to leviable assets (the costs incurred by a local authority which relate to a disposal, including costs incurred by the authority in discharging its statutory duty to consult under section 106A of and Schedule 3A to the Housing Act 1985, and administrative costs of and incidental to the disposal defrayed by the authority);

C is housing debt attributable to the dwelling-houses transferred; and

E an amount (if any), which is specified in the Agreement to Transfer as the value of any covenant undertaking or obligation given or assumed by the local authority in that Agreement in respect of the repair, modernisation, improvement, replacement, demolition or any other development of any land or premises which are included in the qualifying disposal

P = 20% – the levy rate

- 5 In calculating the levy, the authority should follow the 5 steps set out below and use the relevant data to complete the Initial Return at Part 1[S1] of the schedule to the 2004 Administration Determination. This is a self-calculating form and can be found on the Office’s website at www.odpm.gov.uk/decenthomes or a copy can be sent to you by request.
- 6 To help illustrate how this calculation is carried out, a hypothetical authority that transfers all its stock has been used, with the following assumptions:

£	
Capital receipt from transfer	60m
Non-leviable assets (A)	2m
Set-up costs (B)	3m
Number of dwellings at 1 April on year of transfer (Z)	6,050
Number of dwelling-houses transferring (Y)	6,000 (assumes 50 Right to Buy transfers occur between 1 April and transfer date)
Housing Attributable debt to the dwellings transferring (i.e. the mid year subsidy credit ceiling plus any deferred or advanced purchase arrangements) (M) (note C = MxY)	10m
Z	
Plus the principal debt (if any) in relation to deferred purchase arrangements in which are not included in the calculation of the authority’s Subsidy Capital Financing Requirement (SCFR)	1m
an amount (if any), which is specified in the Agreement to Transfer as the value of any covenant undertaking or obligation given or assumed by the local authority in that Agreement in respect of the repair, modernisation, improvement, replacement, demolition or any other development of any land or premises which are included in the qualifying disposal. E	2m

<p>Step 1 – covered by boxes 1 – 3 of the Initial Return.</p> <p>The levy only applies to transferred dwelling-houses (as defined in the 2004 Administration Determination). Therefore, the value of non-leviable assets (A) included in the transfer (shared ownership dwellings, hostels, free standing garages, shops and public houses) should be deducted from the capital receipt to give the capital receipt relating to leviable assets as follows:</p> $\begin{array}{r} 60,000,000 \\ - 2,000,000 \\ \hline 58,000,000 \end{array}$
<p>Step 2 – at box 5, using the data in boxes 1, 3 and 4 of the Initial Return.</p> <p>Calculate the proportion of set-up costs relating to leviable assets (B) as follows:</p> $3,000,000 \text{ total set up costs} \times \frac{58,000,000}{60,000,000} = 2,900,000$
<p>Step 3 – Box 6.</p> <p>Deduct the set-up costs relating to leviable assets (B) (Box 5) from the capital receipt relating to leviable assets (A) (Box 3) as follows:</p> $\begin{array}{r} 58,000,000 \text{ (transfer receipt less capital receipt relating to non-leviable assets)} \\ - 2,900,000 \\ \hline 55,100,000 \end{array}$
<p>Box 7. Enter the housing attributable debt (M)</p> <p>Box 8. Enter the number of dwellings in the Housing Revenue Account at the start of the financial year. (Z)</p> <p>Box 9. Enter the of the number of leviable assets (dwelling-houses) in the disposal (Y).</p>
<p>Step 4 – Box 10 (please see para 3 of the 2004 Deduction Determination for calculation):</p> <p>Calculate the amount of Housing Attributable debt related to leviable assets (dwelling-houses) (C). The proportion of debt in the HRA should be calculated using the mid year subsidy credit ceiling and the principal of any outstanding deferred or advanced purchase arrangements not included in the SCFR. If it is a whole stock transfer (i.e. all the leviable assets in an authority's HRA), then the total debt in the HRA should be used. For a partial transfer, it should be apportioned accordingly, and the calculation below takes account of this. The proportion used in this part of the calculation is arrived at by dividing the number of dwellings in the transfer by the number of dwellings in the HRA at the beginning of the year in which the disposal takes place, and then multiplying by the total debt. Both sets of dwelling figures should exclude shared ownership properties etc. (see Step 1 above). Plus the principal debt (if any) in relation to deferred purchase arrangements in which are not included in the calculation of the authority's Subsidy Capital Financing Requirements (SCFR).</p> <p>Therefore, in this example</p> $\begin{array}{r} 10,000,000 \text{ (HRA debt)} \times \frac{6,000 \text{ (dwelling-houses transferred)}}{6,050 \text{ (dwellings at start of year)}} = 9,917,355 \end{array}$ <p>Referring to the Initial Return form, this could also be read as $\frac{\text{Box 7} \times \text{Box 9}}{\text{Box 8}}$</p> $+ \text{£}1,000,000 = \text{£}10, 917,355$

Step 5 – Box 11.

Deduct from the capital receipt (from which non-leviable assets **(A)** and set-up costs relating to leviable assets **(B)** have already been deducted) the HRA debt attributable to the dwelling-houses transferred **(C)** as calculated at step 4 above; and an amount (if any), which is specified in the Agreement to Transfer as the value of any covenant undertaking or obligation given or assumed by the local authority in that Agreement in respect of the repair, modernisation, improvement, replacement, demolition or any other development of any land or premises which are included in the qualifying disposal **(E)**. This then gives the leviable receipt **(D)** (i.e., that portion of the receipt to which the levy is applied).

Thus **(D)** is calculated as:

55,100,000 (capital receipt for all assets **(CR)** minus capital receipt relating to non-leviable assets **(A)** and set-up costs relating to leviable assets **(B)** – 9,917,355 (debt attributable to leviable assets) **(C)** – 2,000,000 (an amount (if any), which is specified in the Agreement to Transfer as the value of any covenant undertaking or obligation given or assumed by the local authority in that Agreement in respect of the repair, modernisation, improvement, replacement, demolition or any other development of any land or premises which are included in the qualifying disposal **(E)**).

55,100,000 – 10,917,355 – 2,000,000 =

42,182,645 (Box 12)

Step 6 (Box 13)

The four costs identified at para. 4 have now been deducted from the gross capital receipt. The levy payable **(P)** will be 20% of the figure arrived at Step 5 above. The levy is

42,182,645 x 20% = **£8,436,529**

Completing and Submitting an Initial Return

- 7 An authority must submit an initial return where it makes a qualifying disposal (as defined above); a copy of the initial return should be sent as a paper copy signed by the Chief Finance Officer or other authorised officer. It must be sent to the Office within 28 days of the disposal. The form of initial return is in the Schedule to the 2004 Administration Determination and when completed will include information such as the receipt received in respect of the disposal, the number of dwelling-houses involved etc. Where no levy is payable on a qualifying disposal, then no return is required.
- 8 Upon receipt of an initial return, the Office will verify the levy calculation and when satisfied will issue a demand letter requesting payment. Where an authority takes longer than 28 days to pay the levy, interest will be charged from the 29th day (see paragraph 6 of the Levy Administrative Determination 2004).
- 9 Authorities will subsequently need to have their initial calculations auditor certified by an external auditor appointed by the Audit Commission and confirmed in an Auditor Certified Return which must be sent to the Office by 31 December following the financial year in which the authority receives any receipts in respect of a qualifying disposal. Like the initial return, the Auditor Certified Return forms part of the Schedule to the 2004 Administration Determination.
- 10 Payment should be made through either the Clearing Houses Automated Payment System (CHAPS), the Bankers Automated Clearing System (BACS), or by cheque.

- 11 Having calculated the amount of levy and completed the Initial Return, the next steps of the payment process are set out in detail in the 2004 Administration Determination. They can be summarised as:

- (i) Submit the completed Initial Return to ODPM within 28 days of completing the disposal. The address for the submission of all returns is:

Ann Hinds
Decent Homes Division
Office of the Deputy Prime Minister
Zone 2/D1
Eland House
Bressenden Place
London SW1E 5DU

- (ii) The Office will then check your figures and:
- (a) if in agreement with the authority's calculation of the amount payable, they will send the authority a demand for payment.
 - (b) If not in agreement with the authority's calculation of the amount payable, they will set out the reasons why they disagree.
 - (c) Where the Office disagrees with the calculation the local authority may make representations explaining their calculations and the deductions made.
 - (d) If upon receipt of the representations from the local authority the Office then agrees with the calculation of the amount payable, they will send a demand for payment.
- (ii) If, following receipt of the representations from the local authority they still do not agree with the local authority's calculation of the amount payable, they will send a demand for payment of the amount of levy which he calculates.
- (iii) The authority must then pay the levy demanded within 28 days. Any discrepancies are dealt with when the levy is audited (please see below).
- (iv) If an authority fails to pay a demand for levy within 28 days of receiving the Secretary of State's demand, interest on the amount of levy is payable from and including the 29th day up until the day of the payment. It is calculated as 1.5% per annum above the median base rate prevailing on that day. Para 6 of the 2004 Administration Determination sets out this requirement in more detail.

Completing and Submitting an Auditor Certified Return

- 12 An Auditor Certified Return must be submitted to the Office by 31st December following the financial year in which the receipts were received by the authority (para. 4(3) of the 2004 Administration Determination). This form is part of the initial return form and is also self-calculating. So, for a disposal that took place between 1 April and 31 March in any financial year, the authority should compile an Auditor Certified Return by 30 September in the next financial year (this year is referred to as the 'Return Year') for certification by the external auditor, and secure its submission, via the auditor, to ODPM by the following 31 December.
- 13 The Auditor Certified Return is a record of all leviable disposals that took place during any financial year. There are a number of ways in which a qualifying disposal (see para 3 above) can arise that will give rise to leviable capital receipts. These are set out on the Auditor Certified Return and are, specifically:
- (i) **Receipts arising from an initial qualifying disposal** – This is a single disposal, which is also a qualifying disposal, of 499 properties within the relevant period, where there have previously been no disposals to the landlord concerned.
 - (ii) **Receipts arising from 'cumulative' qualifying disposals** – These are housing transfers that accumulate over time and eventually become a qualifying disposal. They occur where, over a period of five or less years, a first disposal of less than 500 properties is followed by one or more further disposals that cumulatively reach or exceed 500 dwellings. They therefore become a qualifying disposal because more than 499 dwellings have been transferred to the same landlord within the 5 year period laid down in the 1993 Act. An example of such a transfer would be as follows:

No. of dwellings transferred in year (inc. previous years)	Cumulative No. of dwellings (£K)	Value/ dwelling	Receipt (£m)	Cumulative receipt (£m)	Levy payable
200	200	25	5	5	Nil
100	300	25	2.5	7.5	Nil
100	400	25	2.5	10	Nil
100	500	25	2.5	12.5	2.5
100	600	25	2.5	15	0.5

In the above example, an authority disposes of 200 properties to a landlord, followed by an additional 100 in each of the 4 subsequent years. By the 4th year, the authority has transferred 500 properties to the same landlord, the transfer has become a qualifying disposal and levy is payable. **It is at this point that the receipt becomes leviable**, and the authority would be required to pay levy on £12.5m. The receipt generated by the sale of the 100 properties the following year (year 5) would also be leviable, but would be counted as a 'subsequent qualifying disposal' for the purposes of the Auditor Certified Return – please see iii below.

(iii) **Receipts arising from subsequent qualifying disposals** – where there are further qualifying disposals to the same landlord following either an ‘initial’ or a ‘cumulative’ qualifying disposal. In other words, once the first qualifying disposal is made, whether it be one single LSVT (an ‘initial disposal’) or a number of smaller disposals accumulated over time (‘cumulative disposals’), then any additional disposals to the same landlord that are not RTB sales fall into this category.

- 14 Because it would be administratively burdensome for an authority to report each transfer as it happens, the Department only requires that subsequent transfers are reported in, and levy is paid on, ‘batches’ of 100 or more dwellings. If the subsequent qualifying disposal is less than 100 dwellings, then the authority should report the transfer(s) on an Initial Return at the end of the financial year, and record it/them on the Auditor Certified Return as appropriate.
- 15 Please note that receipts arising from the proceeds of Right to Buy sales where the local authority has entered into a sharing agreement with the RSL are **not** subject to the levy.
- 16 You should complete the boxes in the Auditor Certified Return form as follows:

Box 1

Enter the date on which the qualifying disposal took place, if it is an initial or cumulative qualifying disposal. For subsequent qualifying disposals, enter the date of the transfer of the 100th property or, if fewer than 100 have been transferred during the year, the number of properties transferred by 31 March.

Box 2

Enter the name of the acquiring RSL.

Box 3

Receipts arising from an initial qualifying disposal.

Box 4

Receipts arising from cumulative qualifying disposals.

Box 5

Receipts arising from subsequent qualifying disposals.

Box 6

This is the sum of boxes 3,4 and 5, giving the total capital receipts relating to qualifying disposals for the financial year in question (that is, the previous financial year to that in which the Auditor Certified Return is submitted). The form will calculate this automatically.

Box 7

This is the total levy payable for the year in question, and is the total leviable receipts multiplied by 20%. Again the form will calculate this automatically.

- 17 Having received the Auditor Certified Return, and on the basis of the information contained in that Return, the Office will consider if there are grounds for an adjustment of levy. If it is considered that there are grounds for an adjustment, the authority will be sent a second demand for the additional payment if the authority has underpaid, or the Office will reimburse the authority if it has overpaid the levy.

Records

- 18 Local authorities must keep records of all information relevant to the completion of the initial and Auditor Certified Returns.

The Disposals Levy (Deduction) (England) Determination 2004

The First Secretary of State, in exercise of the powers conferred on him by section 136(3), (4), and (13) of the Leasehold Reform, Housing and Urban Development Act 1993 and of all other powers enabling him in that behalf, and after consulting such representatives of local government as appear to him to be appropriate in accordance with section 136(11) of that Act, hereby makes the following determination –

1. Citation, Commencement and Application

(1) This determination may be cited as the Disposals Levy (Deduction) (England) Determination 2004 and shall come into force on 1 October 2004.

(2) This determination applies to England only.

2. Interpretation

(1) In this determination –

“the 1989 Act” means the Local Government and Housing Act 1989;

“the 1993 Act” means the Leasehold Reform, Housing and Urban Development Act 1993;

“Agreement to Transfer” means the agreement referred to as such in the Secretary of State’s consent to a disposal pursuant to sections 32 or 43 of the Housing Act 1985;

“dwelling”, in relation to the number of dwellings within the Housing Revenue Account of an authority on the first day of a year, has the meaning given to that term in the determination made under section 80 of the 1989 Act in force for that year;

“dwelling-house” has the meaning given in section 135 of the 1993 Act (programme for disposals);

“the Housing Revenue Account” means the account kept pursuant to section 74 of the 1989 Act;

“Subsidy Capital Financing Requirement” means receipts which are capital receipts or non-money receipts for the purpose of the definition of CR in section 136(3) of the 1993 Act;

“set-up costs” means the costs incurred by a local authority which relate to a disposal, including costs incurred by the authority in discharging its statutory duty to consult under section 106A of and Schedule 3A to the Housing Act 1985, and administrative costs of and incidental to the disposal defrayed by the authority;

“transferee” means the person to which the dwellings are transferred under the qualifying disposal;

“Works” means works of repair, modernisation, improvement, replacement, demolition or any other development of any land or premises which are included in the qualifying disposal;

“Workforce” means the local authority’s staff transferring to the transferee; and

“year” means a period of twelve months ending on 31st March.

(2) Where a local authority makes a disposal which is not or does not include a qualifying disposal (within the meaning of section 136(1) of the 1993 Act) when it is made but which subsequently becomes or includes a qualifying disposal on the making of a further disposal to the same person, the earlier disposal shall, for the purposes of this determination, be treated as being part of that further disposal.

3. Formula

In relation to a disposal which is or includes a qualifying disposal made by a local authority on or after 1 October 2004, the amount of D referred to in section 136(3) of the 1993 Act shall be calculated in accordance with the following formula –

$$D = A + B + C + E$$

where –

A = (i) zero, if the whole of the disposal is a qualifying disposal; or
(ii) in any other case, the amount of any receipts received by the local authority in respect of the disposal, other than receipts received in respect of the qualifying disposal;

B = (i) the set-up costs of the disposal, if the whole of the disposal is a qualifying disposal; or
(ii) in any other case, such proportion of the total amount of set-up costs of the disposal, as the amount of the receipts in respect of the qualifying disposal bears to the total amount of receipts in respect of the disposal;

$$C = \frac{M \times Y}{Z}$$

where –

M = (i) the Subsidy Capital Financing Requirement for the local authority making the disposal for the year in which the disposal takes place, where that ceiling is positive, or
(ii) zero, in any other case plus the principal of any outstanding debt resulting from any deferred or advance purchase arrangement relating to the qualifying disposal which is not or was not a credit arrangement or transitional credit arrangement within either section 48 or section 52 of the Local Government and Housing Act 1989.

Y = the number of dwelling-houses included in the qualifying disposal; and

Z = the number of dwellings within the Housing Revenue Account of the local authority on the first day of the year in which the disposal takes place;

E= an amount (if any), which is specified in the Agreement to Transfer as the value of any covenant, undertaking or obligation given or assumed by the local authority in that Agreement to carry out Works to property included in the qualifying disposal.

E includes the following:

- (a) any VAT saving separate to the valuation of the transferring dwellings which is retained by the local authority or is paid to the local authority by the transferee as provided for in the Agreement to Transfer or as a direct result of the transfer;
- (b) insofar as such amount is not already accounted for within A in the formula, any amount specified in the Agreement to Transfer as the value of any covenant, undertaking or obligation given or assumed by the local authority in that Agreement in respect of the transfer of the Workforce, for example, relating to goodwill, plant and machinery, or buildings.

E does not include:

any increase in the receipt received by the local authority (whether specified in the Agreement to Transfer or not) in respect of the qualifying disposal which relates to the value of any covenant, undertaking or obligation given or assumed by the local authority to carry out Works specified in the Agreement to Transfer, and where as a consequence, VAT is not payable. This includes Works both carried out by the transferee's own workforce and carried out by the Workforce following transfer.

4. Revocation of Determination

The Disposals Levy (Deduction) (England) Determination 2004 is hereby revoked.

Anne Kirkham
Signed by an official of the
Office of the Deputy Prime Minister,
authorised to sign on behalf of
the First Secretary of State
October 2004

The Disposals Levy (Administration) (England) Determination 2004

The First Secretary of State, in exercise of the powers conferred on him by section 136(5) and (13) of the Leasehold Reform, Housing and Urban Development Act 1993 and of all other powers enabling him in that behalf, and after consulting such representatives of local government as appear to him to be appropriate in accordance with section 136(11) of that Act, hereby makes the following determination –

1. Citation, Commencement and Application

(1) This determination may be cited as the Disposals Levy (Administration) (England) Determination 2004 and shall come into force on 1 October 2004.

(2) This determination applies to England only.

2. Interpretation

In this determination –

“the 1989 Act” means the Local Government and Housing Act 1989;

“the 1993 Act” means the Leasehold Reform, Housing and Urban Development Act 1993;

“auditor certified return” means, in relation to any year, a return in the form set out in Part 2 of the Schedule to this determination, completed in respect of the receipts received by the authority during that year;

“cumulative disposal” means a disposal to a person which subsequently becomes or includes a qualifying disposal as a result of one or more further disposals being made by the local authority to the same person within the relevant period; and each of those further disposals is also a cumulative disposal;

“cumulative qualifying disposal” means a qualifying disposal that is, or is included in, a cumulative disposal;

“dwelling”, in relation to the number of dwellings within the Housing Revenue Account of an authority on the first day of a year, has the meaning given to that term in the determination made under section 80 of the 1989 Act in force for that year;

“dwelling-house” has the meaning given in section 135 of the 1993 Act (programme for disposals);

“Housing Revenue Account” means the account kept pursuant to section 74 of the 1989 Act;

“initial disposal” means a disposal to a person which is or includes a qualifying disposal of more than 499 dwelling-houses, where no other qualifying disposal has been made previously by the local authority to that person within the relevant period;

“initial qualifying disposal” means a qualifying disposal that is or is included in an initial disposal;

“initial return” means, in relation to a disposal, a return in the form set out in Part 1 of the Schedule to this determination, completed in respect of the receipts received by the authority in respect of the disposal;

“leviable assets” means dwelling-houses disposed of in a qualifying disposal;

“levy” means the levy payable under section 136 of the 1993 Act;

“Subsidy Capital Financing Requirement” (SCRF) means receipts which are capital receipts or non-money receipts for the purpose of the definition of CR in section 136(3) of the 1993 Act;

“non-leviable assets” means assets, other than leviable assets, included in a disposal;

“person” (except in paragraph 6(3) of this determination) includes a person and any of his associates taken together;

“qualifying disposal” has the meaning given in section 136(1) of the 1993 Act;

“receipts” means receipts which are capital receipts or non-money receipts for the purpose of the definition of CR in section 136(3) of the 1993 Act;

“relevant period” has the meaning given in section 136(2)(a) and (b) of the 1993 Act;

“required return” shall be construed in accordance with paragraph 5(1);

“return address” means Decent Homes Division, Office of the Deputy Prime Minister, Zone 2/D1, Eland House, Bressenden Place, London SW1E 5DU;

“return year” means a year in which a local authority receives any receipts in respect of qualifying disposals and in relation to which an auditor-certified return is required to be made under paragraph 4(3) of this Determination;

“set-up costs” means the costs incurred by a local authority which relate to a disposal, including costs incurred by the authority in discharging its statutory duty to consult under section 106A of and Schedule 3A to the Housing Act 1985, and administrative costs of and incidental to the disposal defrayed by the authority;

“set-up costs relating to leviable assets” means such proportion of the total amount of set-up costs of the disposal, as the amount of the receipts in respect of the qualifying disposal bears to the total amount of receipts in respect of the disposal;

“subsequent qualifying disposal” means a qualifying disposal which is neither an initial qualifying disposal nor a cumulative qualifying disposal; and

“year” means a period of 12 months ending on 31st March.

3. Qualifying Disposals

(1) Sub-paragraphs (2) and (3) of this paragraph do not apply for the purposes of the definitions of “cumulative disposal” and “initial disposal”.

(2) Where a local authority makes a disposal which is not or does not include a qualifying disposal when it is made but which subsequently becomes or includes a qualifying disposal on the making of a further disposal to the same person, the earlier disposal shall, for the purposes of this determination, be treated as being part of that further disposal and any receipts already received in relation to the disposal shall be treated as having been received on the making of the further disposal.

(3) Where a local authority makes a qualifying disposal of fewer than 100 dwelling-houses to a person and, during the same year, it makes a subsequent qualifying disposal to the same person, the earlier qualifying disposal shall, for the purposes of this determination, be treated as being part of that subsequent qualifying disposal and any receipts already received in relation to the earlier qualifying disposal shall be treated as having been received on the making of the subsequent qualifying disposal.

4. Returns and Records

(1) A local authority which makes a qualifying disposal of 100 or more dwelling-houses shall send to the Secretary of State, by sending it to the return address, within 28 days of the disposal, an initial return setting out the authority’s calculation of the amount of levy payable in accordance with the Disposals Levy (Deduction) (England) Determination 2004.

(2) A local authority which makes a qualifying disposal of fewer than 100 dwelling-houses (which is not treated as part of a qualifying disposal of 100 or more dwelling-houses by virtue of paragraph 3 above) shall send to the Secretary of State, by sending it to the return address, an initial return in relation to the disposal, on or before the last day of the year in which the disposal is made or, if later, within 28 days of the disposal, setting out the authority’s calculation of the amount of levy payable in accordance with the Disposals Levy (Deduction) (England) Determination 2004.

(3) A local authority which receives any receipts in respect of qualifying disposals in any year (whether in relation to a qualifying disposal made in that year or in a previous year) shall arrange for its auditor appointed by the Audit Commission to send to the Secretary of State, by sending it to the return address, by 21st January in the year following that year, the auditor certified return in relation to that year, setting out the authority’s calculation of the amount of levy payable in accordance with the Disposals Levy (Deduction) (England) Determination 2004 certified by the auditor.

(4) A local authority shall keep records relating to any disposal which is or includes, or which may subsequently become or include, a qualifying disposal in such a way as to show that a return made under this paragraph is correct.

(5) An authority shall, on receipt of notice in writing by the Secretary of State

- (a) make any records kept under subparagraph (4) available for inspection by a person named in the notice;
- (b) send to the Secretary of State a copy of the information kept in such records in relation to such disposals as may be specified in the notice.

5. Issuing of Demands and Payment of Levy

(1) In verifying any levy calculation of the local authority, the Secretary of State may request any further information he so requires from the authority in support of their calculation.

(2) If he agrees with the authority's calculation of the amount payable, the Secretary of State shall send to the authority a demand for payment of the amount of the levy calculated by the authority.

(3) If he disagrees with the calculation, the Secretary of State will set out the reasons why he disagrees and notify the local authority within 14 days.

(4) Where the Secretary of State notifies the authority he disagrees with the calculation, the local authority may make representations to the Secretary of State within 28 days explaining their calculations and the deductions they have made.

(5) If, following receipt of representations from the local authority in accordance with sub-paragraph (4) above, the Secretary of State agrees with the authority's calculation of the amount payable, he shall within 28 days of receipt of the representations send to the authority a demand for payment of the amount of the levy calculated by the authority.

(6) If, following receipt of representations from the local authority in accordance with sub-paragraph (4) above, the Secretary of State does not agree with the authority's calculation of the amount payable, he shall within 28 days of receipt of the representations send a demand for payment of the amount of levy which he calculates as payable, setting out the his reasons for the disagreement.

(7) Where an authority receives a demand for payment, they shall send the amount demanded to the Secretary of State within 28 days of receiving the demand.

6. Payment of Interest

(1) Where an authority receives a demand under paragraph 5(2), 5(5) or 5(6) and the authority does not send the amount demanded to the Secretary of State within the 28 day period mentioned in paragraph 5(7), the authority shall pay interest from the end of that period on the amount outstanding.

(2) Where an authority is required to pay interest under this paragraph in relation to a demanded amount, interest shall be paid at 1.5% per annum above the median base rate, prevailing 29 days after the authority receives the Secretary of State's demand, on the amount outstanding until payment of the demanded amount is made.

(3) For the purposes of subparagraph (3), the median base rate is the base rate quoted by the reference banks or, if different base rates are quoted, the rate which, when the base rate quoted by each bank is ranked in a descending sequence of seven, is fourth in the sequence at that time; and for the purposes of this subparagraph –

- (a) the reference banks are the seven largest persons who –
 - (i) have permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits;
 - (ii) are incorporated in the United Kingdom and carrying on there a regulated activity of accepting deposits; and
 - (iii) quote a base rate in sterling;
- (b) the size of a person for the time being is to be determined by reference to his total consolidated gross assets denominated in sterling, as shown in his audited end-year accounts last published before that time;
- (c) and “consolidated gross assets” of an institution is a reference to the gross assets of that institution together with any subsidiary (within the meaning of section 736 of the Companies Act 1985);
- (c) sub-paragraphs (a)(i), (ii) and (iii) above must be read with:
 - (i) section 22 of the Financial Services and Markets Act 2000;
 - (ii) any relevant order under that section; and
 - (iii) Schedule 2 to that Act.

7. Adjustment of Levy

Where the auditor certified return shows that a levy in respect of a disposal has been overpaid and the Secretary of State is satisfied of the accuracy of the auditor certified return, he shall repay the overpayment.

8. Revocation of Determinations

The Disposals Levy (Administration) (England) Determination 2004 is hereby revoked.

Anne Kirkham

*Signed by an official of Office of the Deputy Prime Minister,
authorised to sign on behalf of the First Secretary of State*

October 2004

SCHEDULE - PART 1 (FORM OF INITIAL RETURN)

(See Paragraph 2 of the Disposals Levy (Administration)(England) Determination 2004 for interpretation of terms used in this form).

LOCAL AUTHORITY

DATE OF DISPOSAL

PERSON TO WHOM DISPOSAL IS MADE

BOX 1	BOX 2	BOX 3	BOX 4	BOX 5	BOX 6	BOX 7	BOX 8	BOX 9	BOX 10	BOX 11	BOX 12	BOX 13
Receipts For All Assets In Disposal (£)	Receipts Relating to Non Leviable Assets (£)	Receipts Relating to Leviable Assets (£) (Step 1)	Set-Up Costs (£)	Set-Up Costs Relating to Leviable Assets (£) (Step 2)	Receipts Relating to Leviable Assets Less Set-Up Costs Relating Leviable Assets (Step 3)	Subsidy Capital Financing Requirement (Including the Debt Resulting From Any deferred purchase arrangements) (£)	Number of Dwellings in Housing Revenue Account at Start of Financial Year	Number of Leviable Assets in Disposal	Subsidy Capital Financing Requirement Attributed to Leviable Assets (£) (Step 4)	Value of Covenant Undertaking or Obligation Given Or Assumed In The Agreement to Transfer (£)	Leviable Receipts (£) (Step 5)	Levy Payable (£) (Step 6)

LOCAL AUTHORITY CERTIFICATE

I CERTIFY that the entries in this return are in accordance with the Disposals Levy (Administration)(England) Determination 2004 and that to the best of my knowledge and belief the information provided is correct.

Signature (*Chief Finance Officer or other authorised officer*)

NAME
(BLOCK CAPITALS)

DATE

SCHEDULE - PART 2 (FORM OF AUDITOR CERTIFIED RETURN)

(See Paragraph 2 of the Disposals Levy (Administration)(England) Determination 2004 for interpretation of terms used in this form).

LOCAL AUTHORITY _____
 RETURN YEAR _____

BOX 1	BOX 2	BOX 3	BOX 4	BOX 5	BOX 6	BOX 7
Date of Disposal	Person To Whom Disposal Is Made	Receipts Arising From Initial Qualifying Disposals (£)	Receipts Arising From Cumulative Qualifying Disposals (£)	Receipts Arising From Subsequent Qualifying Disposals (£)	Total Receipts Relating to Leviable Assets (£)	Levy Payable (£)

LOCAL AUTHORITY CERTIFICATE

I CERTIFY that the entries in this return are in accordance with the Disposals Levy (Administration)(England) Determination 2004 and that to the best of my knowledge and belief the information provided is correct.

Signature (Chief Finance Officer or other authorised officer)

NAME
(BLOCK CAPITALS)

DATE

CERTIFICATE OF AUDITOR APPOINTED BY THE AUDIT COMMISSION

The Statement of Responsibilities of grant-paying bodies, authorities, the Audit Commission and appointed auditors in relation to grant claims and returns, issued by the Audit Commission, sets out the respective responsibilities of these parties, and the limitations of our responsibilities as appointed auditors. I/We have:

- examined the entries in this form (which replaces or amends the original submitted to me/us by the authority dated _____)* and the related accounts and records of the authority in accordance with Certification Instruction A01 prepared by the Audit Commission for its appointed auditors; and
- carried out the tests specified in Certification Instruction HOU05 prepared by the Audit Commission for its appointed auditors, and I/we have obtained such evidence and explanations as I/we consider necessary.

(Except for the matters raised in the attached qualification letter dated _____)* I/we have concluded that the entries are:

- fairly stated; and
- in accordance with the relevant terms and conditions.

Signature _____ Name (block capitals) _____

Date _____

*Delete as necessary

Contact details

ODPM, Decent Homes Division (DHD)

Zone 2/D2, Eland House, Bressenden Place, London, SW1E 5DU

Tel: 020 7944 (ext), Fax: 020 7944 3259/3639, E-mail:

housing.transfer@odpm.gsi.gov.uk

Transfer policy website: www.odpm.gov.uk/decenthomes

	Zone	Ext.
Housing Transfer Manager		
Simon Llewellyn	2/C2	3608
Deputy Housing Transfer Policy		
Stephen Churley	2/D2	3617
Programme Manager		
Sally Turner	2/C1	3613
Regional Contacts for the North West and Merseyside		
John Flower	2/D1	3622
Ann Hinds	2/D1	6476
Regional Contact for the North East and London South		
Alan M Turnbull	2/D1	3623
Regional Contacts for Yorkshire and the Humber		
Stephen Churley	2/D2	3617
Regional Contact for the West Midlands		
Jo Thorpe	2/D2	4202
Regional Contact for the East Midlands and London North West		
Sally Turner	2/C1	3613
Regional Contact for East of England		
Farhana Ali	2/D1	3661
Regional Contact for the South West		
Esther Sheriff	2/D2	3642
Regional Contact for the South East and London North East		
Jayne Fullwood	2/C1	3614
Housing Transfer Programme Administrator		
Sally Hunt	2/C1	3618

Community Housing Task Force (CHTF)

E-mail: chtf@odpm.gov.uk, website: www.odpm.gov.uk/chtf.

Task Force Advisers

Contact details

Paul Schofield Proposed transfers in the North West	0161 952 4275 Mobile: 07775 706497 E-mail: paul.schofield@odpm.gsi.gov.uk
Peter McHugh Proposed transfers in the North West	Mobile 07766 504392 E-mail: peter.mchugh@odpm.gsi.gov.uk
David Siddle Proposed transfers in the North East	Tel 01482 862688 Mobile: 07810 657289 E-mail: david.siddle@odpm.gsi.gov.uk
Sally Hinton Proposed transfers in Yorkshire and the Humber	Tel 01422 886319 (network line) Mobile: 07810 657288 E-mail: sally.hinton@odpm.gsi.gov.uk
Alan Rigby Proposed transfers in the West Midlands	Mobile: 07766 504319 E-mail: alan.rigby@odpm.gsi.gov.uk
Stephen Smith Proposed transfers in East Midlands	Mobile: 07979 834784 E-mail: stephen.smith@odpm.gsi.gov.uk
Solma Ahmed Proposed transfers in the East of England	Mobile: 07810 657284 E-mail: solma.ahmed@odpm.gsi.gov.uk
Nigel Minto Proposed transfers in London and covering South West	Mobile: 07795 315314 E-mail: nigel.minto@odpm.gsi.gov.uk
Martin Thomas Proposed transfers in London and covering South West	Mobile: 07810 657286 E-mail: martin1.thomas@odpm.gsi.gov.uk
Mary Marshall Proposed transfers in the South East	Mobile: 07775 706496 E-mail: mary.marshall@odpm.gsi.gov.uk
Sarah Johnston (on Maternity Leave) Contact: Mary Marshall, Martin Thomas or Nigel Minto	
For proposed transfers in the South West	
Karen Doran (on Maternity Leave)	
Contact: Stephen Smith for proposed transfers in the East Midlands, and Sally Hinton for proposed transfers in Yorkshire and the Humber.	

Government Offices

GO – North West

City Tower
Piccadilly Plaza
Manchester
M1 4BE
Tel: 0161 952 4000
Fax: 0161 952 4099
Website: www.go-nw.gov.uk

GO – NW (Merseyside)

Cunard Building
Pier Head
Water Street
Liverpool
L3 1QB
Tel: 0151 224 6300
Fax: 0151 224 6470
Website: www.go-nw.gov.uk

GO – East of England

GO-East
Eastbrook
Shaftesbury Road
Cambridge
CB2 2DF
Tel 01223 372500
Fax 01223 372862
Website: www.go-east.gov.uk

GO – London

Riverwalk House
157-161 Millbank
London
SW1P 4RR
Tel: 020 7217 3456
Fax: 020 7217 3450
Website: www.go-london.gov.uk

GO – Yorkshire and the Humber

PO Box 213
City House
New Station Street
Leeds
LS1 4US
Tel: 0113 280 0600
Fax: 0113 283 6394
Website: www.goyh.gov.uk

GO – South West

4th and 5th Floors
The Pithay
Bristol
BS1 2PB
Tel: 0117 900 1700
Fax: 0117 900 1900
Website: www.gosw.gov.uk

GO – West Midlands

77 Paradise Circus
Queensway
Birmingham
B1 2DT
Tel: 0121 212 5000
Fax: 0121 212 5072
Website: www.go-wm.gov.uk

GO – East Midlands

The Belgrave Centre
Stanley Place
Talbot Street
Nottingham
NG1 5GG
Tel: 0115 971 9971
Fax: 0115 971 2404
Website: www.go-em.gov.uk

GO – South East

Bridge House
1 Walnut Tree Close
Guildford
Surrey
GU1 4GA
Tel: 01483 882255
Fax: 01483 882259
Website: www.go-se.gov.uk

GO – North East

Wellbar House
Gallowgate
Newcastle upon Tyne
NE1 4TD
Tel: 0191 201 3300
Fax: 0191 202 3744
Website: www.go-ne.gov.uk

The Housing Corporation

Website: www.housingcorp.gov.uk

Headquarters

149 Tottenham Court
Road

London W1P 0BN

Tel: 020 7393 2000

Fax: 020 7393 2111

Email :Enquiries@housingcorp.gsx.gov.uk

Stock Transfer and Registration Unit (STRU)

Attenborough House

109/119 Charles Street

Leicester

LE1 1FQ

Tel: 0116 242 4878

Fax: 0116 242 4801

Email: John.Green@housingcorp.gsx.gov.uk

Jane.Duncan@housingcorp.gsx.gov.uk

Steve.Fox@housingcorp.gsx.gov.uk

Robert.Buswell@housingcorp.gsx.gov.uk

Other Useful Addresses

BG Transco Affordable Warmth Programme

Lansdowne Gate

65 New Road

Solihull

West Midlands

B91 3DL

Tel: 0121 781 2828

Fax: 0121 781 2648

Website: www.affordablewarmth.co.uk

Email: awp@uktransco.com

Chartered Institute of Housing

Octavian House

Westwood Way

Coventry

CV4 8JP

Tel: 024 7685 1700

Fax: 024 7685 5110

E-mail: customer.services@cih.org

Website: www.cih.org

Combined Heat and Power Association

Grosvenor Gardens House

35-37 Grosvenor Gardens

London

SW1W 0BS

Tel: 020 7828 4077

Fax: 020 7828 0310

Email: Info@chpa.co.uk

Energy Saving Trust

21 Dartmouth Street

London

SW1H 9BP

Tel: 020 722 0101

Fax: 020 7654 2444

www.est.org.uk

HouseMark

Gives on line access to housing
good practice information
E-mail: info@housemark.co.uk
Tel: 024 7646 0500

Housing Forum

108-110 Judd Street
London
WC1H 9NT
Tel: 020 7691 0220
Fax: 020 7813 3060
Website: www.thehousingforum.org.uk
Email
:team@thehousingforum.demon.co.uk

Local Government Task Force

108-110 Judd Street
London
WC1H 9NT
Tel: 020 7837 8286
Fax: 020 7813 3060
Website: www.lgtf.org.uk
Email: team@lgtf.org.uk

National Housing Federation

Lion Court,
25 Procter Street
London
WC1V 6NY
Main Switchboard tel: 0207 0671010
Tel: 0207 067 1021
Fax: 0207 067 1020
Website: www.housing.org.uk
Email: info@housing.org.uk

National Housing Federation North

Manchester Regional Centre
City Point
701 Chester Road
Manchester
M32 0RW
Tel: 0161 848 8132
Fax: 0161 848 8134

National Housing Federation North

Leeds Regional Centre
2nd Floor Taylor Maxwell House
10 Glebe Terrace
Leeds
LS16 5NA
Tel: 0113 275 4030
Fax: 0113 275 4060

**National Housing Federation
West Midlands**

Fourth Floor
Daimler House
Paradise Circus
Birmingham
B1 2BJ
Tel: 0121 643 1212
Fax: 0161 643 9797

**National Housing Federation
East Midlands**

2A High Street
Wellingborough
NN8 4HR
Tel: 01933 440 191
Fax: 01933 224499

**National Housing Federation
South West**

Ujima House
97 Wilder Street
St Pauls
Bristol
BS2 8QU
Tel: 0117 907 5333
Fax: 0117 907 7528
E-mail: southwest@housing.org.uk

**National Housing Federation
South East**

Third Floor
Phoenix Building
32 West Street
Brighton
BN1 2RT
Tel: 01273 777 445
Fax: 01273 721 807
E-mail: southeast@housing.org.uk

Bibliography

ODPM publications

The following publications are available free of charge (unless otherwise stated) from ODPM Publications, PO Box 236, Wetherby LS23 7NB, Tel: 0870 1226 236, Fax: 0870 1226 237, E-mail: **odpm@twoten.press.net**

Or from the address shown after the publication.

Many of the documents are also available via the Housing, Decent Homes or CHTF websites: www.odpm.gov.uk/housing
www.odpm.gov.uk/chtf
www.odpm.gov.uk/decenthomes

Where a research summary is quoted next to the title, the research summary can be obtained from ODPM Publications, PO Box 236, Wetherby LS23 7NB, Tel: 0870 1226 236, Fax: 0870 1226 237, E-mail: **odpm@twoten.press.net**

- (1) *Decent Homes – Options Appraisal Guidance for LAs (2003)*
This guidance is designed to assist LAs through the Options Appraisal Process.
- (2) *Housing Transfer: Removing the barriers in the transfer process (2003)*
This consultative paper is designed to facilitate innovative private finance and deliver successful transfers. (Product Code 03HCO1710)
- (3) *Sustainable Communities: building for the future (2003)*
This is a programme of action which mark a step change in policies for delivering sustainable communities for all. The main elements are: sustainable communities, housing supply, new growth areas, decent homes and the countryside and local environment. (Product Code 02HC00964)
- (4) *Sources of Finance for Housing Stock Transfers (September 2002)*
The research examines the extent to which financing for housing stock transfers offer value for money; and identifies ways in which this could be maintained or improved in the future. (ISBN 1 85112 586 8. Price £26).
- (5) *A new financial framework for local authority housing guidance on business plans (June 2000)*
Details the approach the Government expects authorities to take in drawing up HRA business plans, including (in chapter 6) the investment appraisal an authority is expected to have gone through before deciding to pursue transfer. (ISBN 185112 399 7. Price £15).
- (6) *Quality and choice: a decent home for all the way forward for housing (December 2000)*
The Government's housing policy statement, which set out a wide range of policies to modernise housing so that everyone has the opportunity of a decent home. (ISBN 1 85112 463 2. Price £5).

- (7) *The guide to social rent reforms (March 2001)*
Further details (to those in the Government's housing policy statement) on the approach to rent setting in the social housing sector, whereby rents are set using a common approach based on relative property values and local earnings levels.
- (8) *Independent Tenant Advisers and Housing Transfers good practice guide (November 2001)*
This guidance follows research summary (No 151) into the role of the Independent Tenant Advisor (ITA) in the transfer process. It provides examples of the role an ITA can play and highlights some good practice principles in developing the brief for an ITA, tendering and managing the ITA contract.
- (9) *The Single Transfer Model*
An Excel spreadsheet, which authorities, proposing to transfer 200 or more units, are required to complete and submit with details of the proposed transfer and in support of a consent application.
- (10) *Guidance on completing the Single Transfer Model and Guide to Social Rent Reforms*
Detailed guidance on the models that make up the Single Transfer Model and instructions on how to complete it and incorporate the Government's rent reform policies

Items 9 and 10 are available free of charge from Alan M Turnbull, Zone 2/D1, Eland House, Bressenden Place, London, SW1E 5DU, Tel: 020 7944 3623, E-mail: **housing.transfer@odpm.gsi.gov.uk**

- (11) *HRA effects model*
A model to help an authority assess the effects of partial transfer on its HRA and HRA subsidy entitlement and which must be submitted to the ODPM (HAPF) with a partial transfer proposal.

Available free of charge from Ray Kershaw, Local Authority Housing, Zone 2/H3, Eland House, Bressenden Place, London, SW1E 5DU. Tel: 020 7944 3588, E-mail: **housing.subsidy@odpm.gsi.gov.uk**

- (12) *Views on the Large Scale Voluntary Transfer Process (2000) (Research Summary 110)*
A report on research commissioned by the Department and carried out by DTZ Pineda Consulting. Based on interviews with tenants in six case study areas, the research examines the degree to which tenants who have transferred from a local authority to an RSL are satisfied with their new landlord. (ISBN 1 85112 388 1. Price £20).
- (13) *Modelling Impact of Rent Restructuring: A Case Study Analysis (2002) (Research Summary 164)*
The School of Public Policy at the University of Birmingham and the School for Policy Studies at the University of Bristol were jointly commissioned by the Office of the Deputy Prime Minister to undertake an analysis into the impact of rent restructuring on tenants and landlords alike. (ISBN 1 85112 585 X. Price £23).

- (14) *Tackling Racial Harassment: Code of Practice for Social Landlords (2001) (Research Summary 148)*

This Code of Practice sets out action that all social landlords should take to prevent racial harassment. It also helps ensure that racist incidents are reported, to support tenants and their families when such harassment does occur and to take action against perpetrators to enforce the landlord's civil powers and deter further harassment. (Product Code 01 HC 0022/06).

- (15) *On the Spot Housing Management An Evaluation of Policy and Practice by Local Authorities and Registered Social Landlords (2001) (Research summary 149)*

A review of the on-the-spot housing management initiatives undertaken by social housing landlords in the 44 most deprived local authority districts in England, conducted by CRESR, Sheffield Hallam University on behalf of the ODPM. (Price £15).

Available from Tricia Pulfrey, CRESR, Sheffield Hallam University, Howard Street, Sheffield, S1 1WB Tel: 0114 225 3073 Email: p.pulfrey@shu.ac.uk

- (16) *Registered Social Landlords Best Value Pilots: Lessons for Local Housing Authorities (2001) (Research Summary 146)*

The purpose of this summary is to make available to local housing authorities the key lessons from the Registered Social Landlord (RSL) Best Value pilots. It was not the purpose of the research to make specific recommendations for local housing authorities. However, the evaluation of the pilots experience identified lessons for the RSL sector that will also be of interest to councils, particularly in carrying out Best Value reviews. They illustrate both some general issues for organisations developing approaches to Best Value and some of the challenges facing RSLs specifically. Brief details of the research exercise are given at the end of the summary.

- (17) *Housing Allocation, Homelessness and Stock Transfer (2004)* This guide sets out the key issues that housing authorities need to consider when deciding whether to retain or contract out the delivery of their statutory housing functions after transfer.

- (18) *Accreditation Guidance for Local Strategic Partnerships (October 2001)*

The Government envisages that Local Strategic Partnerships will develop across the country. The criteria outlined here cover key issues to ensure effective structures and working practices are developed.

Available from the Neighbourhood Renewal Unit, Zone 4/A4, Eland House, Bressenden Place, London, SW1E 5DU, E-mail: neighbourhoodrenewal@odpm.gsi.gov.uk or via the ODPM website.

- (19) *Local Strategic Partnerships Government Guidance (March 2001)*

This document provides advice on the establishing and functioning of Local Strategic Partnerships and on the government support available for this purpose.

Available free of charge from the Community Strategy Team, Zone 5/E1, Eland House, Bressenden Place, London SW1E 5DU, E-mail: lgl@odpm.gsi.gov.uk or via the ODPM website.

- (20) *Collecting, managing and using housing stock information: Good Practice Guide (2002)*
 This provides guidance on the processes involved in assembling and maintaining a housing stock information system, including the collection and integration of stock condition information. It is published in 3 volumes. Volume one (ISBN 1 85112 423 3. Price £15) is aimed at staff who have strategic planning responsibilities and need a broad overview. Volume 2 (ISBN 1 85112 424 1. Price £20) is aimed primarily at those with hands-on responsibility for managing and conducting surveys, managing databases and analysing the information, and includes practical examples and techniques for survey design and implementation. Volume 3 (ISBN 1 85112 425 X. Price £15) gives a detailed steer on specifying and commissioning stock condition surveys.
- (21) *Decent Homes: Capturing the standard at the local level*
 This is a supplementary annex to the publication above.
- (22) *A decent home the revised definition and guidance for implementation (2002)*
 This paper provides guidance for Local Authorities and Registered Social Landlords to help them quantify the level of non-decent stock in their area and measure progress towards eliminating non-decent housing.
- (23) *Local Housing Needs Assessment: Good Practice Guidance (2000)*
(Research Summary 117)
 The guidance follows a review of current practice undertaken in 2000 by Heriot-Watt University. The guidance is a comprehensive manual for commissioning a local housing needs assessment and provides advice on the potential contribution of a wide variety of research techniques and data sources. The guidance will enable local authorities to procure or undertake robust local housing needs assessments that will meet the requirements of stakeholders both within the authority and partner agencies and organisations. (ISBN 1 85112 408 X. Price £17).
- (24) *Low demand housing and unpopular neighbourhoods (2000) (Research Summary 114)*
 The research report provides full details of the research methodology and findings of this first comprehensive, national study of low demand. It provides more detail on the extent, causes, consequences and responses to low demand than could be provided in the Policy Action Team (PAT) 7 report. This report will be of considerable use to those seeking a more detailed understanding of low demand and unpopular housing. It is also an information source for authorities intending to undertake or commission a focused study of low demand in their area. (ISBN 1 85112 395 4. Price £32).
- (25) *Responding to Low Demand Housing and Unpopular Neighbourhoods A guide to good practice (2000) (Research Summary 116)*
 The good practice guide brings together ideas and local level strategies which have been developed to identify, manage and ideally prevent the onset of low demand and contains a range of possible responses to areas of low demand/unpopular housing across the public and private sectors. ISBN 1 85112 396 2. Price £10.
- (26) *Demolition and New Build on Local Authority Estates (2000) (Research Summary 115)*
 A report commissioned by the Department and carried out by Pbeda that explores how demolition strategies have been decided upon and implemented in different scenarios. This will be a useful tool for those authorities that need to consider demolition strategies as part of the transfer proposal. (ISBN 1 85112 412 8. Price £14).

- (27) *Housing Quality Indicators Version 2 (2000) (Research Summary 131)*
The Housing Quality Indicator system is a measurement and assessment tool designed to allow potential or existing housing schemes to be evaluated on the basis of quality rather than simply of cost. (ISBN 1 85112 440 3. Price £10).
- (28) *Code of Recommended Practice on Local Authority Publicity. (April 2001)*
Local Authorities must adhere to this code of practice during the consultation exercise with tenants. It allows the authority to explain and justify its proposals and ensures that publicity concentrates on facts and explanation or both. This document is available from the OPDM website under www.odpm.gov.uk/localgov.
- (29) *Addressing the needs of Black and Minority Ethnic People*
The Action Plan brings together in a single document the full range of ODPM housing policies and initiatives in play and planned to help meet the housing needs of black and minority ethnic people.
- (30) *Delivering Adaptations Desk Guide A Consultation Paper (February 2003)*
This document is to provide guidance to those charged with meeting the needs of disabled people and carers through adaptations to their homes.
(Product code 02HC00917/1)
- (31) *Delivering Adaptations: Good Practice System Review Checklist (February 2003)*
This checklist is provided to assist partner agencies in a locality working together to deliver an effective adaptation service. It is aimed both at those responsible for planning and designing the system and those responsible for service delivery. It will also be helpful to service users and their advocates in shaping their expectations of the service they receive. (Product code 02HC00917/2)
- (32) *Delivering Adaptations: Responding to the Need for Adaptation An Overview (February 2003)*
This document offers advice to local authorities on how they can establish a first class service which can deliver adaptations to the homes of disabled people in order to meet their needs and statutory requirements. (Product code 02HC00917/3).
- (33) Local Government Act 1972: General Disposal Consent (England) 2003 – Disposal of Land for less than the Best Consideration that can reasonably be obtained. ODPM Circular 06/2003

The Consent removes the requirement for local authorities to seek specific consent from the Secretary of State for any disposal of non-housing land where the difference between the unrestricted value of the interest to be disposed of and the consideration accepted (i.e. the undervalue) is £2,000,000 or less.

Available, priced £5.75, from The Stationery Office, PO Box 29, Norwich, NR3 1GN:
telephone orders 0870 600 5522; fax orders 0870 600 5533;
e-mail: book.orders@tso.co.uk

Community Housing Task Force Good Practice Briefing Notes.

- (34) *Good Practice Briefing Note Number 1: Appointing an Independent Tenant Advisor (2002)*

This note deals with the issues around appointing an Independent Tenant Advisor (ITA), in the context of an appraisal of the strategic options for local authority stock and in the setting up of a new organisation to deliver the housing service. (Product Code 02HC00106).

- (35) *Good Practice Briefing Note Number 2: Managing Change Results (2002)*

Really good housing transfer proposals seize opportunities to link the process of change with the delivery of a whole set of outcomes designed to make a positive difference to customers and communities. As well as achieving these broader benefits it is widely recognised that putting people into a new organisational context such as a new LSVT RSL which imposes new roles, responsibilities and relationships on them, creates a situation which forces new attitudes and where different behaviours can be generated. (Product Code 02HC00106/2)

- (36) *Good Practice Briefing Note Number 3: Preparing for Development (2002)*

As part of its role the local authority will determine how it wishes to use RSLs to contribute to its work. If a new RSL is to take on a future development role this will need to be brought into the thinking of the local authority and the shadow RSL at an early stage. Both parties will need to consider this issue from different perspectives joining together to find win-win situations. (Product Code 02HC00106/3).

- (37) *Good Practice Briefing Note Number 4: Training and Development Strategies for Staff (2002)*

In housing organisations the input of people is inextricably linked to outcomes for customers. Other factors bring challenges and opportunities to a housing business but people will determine their ultimate impact. The need to maintain and bring out the potential and capacity of the workforce is therefore clear. This briefing is about when and how it can be achieved. (Product Code 02HC00106/4).

- (38) *Good Practice Briefing Note Number 5: Transfer A Short Guide to the Process, Roles and Technical Terms (2002)*

This guide provides a map of the transfer process, an explanation of the roles of the key players and a guide to some of the technical terms used. In particular this guide summarises information contained within the Housing Transfer Guidance. This is intended to be a quick guide giving a broad overview and where possible references are given to more detailed sources of information. (Product Code 02HC00106/5).

- (39) *Good Practice Briefing Note Number 6: Dealing with Staffing Issues in Arms Length Housing Management Organisations (2003)*

The staffing implications of establishing ALMOs are detailed in this briefing. It discusses issues for local authorities to consider when determining whether an ALMO should be created, and what the authority and ALMO should do in preparation for the transition to the new arms-length company. The post transfer period is also addressed in this briefing note. (Product Code 02HC00106/6).

- (40) *Good Practice Briefing Note Number 7: Assessing Low Demand Risk*
This briefing details the key information sources relevant to housing supply and demand where stock is transferred to new landlords, and outlines how supply and demand projections can then be developed. It links low demand risk to business plan modelling and introduces ways in which the supply of transferred stock might be stemmed and demand for it expanded. (Product Code 02HC00106/7).
- (41) *Good Practice Briefing Note Number 8: Managing Environmental Risks*
This briefing identifies the key sources of environmental risk and provides guidance on how councils can ensure that these risks are properly identified, quantified and managed. (Product Code 02HC00106/8).
- (42) *Good Practice Note Number 9: Choosing A New Landlord*
This Briefing Note outlines the process by which a successor landlord is chosen. It lists the different Registered Social Landlord (RSL) types and identifies different stages to the process. (Product Code 02HC00106/9).

Items (34) to (42) are also available on the CHTF website.

Tenants Guides

Tenants guides are designed give a brief description of the different options available to Local Authorities and how each one will affect tenants. More detailed information on the transfer options can be found on the website or on request from Zone 2/C1, Eland House, Bressenden Place, London SW1E 5DU, Tel: 020 7944 3618 Fax: 020 7944 3639. Email housing.transfer@odpm.gsi.gov.uk

- *Decent Homes: A Tenant's Guide (PC: 03HC01706/1)*
- *Options Appraisal: A Tenant's Guide (PC: 03HC01706/2)*
- *Housing Stock Transfer: A Tenant's Guide (PC: 03HC01706/3)*
- *Arms Length Management Organisations (ALMOs): A Tenant's Guide (PC: 03HC01706/4)*
- *Housing Private Finance Initiative (PFI): A Tenant's Guide (PC: 03HC01706/5)*
- *Supporting People programme and links to Options Appraisal:*
- *A Tenant's Guide (PC: 03SP01731)*
- *Options appraisal briefing notes* (web only documents available from www.odpm.go.uk/chtf)

Options Appraisal Briefing notes are designed to assist Local Authorities through the Options appraisal process.

- *Communication and Consultation Strategies in Options Appraisal*
- *Tenant Empowerment Strategies in Options Appraisal*

- *Appointing an ITA at Options Appraisal Stage*
- *Decent Homes – A Guide for Councillors*
- *Decent Homes and Councillors – A Guide for Officers*
- *Change Management at Options Appraisal Stage*
- *Stock Condition Surveys*
- *Appointing Consultants for Options Appraisal*

Other ODPM publications

- (43) *Reviewing the Strategic and Enabling Roles – An outline process chart with brief supporting notes for local authorities*
(Product code 04HC02010).
- (44) *Organisational design in housing (Oct 2002)*
(Product code 02HC00728).
- (45) *Black and Minority Ethnic Housing Associations and their involvement in local authority stock transfers. (June 2004)*
(Product code 04HC02273).
- (46) *Empowering Communities; improving Housing; involving black and minority ethnic tenants and communities. (June 2004)*
(ISBN 1 855112 713 5. Price £20)

Housing Corporation publications

Prospective applicants for registration can download Housing Corporation Circulars and Good Practice Notes from the Corporation's website, www.housingcorp.gov.uk by clicking on the Bank of Good Practice. The Bank of Good Practice is updated regularly and the documents listed below are a sample of those current at March 2004. The main publications and Good Practice Notes which are relevant to Stock Transfer organisations are listed in the recent publication *Registration with the Housing Corporation (April 2004)*. This is the main Corporation publication for Stock Transfer registrations and sets the registration criteria and registration requirements, against which all applicants will be assessed. Once registered, the organisations will be regulated against the Regulatory Code for Registered Social Landlords and the registration process aims to ensure that applicants will be able to operate within the requirements of the Regulatory Code.

Some of the most useful publications you may find helpful are:

- (47) *The Way Forward: Our Approach to Regulation and Inspection (Jan 2002)*. This document sets out the Regulatory Code which is applied to all RSLs and includes guidance on how associations might meet the requirements of the Regulatory Code, which forms the basis of the Corporation's current regulatory framework for Registered Social Landlords.

- (48) *Registration with the Housing Corporation (April 2004)* Contains the Registration Criteria and Guidance for General and Stock Transfer Applicants seeking to become Registered Social Landlords. This is essential reading for senior officers and shadow board members of prospective RSLs.
- (49) *No Time to Lose! Key issues for board members of start-up transfer organisations (1998)*. This is designed to help board members of new transfer RSLs balance and meet the aspirations of tenants, the local authority, funders and other stakeholders. First published in 1998, most of the issues covered remain relevant to new transfer organisations in 2004.
- (50) *A Viable Proposition? Assessing the financial viability of low and negative value stock transfers (1998)*
This booklet was primarily designed to help authorities and RSLs when considering transfers with low or negative stock valuations. It does however cover many general issues of viability and financial appraisal and gives guidance on identifying and analysing the areas of special risk, protecting against or planning for them and finding the most appropriate solution for improving the stock.
- (51) *Dealing with Uncertainty: The Role of Warranties in Stock Transfers (1999)*. This guidance is jointly sponsored by ODPM and the Housing Corporation and aims to help participants in stock transfers deal more effectively with the uncertainties which are covered by the warranties.
- (52) *Treading the Boards: A Self Assessment Framework for Board performance*.
- (53) *Appointment of Chief Executives to RSLs (October 1999)*. This booklet sets out guidance on Best Practice for recruitment and appointment of Chief Executives to RSL and is equally relevant to new start-up landlords who intend to apply for registration with the Housing Corporation.
- (54) *Rewards and Risks (Regulatory Code, Good Practice Note Number 10, Housing Corporation Bank of Good Practice)*.
This Good Practice Note points to best practice and issues the Boards of RSLs should address when drawing up contracts for senior staff and setting remuneration, performance review and severance payment arrangements.
- (55) *Regulatory Code, Good Practice Note 3 – Maintaining Standards of Probity (March 2003)*.
This Note sets out information relating to Schedule 1 of the Housing Act 1996, and particularly covers the Schedule 1 requirements on payments and benefits to Board members and staff of an RSL.
- (56) *Regulatory Code, Good Practice Note 5 – Board Members' Remuneration*.
This Note sets out guidance for Housing Associations wishing to pay Board members (June 2003).
- (57) *In Control: The Manual for Voluntary Board Members (NHF)*.

- (58) *Involvement Policy for the Housing Association Sector (February 2004).*
This sets out the Housing Corporation's latest approach and policy covering RSLs, tenant involvement, strategies and other tenant participation mechanisms which will meet the requirements of the Regulatory Code for RSLs.
- (59) *Race Equality Code of Practice for Housing Associations.*
This Code of Practice sets out how housing associations can develop their business to ensure that race equality is promoted and race discrimination tackled. It follows the publication of the Challenge Report by the Race and Housing Enquiry, which set out why the sector needed to revisit the promotion of race equality and how it could deliver race equality outcomes.
- (60) *Ahead of the Game: A Good Practice guide to business planning (September 2003).*
- (61) *A Strategy for Success: Effective Risk and Business Management (2000).*
- (62) *Treasury Management – Regulatory Policy (Housing Corporation Circular 04/99)*
- (63) *External audit of housing associations (Housing Corporation Regulatory Code Practice Note, November 2003)*
- (64) *Internal Controls Assurance: A guidance for housing associations (2001).*
- (65) *A Guidance for Charitable Registered Social Landlords (2002).*
Joint guidance on registration as a Charity by the Charity Commission and the Housing Corporation.
- (66) *Understanding our Assets – A self-assessment framework for Boards of housing associations (July 2003).*
Covers broad level issues on asset management and stock condition knowledge.
- (67) *Stock Condition Surveys: A Guide for Registered Social Landlords (Housing Corporation Bank of Good Practice).*
- (68) *Good Practice Guide for RSLs assessing the performance of their Direct Labour Organisations (Housing Corporation, 2002 Bank of Good Practice).*
- (69) *Service Charges: A guide for Registered Social Landlords (NHF – Housing Corporation Bank of Good Practice).*
- (70) *Rents and Service Charges for Housing Associations (Housing Corporation Circular 14/02).*
- (71) *Decent Homes Standards Guidance (Housing Corporation, July 2003).*
- (72) *A Charter for Housing Association Applicants and Residents (2003).*
All RSLs are expected to issue their tenants with a copy of this Charter.
- (73) *Accounting requirements for RSLs (April 2000, Housing Corporation Circular R2/04/01).*

- (74) *Involvement Policy for the Housing Association Sector. (April 2004. Replaces both “Communities in Control” and “Making Consumers Count”).*

This policy applies to all housing associations, whatever their size, structure or purpose. It deals with resident involvement in housing associations’ corporate strategy, decision making and ethos before and after transfer.

National Housing Federation (NHF) publications

The following publications are available from the National Housing Federation, Lion Court, 25 Procter Street, London WC1V 6NY, plus p&p of £2.50 for the first book; £1.50 for each additional book, up to a maximum of £10.00.

Credit card orders and other enquiries: 0870 010 7676 or e-mail **publications@housing.org.uk**

- (75) *Six pack: board members’ resource pack.*

This resource pack contains six key publications for housing association board members:

Usual price

- *In control: the manual for voluntary board members* £17.50
- *Approaches to appraisal: a handbook for the effective board* £9.95
- *Housing jargon: a decoder* £17.50
- *Competence and accountability 2004: Code of governance* £5.95 (£39.50 for 10)
- *Action for effective boards: a guide for housing organisations and their board members* £12.95
- *Turning hopes into homes: a history of social housing 1935-1996* £5.00
- (Special price for all six: £45.00 + p&p)

- (76) *Directory of Members 2004.*

The nearly 1,400 members of the National Housing Federation provide some 1.8 million homes in England. This Directory offers a comprehensive listing of key information on all Federation members, including for each member: organisation type and activity; addresses, telephone and fax numbers; e-mail and web site addresses; numbers of staff, units in management and development; tenant-type percentages and Housing Corporation registration; care and support providers, black and minority ethnic organisations, developers, low cost home ownership developments and stock transfer organisations. (ISBN 0 86297 484 4. Price £95.00 (members £40.00) + p&p).

- (77) *Governance...the small print: a range of model governance documents covering key policy areas (incl. CD-ROM)*

This is a collection of model documents covering key policy areas to help boards establish a clear framework for delegation. Principles in the Federation's Code of governance underpin these documents, which have been gathered from, and reflect, a diversity of organisation type and structure.

The models range from formal letters of appointment to the board to delegation to committees and staff, and include confidentiality and openness. The guide includes essential points to be covered in each section and the format will enable organisations to tailor the policies to their own particular needs. This guide provides a practical way of putting into place good governance arrangements. (ISBN 0 86297 397 X. Price £35.00 (members £25.00) + p&p).

- (78) *Policies...the small print: models for transfer organisations and other registered social landlords*

This guidance advises on a collection of policies and policy frameworks which prospective new landlords may want to set in place, including policies on allocations, resident consultation and participation, finance and equal opportunities. (ISBN 0 86297 411 9. Price £22.50 + p&p).

- (79) *Consultants' briefs...the small print: models for transfer organisations*

This provides a starting point to help authorities to commission advice and think about what they may want consultants to do for them during a transfer proposal. (ISBN 0 86297 410 0. Price £15.00 + p&p).

- (80) *Directory of Consultants for Stock Transfers 2004*

Issued for the first time in CD format, this directory aims to help organisations considering or undertaking a stock transfer by providing a comprehensive picture of the consultancy and advisory work undertaken for local authority housing stock transfers over the past three years. The CD provides listings by local authority or new transfer organisation, consultant or adviser and area of consultancy work. (Price £19.95 incl. VAT + p&p).

- (81) *Great expectations: managing local authority estates after transfer*

This sets out a number of good practice points to consider for the future management of the stock. (ISBN 0 86297 405 4. Price £15.00 + p&p).

- (82) *Housing and Local Communities Mixed Sustainable and Attractive to Live in*

Looks at what makes a mixed, sustainable community and how they can be achieved. Includes case studies showing how RSLs are working to create mixed communities.

- (83) *Implementing the Clients' Charter*

A step-by-step guide to the philosophy and process behind becoming Egan compliant via the Clients' Charter. (ISBN 0 86297 473 9. Price £25.00 + p&p).

- (84) *Board effectiveness in transfer organisations*

This looks at some of the distinctive challenges facing transfer organisations and their boards. (ISBN 0 86267 478 X. Price £25.00 + p&p).

The following free literature is available from Corine Meier, at the National Housing Federation, Lion Court, 25 Procter Street, London. WC1V 6NY. Telephone 020 7067 1010; e-mail: corinem@housing.org.uk

- (85) *Good Practice Briefing Note – Transfers to Transform NHF/1. What it means to be a housing association*
This briefing is aimed at local authority councillors, officers and tenants who maybe considering the transfer of the council's homes to a housing association or company. It gives an introduction to the work of housing associations (also known as registered social landlords). It explains what these organisations are, and the role they play.
- (86) *Good Practice Briefing Note Transfers to Transform NHF/2. Why go to an existing housing association for transfer?*
If transfer is the favoured choice there are still choices to be made between setting up a new housing association or company, and using an established organisation. This briefing describes what an existing housing association (or registered social landlord) can offer to help inform that choice.
- (87) *Good Practice Briefing Note Transfers to Transform NHF/3. Regulation overview for RSLs*
This briefing is for local authority councillors, officers and tenants who may be considering the transfer of the council homes to a housing association or company. It outlines the regulation of housing associations by the Housing Corporation. It should be used in conjunction with Transfers to Transform NHF/8, Housing Associations and the wider regulatory framework.
- (88) *Good Practice Briefing Note Transfers to Transform NHF/4. Board members role post transfer.* After transfer the board will be faced with a number of challenges over its first 18 months, examples include: period of culture change, previous local environment, establishing independence from the local authority, ensuring transition into an independent registered social landlord body. This briefing note outlines the board's role, its relationship with officers and its role in change management and governance in general.
- (89) *Good Practice Briefing Note Transfers to Transform NHF/6. Staff handbook*
This briefing is for local authority councillors, officers, tenants and staff representatives who may be considering the transfer of the council's homes to a housing association or company, or responding to such a proposal. It presents an overview of the way in which housing associations (registered social landlords), employ their staff and gives guidance as to what transferred staff may encounter and experience as part of the independent housing sector.
- (90) *Good Practice Briefing Note Transfers to Transform NHF/7. Pensions*
This briefing is aimed at all of those involved in negotiating and implementing stock transfer, particularly local authority personnel, chief executives of housing organisations, finance and human resources departments, trade unions and individuals being transferred between employers who may be considering the transfer of the council homes to a housing association or company, or responding to such a proposal. It presents an overview of the main issues, options and the timescales involved to ensure that transferring employees are not materially disadvantaged with respect to pension issues. It should be read in conjunction with Transfers to Transform NHF/6. The Staff Handbook.

The following items are also available free on the Federation's website: www.housing.org.uk

(91) *No stock answers*

This is a guide for organisations undergoing stock transfer. It contains details of the services and resources we can offer you at every stage of the process.

(92) *What is a Registered Social Landlord?*

This fact sheet is designed for organisations undergoing stock transfer and provides some more general information on what an RSL is.

(93) *Getting the Green Light*

If you are involved in a housing association or new transfer organisation set up to take homes transferred from a local authority, this fact sheet is for you.

(94) *Transfers Today*

A popular free newsletter in e-zine format, provides news, information and practical experience targeted at those involved in housing stock. It regularly contains eight pages of current transfer news and analysis including: legal and practice briefings; signposts to other sources; facts and figures on transfer progress and ballots, current briefings and publications; tenants' focus and an "after the event" case study of a recently transferred organisation.

Chartered Institute of Housing (CIH) publications

The following are available from the Chartered Institute of Housing, Octavia House, Westwood Way, Coventry CV4 8JP, Tel: 024 7685 1700, Fax: 024 7669 5110, Email: pubs@cih.org or via the CIH website: www.cih.org

(95) *Local Housing Companies (1997 Revised Edition)*

This good practice guidance aims to address a number of key issues about local housing companies and might usefully be read by anyone involved in or affected by a transfer proposal. (ISBN 0 901607 87 8 Order No. 970. Price £25.00)

(96) *Local Housing Companies an implementation manual (1996 CD-ROM only)*

This manual covers many aspects of setting up a local housing company including legal issues, financial implications, tenant consultation and stock condition surveys. (Price £300)

(97) *Empowering Communities: The Community Gateway Model. (January 2003)*

A free summary is also available. Tenants often feel that they do not have sufficient influence over their housing, particularly when big decisions are being taken. Both stock transfer and proposals for arms length management must test tenant opinion, but often they are not involved early enough. This report shows how tenants can get involved from the initial stages of the process. The Community Gateway Model represents a new type of body, in which tenants can have different levels of control or even ownership. (ISBN 1 90320 841 6. Price 15.00)

- (98) *Beyond Bricks and Mortar: Bringing regeneration into stock transfer. (September 2002)*
This report focuses on experience in three city neighbourhoods where stock transfer is leading not only to improved homes but also to wider community regeneration. The case studies show what is beginning to be achieved in reviving these areas (ISBN 1 903208 475. Price 15.00)
- (99) *Black & Minority Ethnic Housing Strategies: A Good Practice Guide by Bob Blackaby & Kusminder Chahal. (July 2000)*
This guide highlights the need for positive action to tackle discrimination in housing. Based on a survey of all UK local authorities, it provides step-by-step guidance to help local authorities and RSLs work with key stakeholders and develop meaningful black and minority ethnic strategies that are linked to the local housing strategy. It looks at involving black and minority ethnic communities, aiming for racial equality in service delivery, working with other organisations and how to monitor the strategy's impact. (ISBN 1-900396-64-5. Price £20.00)

Other publications

Audit Commission

- (100) *Housing After Transfer The Local Authority Role (December 2002)*
This is available from the website and can be downloaded using Acrobat Reader (Stock Code LXB2921)
- (101) *Stock in Trade: Good practice in business planning for stock transfers (1999)*
This report by the Audit Commission provides analysis and good practice guidance for practitioners in developing business plans prior to transfer, and gives some guidance on techniques to ensure that business plans are delivered successfully. (ISBN 1 862401 780. Price £25).
- (102) *Housing – Improving services through resident involvement (2004)*
This study deals with the benefits of resident involvement and also looks at its financial implications. (Product code LAR3220, Price £25)

All priced Audit Commission publications can be obtained by telephoning 0800 5020 30. Details can also be found on the Audit Commission's website:

www.auditcommission.gov.uk

- (103) *Rethinking Construction The Report of the Construction Taskforce (1998)*
The report of the Construction Task Force to the Deputy Prime Minister on the scope for improving the quality and efficiency of UK construction. (ISBN 1 851120947 7. Price £12.00).
- (104) *Construction Industry Key Performance Indicators (1999)*
Produced by the Construction Best Practice Programme, this document provides a useful starting point for drawing up performance requirements for repair and improvement works contracts.

Items 103 and 104 Available from PO Box 147, Bucknalls Lane, Garston, Watford, WD2 7RE. Tel. 0845 605 5556, Fax 01923 664 690.

(105) *Staff Transfers in the Public Sector (July 2000)*

This Cabinet Office publication outlines some good practice principles that may be useful when drawing up the change management plan local authority staff.

Available from the Cabinet Office, Public Enquiry Unit, 70 Whitehall, London SW1A 2AS, Tel: 020 7270 1234 or from the Cabinet Office's website, **www.cabinet-office.gov.uk/civilservice/2000/tupe**

(106) *A Report of the Independent Review Team chaired by Ted Cantle on Community Cohesion*

Sets out what was found in the places visited and makes recommendations for action which were considered to improve community cohesion and help address some of the factors which lay behind the disturbances in areas like Oldham and Burnley.

Available from the Home Office, Direct Communication Unit, 7th Floor, 50 Queen Anne's Gate, London SW1H 9AT, Tel: 0870 000 1585, Fax: 020 7273 2065 or from the Home Office's website, www.homeoffice.gov.uk/reu/commmunity_co

(107) *Promote Race Equality: Code and Guidance*

This statutory code gives public authorities practical guidance on the steps they should take to tackle racial discrimination and promote equal opportunities and good race relations. Covers both specific and general duties (ISBN 1 85442 430 0. Price £10.00).

Available from Commission for Racial Equality, Customer Services, PO Box 29, Norwich NR3 1BN Tel: 020 7828 7022, E-mail: **publicduty@cre.gov.uk**

(108) *Releasing Resources to the Front Line – An Independent Review of Public Sector Efficiency by Sir Peter Gershon CBE. (2004)*

Available at the following link:

www.hm-treasury.gov.uk/media//879E2/efficiency_review120704.pdf

