Cabinet

30 October 2013

Council Housing – Stock Transfer – Next Steps

Key Decision R&ED/22/13

Report of Corporate Management Team
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Purpose of the Report

1. To update Cabinet on the work completed since its decision to develop a proposal to transfer the council's homes to a group structure of its existing housing management organisations.

2. To make Cabinet aware of the benefits to the county if its housing stock is transferred to a new housing provider and the financial impact on the council's General Fund.

3. To seek Cabinet's agreement to the submission of an application to the Homes and Communities Agency (HCA) to transfer the council's housing stock and to propose the establishment of shadow governance arrangements to support the transfer process.

Background

4. The council has landlord responsibility for 18,600 homes across County Durham. The council currently uses a variety of housing management arrangements to deliver housing services to tenants. Arrangements include two Arm's Length Management Organisations – ALMOs (Dale & Valley Homes and East Durham Homes) and one in-house council housing service (Durham City Homes).

5. In December 2012 the council took the decision to develop a proposal to transfer its homes to a group structure of its existing housing management organisations. The decision was based on the findings of a comprehensive appraisal of all of the options available to the authority for the future financing, ownership and management of its homes.

6. This report provides an update on progress achieved since the decision was made last year and covers the following areas:

- Context to Pursuing Stock Transfer
- Benefits of Housing Stock Transfer
- Financial Implications for the Council
- Transfer Proposal Submission
- Shadow governance arrangements

Context to Pursuing Stock Transfer

7. The stock option appraisal is an action in the council's Housing Strategy and is now complete. The appraisal examined the long term investment needs of the council's homes, neighbourhoods and services alongside a number of other social and economic factors including levels of deprivation in council owned neighbourhoods.

8. The appraisal process also took into account council investment in the improvement of homes and neighbourhoods and compared it with that of other local Registered Providers (RPs). Analysis found that there is evidence of a deepening disparity in the social housing offer available in County Durham that is impacting on quality of life for council tenants and creating a deprivation and equality gap between communities across the county.

9. There are clear differences between council owned neighbourhoods and those owned by other RPs in the area largely because other RPs are not bound by the same tight financial restrictions as the council and are able to access more resources to invest in the improvement of homes and neighbourhoods. Other RPs also provide a greater selection of non-statutory services that have contributed to the regeneration and strengthening of communities over a sustained period which has also improved the quality of life for tenants and perceptions of neighbourhoods as places to live.

10. In comparison, the council has fairly limited resources to invest, particularly in neighbourhood regeneration. For the past ten years investment has concentrated almost exclusively on improving homes to meet a reasonable 'Decent Homes Standard'. This has meant that investment has not been made in the renewal and modernisation of neighbourhoods and other related assets.

11. This approach to investment and management of homes and neighbourhoods has started to impact on demand for council housing and means that some neighbourhoods are not sustainable in the medium term. Consultation with tenants on the future of council housing in County Durham found that their aspirations for the type of home they live in and the look and feel of their local neighbourhood are climbing.

12. The implementation of welfare reform is also changing demand for types of home and there is a growing need for smaller more affordable accommodation in neighbourhoods that are fit for modern living. Other social landlords in the county (especially in the private sector) are more able than the council to meet these demands and offer a greater choice in smaller accommodation in modern neighbourhoods that meet tenants' needs, demands and aspirations.

13. The option appraisal found that there is a clear need for the council to ensure that social housing and surrounding neighbourhoods are of a consistently high quality across the county and support thriving communities.

14. The council has a real opportunity address the developing 'two speed' social housing offer by considering the future ownership and financing of its own homes. If the council does not, it is likely that the deprivation and equality gap will widen over the medium term and this will have major social and economic consequences for communities.

15. In April 2012 the Government introduced a system of self-financing that allows the council to retain its rental income in exchange for a one off debt allocation to settle existing HRA subsidy arrangements. Durham's debt allocation was £240m. The Government also capped the council's ability to borrow at £245m to satisfy their aim of controlling public sector borrowing. Up to £18m of borrowing headroom became available to the council following the introduction of self-financing. However all of the headroom is planned to be used by the end of 2014/15.

16. The council completed a comprehensive review of the condition of its homes in 2012 as part of the stock option appraisal process. The survey was necessary to calculate the levels of investment the council's homes will need over the next thirty years, compared to the levels of income the council can expect to receive over the same period. The survey found that in terms of total costs at current prices the council will need to invest up to £800m in its homes and related assets over the next thirty years. Over £350m of this investment will need to take place over the first ten years if the council is to safeguard the investment it has already made in homes and support the sustainability of its neighbourhoods.

17. Financial analysis of the Housing Revenue Account (HRA) business plan found that the council has a cumulative shortfall (including inflation) of over £60m in the first ten years of the business plan. The deficit is exacerbated by the council's inability to borrow above the debt cap to supplement its spending and meet investment needs.

18. The stock option appraisal considered the condition of the stock and its investment needs, the projected levels of income and the debt cap outlined in paragraph 15 alongside the council's local social and economic context. It was concluded that should the council continue to be landlord and own homes, then over the next ten years:

- There will not be sufficient funding to deliver the full range of works identified by the stock condition survey at the time they are required. Investment in homes, neighbourhoods and services will be reduced and delayed. This is likely to make the HRA business plan more volatile in the medium to long term.
- Further efficiencies will be required to balance the HRA business plan over thirty years, to maximise revenue contributions to capital investment and reduce the investment gap.
- The incidence of void properties is likely to increase, with more tenants expected to leave their homes for smaller more affordable accommodation in modern, sustainable neighbourhoods.
- The two speed housing offer will not be adequately addressed if the council remains landlord, as there will be less resource for investment in neighbourhoods and value added services to assist in mitigating the effects of the Government's welfare reform agenda.
- There is little financial capacity for the delivery of new build homes, which in turn will reduce the economic stimulus that the council can offer and the choice of homes available to tenants.

19. The council has attempted to ameliorate the effects of shortfalls in resources and the limitation on its ability to borrow to improve the financial position of the business plan by lobbying the Government to raise the debt cap. The council has also prioritised investment into sustainable housing stock by achieving £3m of efficiency savings and securing savings from procurement exercises. Despite these actions, the central issue continues to be the council's limited resources and the operation of the debt cap is incompatible with the investment needs of homes and neighbourhoods in the medium term. Therefore there continues to be compelling evidence to support the council's decision to develop a proposal to transfer ownership of its homes to an RP or group of RPs that are not subject to the same financial restrictions as the council.

20. The stock option appraisal also included extensive consultation and partnership working with key stakeholder groups (including tenants, staff, Councillors, Board members and other local partners). The council's financial position was made known to stakeholders and options for the future financing, ownership and management of the council's homes were proposed, discussed, tested and evaluated by stakeholders.

21. Consultation found that stakeholders' preferred option was the transfer of all of the housing stock to a group structure of the council's existing housing management organisations. Stakeholders suggested that this option would:

- Enable the new landlords to invest in homes and neighbourhoods when it is required, which is of paramount importance.
- Allow the new group of RPs to work together to maximise the amount of investment that could be made.

- Deliver a solution that means that all homes, across the county benefit.
- Join the social housing offer up and make it more consistent with other RPs in the county.
- Preserve existing housing management organisations and protect their important place at the heart of local communities.
- Achieve stakeholder support for the transfer proposal and demonstrate to stakeholders that their views have been listened to.
- Provide an opportunity for future growth – by offering a structure that could include other RPs at a later date should they wish to.

Benefits of Housing Stock Transfer

22. Housing transfer is the voluntary transfer of ownership of all or some of the council's tenanted and leasehold homes to a 'not for profit' RP. The transfer takes place on the basis that the new RP (or group of RPs) makes a payment for the value of the housing stock. This payment (or receipt) is then used to reduce the council's housing debt (£240m in Durham County Council's case).

23. When the stock is transferred all the related housing debt will need to be repaid and if the value of the stock is insufficient for full repayment, the Government will be required to assist. This is a process known as 'overhanging debt write off'.

24. The Government expects councils to try to maximise the value of their stock to reduce the level of overhanging debt required to make the transfer viable. The Government expect to see evidence of this in a local authority's application to transfer its housing stock. The Government also expect to see evidence of the economic benefits that stock transfer and the write off of housing debt will have for the Government, the county and local communities. The application will be considered and evaluated by the HCA, Department for Communities and Local Government (DCLG) and HM Treasury.

25. The council is in the process of developing its application for stock transfer on the basis of economic development, regeneration and new build that might not be achieved should the council continue to own the housing stock. The council is also considering the potential economic benefits that the write off of the council's housing debt could achieve and estimates the following economic benefits could potentially accrue from stock transfer in County Durham:

    - Enable the construction of over 1,000 new social and affordable homes in the county.
    - Create over 2,000 new jobs and training opportunities.
    - Release over £112m of investment in the county's economy.
    - Join social housing services up across the county and save money.

- Put more decision making power into the hands of local people, allowing them to shape the housing services they receive.
- Reduce deprivation in some of the council's most challenging neighbourhoods and narrow the equalities gap between our communities.
- Generate over £55m of salary based earnings in the context of the local economy. Earnings that will be predominantly spent in County Durham, the north east and the rest of the UK.
- Potentially save over £7m in Job Seekers Allowance (JSA) payments.
- Generate an additional net income gain to the county's economy of over £65m of which over £20m would be supply chain related.
- Increase the amount of affordable and social rented housing in the county which will help to reduce the housing benefit bill over time as it will increase the availability of cheaper, more suitable properties for rent. The construction of new homes may also boost savings to the welfare bill because tenants will be able to move from more expensive private lettings or out of temporary accommodation for the homeless.
- Benefit local small to medium enterprises and micro businesses by ensuring that as much as 80% of sub-contracting work goes to local companies.

Financial Implications on the Council

26. Transfer of the housing stock will have financial implications for the council's General Fund as detailed below.

Loss of Revenue Income for Central Support

27. The major financial impact would be the loss of income through recharges to the General Fund. On Vesting Day on 1 April 2009, the Council inherited revenue recharges from the General Fund to the HRA from former districts of almost £6m per year. Initially it was felt that this level of recharge was unsustainable. Since then the recharge has been reduced with the 2013/14 recharge from the General Fund to the HRA being £2.5m.

28. The recharges of around £2.5m of central support costs from the HRA to the General Fund cover the provision of key support services including:

    - Finance
    - ICT
    - Assets
    - HR
    - Legal Services
    - Corporate and Democratic Core

29. It is unlikely that many of the council's staff providing support services to the HRA will qualify for Transfer of Undertakings and Protection of Employment (TUPE) and will transfer to the new group of RPs. This is because the majority of support staff do not dedicate 50% or more of their time to providing services to the council's housing management organisations. On that basis there will be limited scope to mitigate loss of the central support recharge. Indicative work suggests that up to £0.2m in costs could be reduced which would result in a cost pressure to the General Fund of £2.3m, that will need to be met from corresponding savings from other budgets.

Unfunded Pension Costs

30. There are presently unfunded pensions costs of £0.402m charged to the HRA for staff previously retired (relating to cost of benefits such as added years etc.) but cannot be transferred to the new RSL and will pass on to the General Fund post transfer.

Loss of Council Tax Income on Void Properties

31. The introduction of the Local Council Tax Support Scheme from April 2013 made changes to the treatment of discounts and exemptions to empty properties and second homes. For the Council's own social housing properties the changes meant that any empty or void properties would be subject to council tax which generates £0.3m annually to the Council's Collection Fund, albeit at a cost to the HRA. However, RP's that are charitable bodies are exempted for the first six months for any void properties. The new RP(s) will likely adopt charitable status and therefore be eligible for exemption which would result in a loss of £0.3m to the Collection Fund.

Service Level Agreements

32. The council also has a number of service level agreements in place with its housing management organisations for the provision of specific services e.g. customer services, grounds maintenance and care connect.

33. The Service Level Agreements (SLAs) the council has in place with its housing management organisations equate to over £5.7m. The table below provides detail of the value of the SLAs by Service Groupings:

SLA	**SLAs 2013/14 £**	**Of which: DCH Repairs and Maintenance £**	**Of which: Other £**
Neighbourhoods	5,200,972	3,882,328	1,318,644
RED	146,684	-	146,684
Resources	417,600	-	417,600
TOTAL	**5,765,256**	**3,882,328**	**1,889,928**

34. Service level agreements are deemed to be a cash limit issue for service groupings to manage and therefore are not considered an additional cost to mitigate for the Council. Once the RP's are in place however they will be free to determine whether they wish to continue with the SLAs which could impact upon the income streams of Neighbourhoods, RED and Resources.

35. The one exception is Repairs and Maintenance for Durham City Homes which generates a surplus of £0.6m which supports the Neighbourhood Services base budget. The DCLG would expect this function to transfer to the new RP due to the VAT savings it would generate and employees would transfer to the new RP under TUPE. If this function did not transfer, then DCLG will query the additional debt write-off required as a result of the additional VAT payable by the new RP and would not fund fully fund the debt write off required. If this function were to transfer to the new RP there would be a £0.6m cost to the council.

36. In summary, the projected cost to the Council's General Fund will be as follows:

	£m
Loss of Central Support Recharge	2.257
Unfunded Pension Cost	0.402
Loss of Council Tax on Voids	0.300
SLAs - Surplus on Repairs and Maintenance	0.600
Total immediate Cost to Council	**3.559**

37. In addition as detailed above other SLAs could also be lost as the new RP is likely to seek to competitively tender for works as existing contracts come close to expiring.

38. Detailed work will be required involving Human Resources to assess TUPE implications in connection with any change in housing management arrangements arising from the council's proposal to transfer ownership of its homes.

39. If approval is given to progress with the stock transfer application process, the £3.559m cost to the General Fund will need to be introduced as a budget pressure within the MTFP(4) Model in 2015/16 thus increasing the savings target shortfall in that year.

40. The council will be expected to close its HRA upon transfer. It is important to note that upon the closure of the HRA any balance would accrue to the council's General Fund. HRA balances to be accrued to the General Fund are currently estimated to be £7m.

Draft Housing Stock Transfer Manual and Other Financial Implications

41. DCLG issued its draft Housing Transfer Manual on 22 July 2013 which sets out the process and criteria for processing LSVT applications. It should be noted that DCLG have clearly stipulated in the revised manual that proposed transfers must take place before March 2015. The risk of funding being unavailable in the event of a delayed completion of transfer falls to the Council and not to Government.

42. In summary the key issues impacting on the financial position of the Council are as follows:

Transfer Value

43. DCLG has stated that it will need to be satisfied that the transfer value has been maximised to minimise their debt write off requirement. The application process requires the Council to complete a ‘cost benefit analysis’ and a ‘reconciliation’ of differences in the Transfer Value with the Self Financing Valuation of £240m. This work is currently in hand.

44. It is important that the Council determines an affordable valuation of its homes (based on its stock condition survey) for the new group of RPs and sets this out in its application to transfer homes. The valuation will be tested by the HCA, DCLG and HM Treasury who are likely to challenge the valuation to minimise the amount of overhanging debt write off the Government will need to offer the council. The valuation should be clearly set out in the application to minimise the negotiation period and avoid delays that risk the achievement of the 31 March 2015 deadline.

Premiums and Discounts on Early Redemption of Debt

45. The Government has confirmed that where there is debt write off associated with the paying off of Public Works Loan Debt (PWLB) owed by the council, they will meet the cost of early debt redemption premiums. This is providing that estimates have been submitted as part of the transfer application and that DCLG is updated if these estimates change. DCLG has also confirmed that early redemption premiums only apply to PWLB loans and not to ‘market’ loans; all of the council’s loans are with the PWLB. Furthermore, Government has also confirmed that where Councils have separated their loan portfolio into two separate pools (one for the General Fund and one for HRA) which the council has done, they will apply the premiums to the HRA loan portfolio only. The Council has identified the cost of early redemption premiums in conjunction with its Treasury Consultants and will fully comply with this requirement.

Set Up Costs

46. Traditionally, set-up costs associated with a housing stock transfer have been off-set against the capital receipt for the sale of the stock to the new Registered Provider and effectively included as a cost in the transfer valuation. The updated transfer manual states that this will not be allowed in this round of transfers and that set-up costs will need to be met by both

the Council and the RP. It is important to therefore closely monitor and control set up costs, particularly for the Council as these will not be reimbursed by DCLG. The costs of conducting the stock option ‘appraisal’ process up to the end of 2012/13 amounted to £0.9m which includes the cost of updating stock condition surveys that would need to have been conducted in any case. The cost of implementing the preferred option of stock transfer is estimated to be £1m up to the ballot stage, and a further £0.7m will be required post ballot to finalise the terms of the transfer. These costs will continue to be met from the HRA from a combination of revenue savings and reserves.

47. As 2014/15 will be the final year that the three providers will operate in their existing form, it is important that financial governance arrangements be amended to ensure the Council plays a greater role in approving and setting budgets from this point on including the use of reserves held by each of the three providers.

VAT Shelter

48. The transfer manual mentions that it would be expected that a VAT shelter arrangement would be put in place to minimise the cost of VAT. The manual also states that proceeds from a VAT shelter arrangement should be reflected in the landlord business plan. Although it is acknowledged that the proportion will vary from case to case, DCLG would want to see it maximised. The Council will propose to take a share of the VAT Shelter to defray the costs it will incur as a result of transfer.

49. If the proposal to share the VAT Shelter is not accepted by the Government the council will be unable to defray the cost it incurs from transfer. A lack of resource to defray the cost of the transfer coupled with projected losses to the General Fund and the pressures the council faces in making substantial efficiencies from 2015 onwards would mean that the cost of pursuing the transfer is prohibitive. The council would then need to implement its alternative plan for the future of its homes. Any income from VAT shelter would be capital rather than revenue.

Preserved Right to Buy

50. The transfer manual states that a commitment should be included that the new landlord will use all right to buy receipts for new affordable housing. At the point of transfer the new landlord would be required to enter into an agreement with DCLG to use all such receipts for new affordable housing. Alternatively, the receipts could be passed to another registered provider to use for new affordable housing or surrender the receipts to the Homes and Communities Agency. Again, this revised position has implications for the perceived financial benefits to the Council of stock transfer. Under previous stock transfers it was normal for a proportion of Right to Buy receipts after transfer to be retained by the local authority and utilised to support the capital programme.

Other Financial Implications

51. The revised transfer manual has highlighted a number of areas that will be treated differently to previous stock transfers. These may have significant financial implications for the Council

52. Based on the draft Housing Transfer Manual there a risk that no financial benefit will accrue to the Council to compensate for the £3.6m cost to the General Fund. It is important that the Council recognises this and is prepared to accept the potential impact, as this will need to be demonstrated to DCLG as part of the transfer application.

53. It is important for the Council to have an agreed negotiating position in relation to stock transfer. There can be little doubt that stock transfer will provide the new RP with greater flexibilities than the current arrangements which will result in better outcomes for tenants. However, stock transfer will come at a cost to the General Fund and it is recommended that the Council submit an application that requests a share of the VAT Shelter.

Cost of Stock Transfer

54. Further HRA and some General Fund resources will be required to implement the preferred proposal, particularly in relation to a stock transfer. At this stage it is estimated that £1m will be required to take a stock transfer application to the ballot stage. This will be funded from a combination of reserves and revenue savings. These costs may include the following:

- Consultants and other advisers
- Tenant advisers
- The ballot or opinion survey
- Consultation and communication
- Accommodation
- Board appointments and training
- Staff training
- IT

55. The draft Housing Manual (July 2013) states that the transfer landlord and the council should agree between them a basis for sharing set up costs. Each organisation will bear the full cost of its share of the set up costs. As such set up costs will not be included in the valuation of the housing stock and the draft Manual is clear that the Government will not increase its contribution to overhanging debt write off in respect of any set up costs offset by the council against the capital receipt from the transfer landlord. The council will therefore need to seek to minimise set up costs.

Transfer Proposal Submission

56. The council has undertaken formal discussions with the HCA and Communities and Local Government (CLG) on its proposal to transfer its

homes since January 2013. The HCA and CLG have stipulated that the council is unable to proceed with its proposal to transfer ownership of its homes, until a revised Housing Transfer Manual is published. The Manual will provide a set of guidelines for councils to follow when preparing an application to transfer homes and details the criteria that the HCA and CLG will apply when assessing applications to transfer stock.

57. The draft Housing Transfer Manual was published for consultation on the 22 July 2013. Consultation on the draft Manual ended on the 2 September 2013 and the CLG and the HCA propose to publish the final Housing Transfer Manual by the end of October 2013. Once the Manual is published, authorities interested in transferring ownership of their homes will be able to submit an application for transfer to the HCA and the DCLG for formal consideration.

58. The draft Housing Transfer Manual states that its guidelines apply only to transfers in the period up to March 2015. The HCA and CLG are explicit that any applications made to transfer homes and seek support for overhanging debt write off on the basis of the final Housing Transfer Manual must be made on the basis that the transfer process will be complete by 31 March 2015.

59. The final Housing Transfer Manual is not expected to provide a deadline for the submission of applications to transfer homes. Councils may apply to transfer their homes at any time following the publication of the final Housing Transfer Manual, through the submission of an application to the HCA/DCLG. However any council submitting an application for transfer that requires overhanging debt write off must make its application on the understanding that it will only access overhanging debt write off if it completes the transfer process by 31 March 2015.

60. The draft Housing Transfer Manual sets out a clear format for the application for councils to observe that asks a series of key questions including:

- The strategic case for transfer: The drivers for change with strong emphasis on macro benefits.
- The economic case for transfer: Monetising the benefits shown in the strategic case.
- The commercial case for transfer: Private finance for the transfer, asset management plans and landlord selection.
- The financial case for transfer: The specific costs of the new transfer.
- The management case for transfer: The timely delivery of the transfer project.

61. The Housing Transfer Manual also sets out a timetable for transfer that includes the following steps:

Transfer Timetable

Activity	Timescale
Preliminary discussions with HCA/CLG leading to submission of a transfer application	
HCA/CLG considers application and where content makes recommendation for approval to CLG	4 weeks
CLG and HM Treasury consider transfer application and where content approves	7 weeks (12 weeks if more than £50m sought)
HCA notify council that Government is content and council may proceed to formal consultation subject to offer document being agreed	1 week
Council statutory consultation (stages 1 and 2)	9 weeks
Engagement with social housing regulator (for registration)	20 – 35 weeks
Four week sign off checklist	4 weeks
Transfer completes	March 2015

62. The transfer deadline and proposed timescales set out in the draft Housing Transfer Manual represent a significant challenge to completion of Durham County Council's transfer process by 31 March 2015. Historically transfer processes have run over a two year period to allow for full consultation to take place and registration of the new landlord (or landlords) to be achieved.

63. The steps set out in the revised Housing Transfer Manual indicate that if the council decides to proceed with its transfer proposal it will be required to run the full transfer process including formal consultation, a ballot, securing funding for the new landlords, registration and the completion of the legalities of the transfer process within a year.

64. Durham County Council's stock transfer proposal represents one of the largest and most complicated stock transfers in recent history. It will require formal consultation with over 22,000 tenants, the establishment of up to four individual companies and their registration as landlords with the HCA. The council has raised concerns about the proposed timescales with the HCA and CLG, who have accepted that timescales are challenging, but they are achievable if the council submits an application as soon after the publication of the final Housing Transfer Manual as possible; and undertakes some transfer work at risk. This includes informal consultation with tenants and other stakeholders and the establishment of shadow governance arrangements for the new group of landlords.

65. In August and September 2013 Durham County Council worked in partnership with Dale & Valley Homes, Durham City Homes and East

Durham Homes to undertake informal consultation with its tenants on the future of its homes.

66. A series of events were held in Crook, Durham City and Peterlee and around 290 tenants attended the events.

67. The informal events were intended to:

- Make tenants aware of the council's developing proposal to transfer ownership of its homes to Dale & Valley Homes, Durham City Homes and East Durham Homes and the council's alternative plan for the future of its homes.

- Explain to tenants the reasons behind the council's decision to develop a transfer proposal.

- Determine what interests and worries tenants the most about the proposal

- Develop an understanding of tenants' priorities for the future

- Identify the information tenants feel they need to be able to make an informed decision on the transfer proposal at a legally binding ballot in 2014

68. The events were supported by Durham County Council, Dale & Valley Homes, Durham City Homes and East Durham Homes. They were facilitated by an Open Communities (Independent Tenant Adviser) to ensure that tenants received an independent, impartial presentation on the future of their home.

69. Attendees were asked to complete evaluation forms at the end of each event to indicate whether:

- They felt they got what they wanted from the event they attended.
- They would attend another, similar event.
- They thought the event they attended gave them a greater understanding of the council's stock transfer proposal.
- They would support the council's stock transfer proposal.

70. The evaluation results show that not all attendees provided feedback on the events with 154 attendees (across all events) completing an evaluation feedback form (53% response rate).

71. Not all attendees answered all of the questions, with the lowest number of responses to the question "would you support the council's transfer proposal?" (35% response rate).

72. Overall 90% of respondents across all events said they got what they wanted from the event. 95% of respondents said they would attend similar

events; 90% of respondents said the events had given them a greater understanding of the council's stock transfer proposal; and 88% of respondents said they would support the council's stock transfer proposal.

73. The council will need at least twelve months to complete formal consultation and ballot work and the transfer of ownership of its homes to the new group. Therefore, if the council decides to proceed with its application to the HCA and DCLG to transfer its homes it is imperative that it submits its application by the end of October 2013/early November 2013.

74. Submission of the application by the end of October/early November 2013 will allow the HCA, DCLG and HM Treasury up to sixteen weeks to consider the application and come back to the council with a response by mid March 2014. If the council's application to transfer is approved it can then move to formal consultation with tenants with a view to completing the transfer by 31 March 2015 (if the proposal is agreed by a majority of tenants who vote at a ballot).

75. The HCA and DCLG have recognised the scale of the challenge facing the council in terms of achieving transfer timescales and they have recommended that throughout the development of the transfer proposal the council maintains an alternative plan for the landlord function, along with a viable long term business plan.

76. The council has already selected the establishment of a single ALMO as its alternative option should it be unable to transfer ownership of its homes. An alternative project plan for the establishment of the single ALMO has been developed and is running in tandem with the council's stock transfer plans. All work is twin tracked to ensure efficiency and value for money.

77. The draft Housing Transfer Manual also makes it clear that the risk of delayed completion of the transfer (i.e. after 31 March 2015) falls to the council and not to the Government.

Establishing Shadow Governance Arrangements

78. If the council decides to proceed with submitting an application to transfer its homes it will also need to consider the need to complete the registration of the new group of organisations with the Homes and Communities Agency (HCA) as landlords or Registered Providers (RPs) before the 31 March 2015.

79. The Secretary of State's final consent to transfer will not be given until all of the new landlords are registered with the social housing regulator, being the HCA. In order to achieve registration, the governance arrangements for the Boards of each of the landlords in the new group structure must satisfy the HCA's requirements. This includes the Board of the parent organisation which will have ultimate strategic control of the activities of the group.

80. If the council’s transfer proposal is approved by the Government and agreed by tenants at a ballot, ownership of its homes would be transferred to Dale & Valley Homes, Durham City Homes and East Durham Homes. They would become subsidiary organisations in a group, but would retain their own local Board to preserve local accountability structures and to ensure they remain organisationally discrete.

81. The subsidiary organisations would be responsible to a strategic umbrella organisation, referred to as the group parent Board and organisation, which would be responsible for determining overall strategy, direction and control of the group’s affairs.

82. The structure of the proposed governance arrangements and the typical responsibilities of each of the Boards are set out at figure 1.

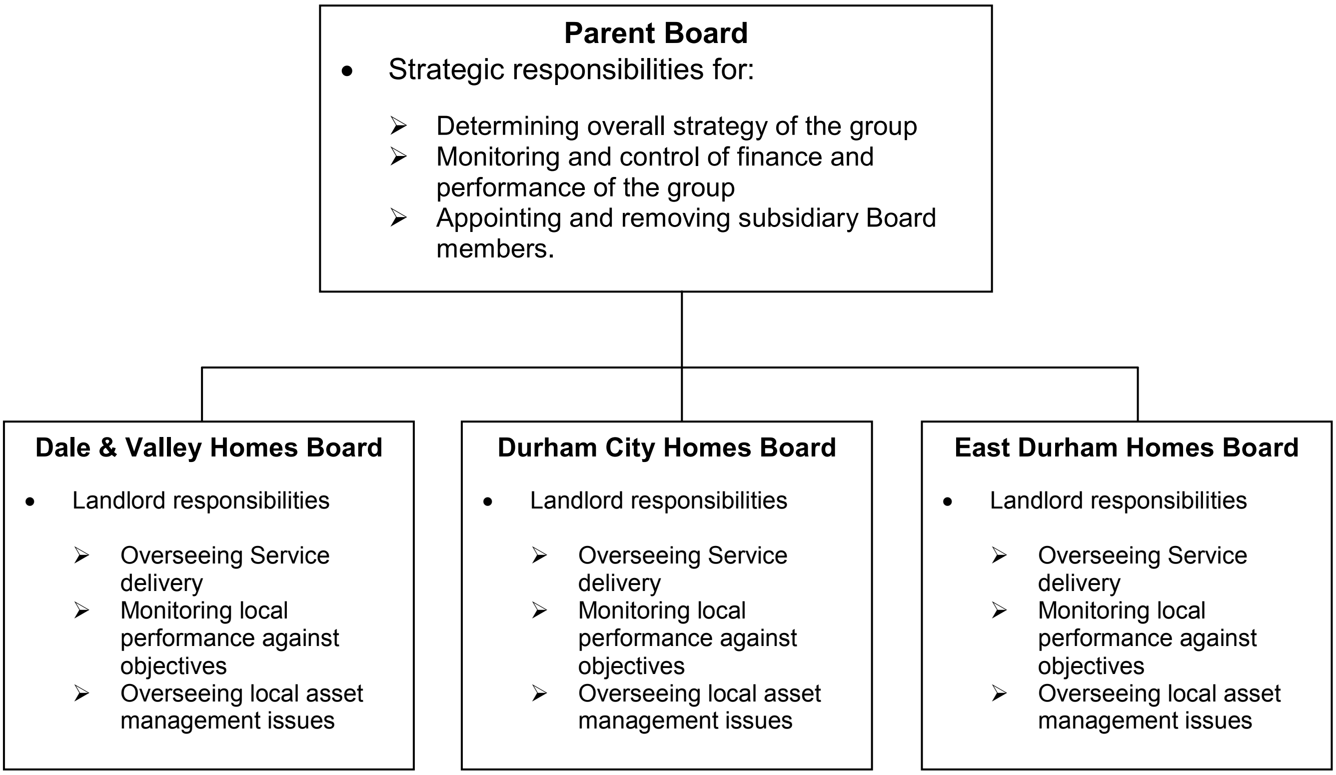

Figure 1 Structure and Responsibilities

83. The formal relationship between the parent organisation and Dale & Valley Homes, Durham City Homes and East Durham Homes would be underpinned by an intra-group agreement, service level and procedural agreements and Board and committee terms of reference and delegated powers. In accordance with the council’s aim to join social housing up in County Durham, the intra group agreement would be flexible enough to permit other RP subsidiaries to join the group at a later date if desired.

84. All Boards must be registered in accordance with the guidelines set out in the HCA’s “Guidance on Applying for Registration as a Provider of Social Housing”. The HCA will expect Boards to be competent as social housing

providers and will also expect to see a strong, strategic parent Board leading the group.

85. Informal consultation with the HCA suggests that the governance arrangements already in place for Dale & Valley Homes and East Durham Homes are broadly appropriate for the achievement of registration. Durham City Homes' governance arrangements will need some support to make the transition from a non-executive Board to a formally constituted Board if they are to achieve registration by March 2015.

86. If the council aims to meet the challenging transfer deadline of 31 March 2015 it is crucial that the establishment of the shadow parent Board is started as the council submits its application to transfer its homes to the HCA.

87. Consultation has been completed with stakeholders on the appropriate composition of the shadow parent Board and the skills necessary to manage a large, complicated group of landlords.

88. Stakeholders suggest that the shadow parent Board should be made up of thirteen members including four independent members of the community (this will include a chairperson); three tenants (one from each of the council's housing management areas); three local authority nominees; and the Chairs of Dale & Valley Homes, Durham City Homes and East Durham Homes. The proposed composition of the shadow parent Board is also suitable as a Board for the single ALMO should the council decide to implement its alternative plan for the future of its homes.

89. The shadow Board should be appointed on the basis of their skills, experience and competencies which will be assessed during a rigorous recruitment process that focuses on skills and involves the council, Dale & Valley Homes, Durham City Homes and East Durham Homes and tenants.

Conclusion

90. In December 2012 the council's Cabinet selected the transfer of its homes to a group structure of its existing housing management organisations. The decision was based on a comprehensive appraisal of options for the future financing, ownership and management of the council's homes.

91. The council's transfer proposals mean that ownership of the council's homes will transfer to Dale & Valley Homes, Durham City Homes and East Durham Homes, who will become landlords in their own right within a group that will include a strategic parent organisation.

92. The council selected transfer as its preferred option because it could achieve a number of benefits including:

- Enabling the new landlords to invest in homes and neighbourhoods when it is required preventing the deferral and delay of works.

- Allowing the new group of RPs to work together to maximise the amount of investment that could be made.
- Delivering a solution that means that all homes, across the county benefit.
- Joining social housing services up across the county, making them more consistent with other RPs.
- Preserving existing housing management organisations, which have demonstrated their excellence over the past few years and protect their important place at the heart of local communities.
- Achieving stakeholder support for the transfer proposal and demonstrate to stakeholders that their views have been listened to.
- Provide an opportunity for future growth – by offering a structure that could include other RPs at a later date should they wish to.
- Generating economic growth through the construction of new homes.

93. There are risks to the successful completion of the transfer in terms of Ministerial consent; availability of private finance, tenant support for the proposal and challenging timescales. The process is likely to cost in excess of £1m to ballot stage and the draft Housing Transfer Manual is currently unclear in terms of the council's ability to defray any other costs it may incur as a result of stock transfer.

94. There is an expected cost to the council's General Fund of £3.6m which will represent a budget pressure within the Medium Term Financial Plan in 2015/16. The council should consider projected costs to the General Fund within the context of potential economic benefits for the county arising from stock transfer. It is also important to note that upon the closure of the HRA (which is expected following transfer) any reserves would accrue to the council's General Fund.

95. The Secretary of State is unlikely to grant consent to transfer unless a transfer application has been approved in advance of the council proceeding to full consultation with tenants. If the council's application is approved the Government will expect full consultation and a ballot of all tenants and transfer homes to be completed by the 31 March 2015. If the process is not complete the council will not be able to access the overhanging debt write off it requires.

96. The council will require the Government to write off a substantial amount of its housing debt. The council will be expected to maximise the value of its housing stock to reduce the level of overhanging debt required to make the transfer viable. The Government expect to see evidence of this in the council's application to transfer its homes.

97. The council can only submit its application to transfer its homes once the final Housing Transfer Manual is published. However, indicative timescales proposed by the Government for the submission of applications and their evaluation suggest that the council will need to submit its application by the end of October 2013/early November 2013 if the application is to be evaluated and agreed by mid March 2014 2014. This

will allow the council a little over a year to complete formal consultation and a ballot of all tenants and complete the transfer its homes by 31 March 2015.

98. If the council's transfer proposal is approved by a majority of tenants who vote in a ballot the council will then need to ensure that all landlords in the group are registered with the HCA by the 31 March 2015. Again, if the council is to meet challenging timescales for completion of the transfer it should start to establish shadow Board and governance arrangements as soon as possible.

Recommendations

98. It is recommended that Cabinet:

(i) Consider the potential social and economic benefits of stock transfer and implications for the council's General Fund.

(ii) Note the loss of £3.6m of income to the General Fund and the impact upon the MTFP in 2015/16, should the council's housing stock be transferred.

(iii) Note the position on treatment of VAT shelter arrangements and agree the negotiation stance whereby the council should insist on receiving a share of the VAT shelter income.

(iv) Agree the strengthening of financial governance arrangements with respect to the three housing providers in the run up to implementation of a change in housing management arrangements.

(v) Agree to delegate the preparation of an application to transfer the council's homes to the Corporate Director of Regeneration and Economic Development in consultation with the Portfolio Holder for Housing.

(vi) Agree the establishment of a shadow parent Board and associated governance arrangements.

(vii) Agree to recommend to Council to revise the council's Housing Strategy to reflect the decision to transfer homes to a group structure of its existing housing management organisations.

Background Papers

- Cabinet Reports for 12 December 2012 and 14 December 2011.

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Appendix 1: Implications

Finance -
Durham County Council was allocated a debt settlement of £240m by the government to implement a system of self-financing for council housing. Since April 2012 the council has been able to use its own income from rents to invest in improving and maintaining its homes.

A transfer of the housing stock will enable borrowing above the debt cap to maximise investment in homes, neighbourhoods and service. Retention of the housing stock will not address the shortfall in capital resources, improvement works will be delayed and deferred and the authority will be unable to invest substantially in value added services and the delivery of new build and regeneration.

Transfer of the housing stock will have financial implications for the council. It will cost in the region of £3.6m and will require this to be included as a budget pressure in the MTFP Model in 2015/16. Stock transfer will result in the closing down of the HRA. Over the medium term, a number of service level agreements between the council and the three housing providers could be affected.

Staffing -
Staff are a key stakeholder in the transfer of the council's homes. This includes staff working for the council and for its two housing service providers, Dale & Valley Homes and East Durham Homes.

Further detailed work will be undertaken s on the impact of stock transfer on service areas (including the Repairs and Maintenance Direct Labour Organisation) and the approach it should take to TUPE and implications for the council's workforce.

Risk -
Risks include:

- The council's proposal to transfer the housing stock is rejected by the Government on the basis of value for money.
- The council's proposal to transfer the housing stock is rejected by customers at a ballot and costs of the abortive transfer fall onto the revenue account
- The council continues to face a deficit in its capital resources and is unable to invest substantially in homes, neighbourhoods and services in the long term. The effect of the two speed social housing offer becomes more pronounced and the council is unable to achieve its ambitions for an "Altogether Better Durham".

The council can undertake a series of actions to mitigate against these risks and reduce their likelihood. These actions include:

- Observe the guidelines set out in the existing Housing Transfer Manual and continue to work with DCLG and the HCA when submitting an application for stock transfer.
- Develop and implement a comprehensive communication and consultation strategy for stock transfer that explains the role of the council; the transfer option, offers and implications for all stakeholders.

Equality and Diversity -
The transfer process will provide all individuals and organisations with an interest in the future of the council's housing stock with the best opportunities to contribute to the transfer proposal, if they wish to do so. This has been accomplished through the implementation of a communication and consultation strategy and a tenant empowerment statement.

According to the Equality Impact Assessment undertaken on the transfer the option will impact on protected characteristics. Impacts in terms of stock transfer are positive, as accessing additional funding will improve housing, neighbourhoods and services and will stimulate the local economy. This may be particularly beneficial for women who have an increased demand for social housing and disabled and older people who require homes to meet specific housing needs. Younger people and people raising a family will also benefit from an improved social housing offer resulting from stock transfer. Transfer may also enable access to additional funding to strengthen and improve tenancy support services to mitigate the affects of welfare reform. Retention of the housing stock is likely to have a negative impact as the council will be unable to access additional resources to support capital spending in the first ten years of its business plan and investment needs will be deferred. Further efficiencies in management structures and services will result in the two speed economy becoming more embedded, with council tenants experiencing a different social housing and service offer to tenants living in a home owned by other local RPs. Restrictions on ability to afford the construction of new homes and remodel existing homes will impact on women, young people, disabled people and older people. The preservation of the ALMO model may have some positive impacts for local accountability and tenant involvement.

Accommodation -
None

Crime and Disorder -
A reduction in crime and disorder is reflected in the transfer objectives. This ensures that the transfer and its associated information considers the reduction of ASB and the designing out of crime in homes and neighbourhoods.

Human Rights -
None

Consultation -
The transfer proposal will be fully informed by consultation with tenants, staff, councillors, board members and other key partners. The council has developed

a detailed Communication and Consultation Strategy, Tenant Empowerment Statement and has delivered an extensive consultation programme for each stakeholder group. The council will be expected to complete formal consultation with tenants on the transfer proposal in 2014 that will end in a ballot. If a majority of tenants who vote in the ballot vote yes to the proposal it will proceed to transfer.

Procurement -
Specialist advisers and an independent tenant advisor have been procured to support the formulation of the transfer proposal and the delivery of the project.

Disability Discrimination Act -
None

Legal Implications -
The council currently has legally binding ‘Management Agreements’ with Dale & Valley Homes and East Durham Homes for the provision of housing services to its customers. If the council completes the transfer of its homes the management agreements will end. Legal consultants experienced in the field of stock transfer have been engaged by the council to provide advice and support.