

Cabinet

7 May 2014

Housing Stock Transfer Offer Document



Key Decision R&ED/06/14

Report of Corporate Management Team
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Purpose of the Report

- 1 Following Government approval of the Council's application to transfer its homes the purpose of the report is to seek approval of the Cabinet of the Council's proposed Offer Document to begin formal consultation with the Council's secure and introductory tenants on the transfer proposal.

Background

- 2 The Council decided to apply to the Government for agreement and financial support to transfer ownership of its homes to a group structure of its existing housing management organisations in December 2012. If tenants support the proposal and the Secretary of State provides formal consent to the transfer in March 2015, the council will transfer ownership of its homes to Durham City Homes (which will, prior to the transfer become a separate entity to the Council) East Durham Homes and Dale & Valley Homes. These organisations would then become locally run landlords, but would work together as a group (the County Durham Housing Group) to maximise investment in homes, neighbourhoods and services.
- 3 The proposed new County Durham Housing Group would also include a parent organisation which would be responsible for leading on governance and financial viability issues for the Group and providing support services to the three new landlords.
- 4 The council's application to transfer its homes was approved by the Department for Communities and Local Government (DCLG) in March 2014. Following this approval, the council is now able to proceed with formal consultation with all of its tenants on its proposal to transfer ownership of its homes in the summer of 2014. The DCLG have asked the council to complete the transfer of its homes by 31 March 2015, if it is to

access the financial support it requires. To meet this challenging timescale, the council has started to shape the proposed new group of landlords now so services can continue seamlessly following the transfer should it go ahead.

Formal Consultation on the Transfer Proposal

- 5 Statutory guidance that outlines the steps the Council should follow to consult with its tenants on its transfer proposal is set out in the Government's publication "Statutory Guidance: The Housing Act 1985 - Schedule 3A".
- 6 The Guidance covers the requirement for a formal two stage consultation process; the language and tone that should be used in the formal consultation; the conduct and timing of the ballot of all secure and introductory tenants); the Council's post ballot tasks and the rights of interested parties to make representations about the transfer proposal to the Secretary of State throughout formal consultation and the ballot period.
- 7 The DCLG requires the Council to present an accurate picture to its tenants about its transfer proposal and the implications of staying with the Council as part of the consultation process. For the Council to achieve final Secretary of State consent to the transfer and to access financial support for the transfer it must demonstrate that throughout formal consultation on the proposal all tenants have been:
 - Fully informed of the transfer proposal;
 - Encouraged and able to vote on the proposal in a confidential ballot;
 - Able to access independent and impartial advice on the transfer proposal provided by an Independent Tenant Adviser.
 - Able to participate in consultation on the proposal and to express their views.
- 8 The Homes and Communities Agency (HCA) are tasked with ensuring that the Council is following statutory guidance and good practice during formal consultation with its tenants. The Council must receive approval from the HCA for its proposal to transfer homes and the implications of the transfer for tenants if it is to proceed to formal consultation with its tenants. This ensures that any documentation related to the transfer proposal meets the requirements of tenant consultation guidance and are consistent with the Government's transfer policy.

Durham County Council's Transfer Offer Document

- 9 The Offer Document represents the first stage (officially known as Stage 1) in the formal consultation process. The Offer Document sets out the Council's proposal to transfer its homes; the reasons behind the proposal; the implications of the transfer for tenants; and the changes and

improvements to homes, neighbourhoods and services tenants can expect if the transfer was to go ahead.

- 10 The Offer Document is central to the formal consultation process. It provides all secure and introductory tenants with information on the potential impact of the transfer on them to support them in expressing a fully informed opinion about the transfer proposal at the ballot in Stage 2 of the formal consultation process. The Offer Document sets out:
 - Details of the transfer proposal including identity of the prospective new landlord
 - The likely consequences of the transfer for the tenant
 - The consultation requirements
 - The provisions relevant to the preserved right to buy

- 11 Durham County Council's Offer Document has been prepared in partnership with the Customer Working Group (a group of thirty tenants from across the County); the Boards of the County Durham Housing Group, Dale & Valley Homes, Durham City Homes and East Durham Homes; staff members and other key partners.

- 12 The Council's Offer Document is set out at Appendix 2. The Council's Offer Document includes the following information:
 - Statement from the Customer Working Group endorsing the Council's proposal to transfer its homes.
 - Introduction to the Offer Document, describing the purpose of the Offer Document and the variety of ways tenants' can make their representations on the proposal.
 - Looking to the Future which provides the background to the transfer proposal and the likely outcome should the Council remain the landlord
 - Introduction to the County Durham Housing Group
 - The implications for tenants in terms of the way their rent and other service charges will be managed in the future.
 - The rights and responsibilities of tenants should transfer go ahead.
 - The improvements tenants can expect to the repairs service in the five years after transfer.
 - The improvements tenants can expect to their home in the first five years after transfer.
 - The improvements tenants can expect to their neighbourhood and communities in the first five years after transfer.

- The improvements in accessing services tenants can expect in the first five years after transfer.
- The County Durham Housing Group's plans to build new homes
- Next steps in the formal consultation process.
- The proposed Assured Tenancy Agreement (if transfer goes ahead)
- Glossary of terms

Endorsement of the Transfer Offer Document

- 13 The Council's lead financial adviser for stock transfer have reviewed the commitments made in the Council's Offer Document and are satisfied that they are affordable and there is potential for the County Durham Housing Group to identify resources for enhancements to services.
- 14 The proposed Offer Document has been judged to be satisfactory by the HCA and they have provided consent for the council to proceed to Stage 1 of the consultation. The HCA expects that subject to regulatory requirements being satisfied when a local authority has received clearance to proceed to formal consultation it will complete its transfer within one year of receiving clearance.
- 15 Any commitments made in the Offer Document must be measurable and deliverable by the new County Durham Housing Group. The shadow parent Board of the County Durham Housing Group and the Boards of Dale & Valley Homes, Durham City Homes and East Durham Homes endorsed the Council's Offer Document on the 22 April 2014. The Offer Document has also been endorsed by the Customer Working Group.
- 16 The HCA recommends that the Council employs a range of methods to ensure different sections of the community are aware of its proposals to transfer homes. Pamphlets, leaflets, posters, press advertisements, newsletters, meetings, door knocking, telephone hotlines and short DVDs have all been used by Councils in the past.

Formal Consultation and Communication Methods

- 17 The Council proposes to use the following methods to communication and consult with its tenants:
- Regular newsletters on the transfer proposal on a monthly basis (newsletters will cease if the Council enters into Stage 2 of the formal consultation – the ballot)
 - Inclusion of articles in Durham City Homes, East Durham Homes and Dale & Valley Homes newsletters
 - Use of a dedicated website – www.yourhomeyourchoice.info
 - Provision of a dedicated telephone advice line
 - Home visits

- The provision of an Independent Tenant adviser (Open Communities) telephone advice and face to face contact if required
 - Drop in sessions and exhibitions
 - Attendance at existing Tenant and Resident Panels
 - DVD
- 18 If the Council's Cabinet approves the Offer Document, it will be issued to all secure and introductory tenants (marking the beginning of Stage 1 in the formal consultation) in early June 2014.
- 19 During Stage 1 of the formal consultation tenants will be asked for the comments and feedback on the Council's transfer proposal. Comments will then be collected and reported back to the Cabinet on the 16 July 2014 for its view and if deemed necessary, the Offer to tenants can be amended at that stage. This is then followed by the 'Stage 2' formal consultation period (a further 28 days during which a confidential ballot of all tenants on the matter of stock transfer would take place).

Tenancy Agreement

- 20 If the transfer of the council's homes goes ahead, the Council's tenants will change from being a secure tenant of the authority, to an "assured tenant" of either Durham City Homes, East Durham Homes or Dale & Valley Homes.
- 21 Secure tenants' rights are covered by Acts of Parliament. Assured tenants rights are covered by a new Tenancy Agreement and Acts of Parliament. Before the transfer can take place, the proposed new landlord must agree to offer transferring tenants a new assured Tenancy Agreement. This must be explained to tenants during the formal consultation period; and the new Tenancy Agreement is usually included with the Offer Document.
- 22 The new Assured Tenancy Agreement makes clear the obligations of the new landlord and tenants. The Council has worked with the Customer Working Group, legal advisors and representatives of Durham City Homes, East Durham Homes and Dale & Valley Homes to develop a new Assured Tenancy Agreement. The proposed draft Tenancy Agreement is included in the Offer Document at Appendix 2.

Conclusion

- 23 The Government approved the Council's application to transfer its homes in March 2014. The Government also agreed to the write off of the Council's housing debt on the understanding that the Council would complete the transfer of its homes by the 31 March 2015.
- 24 The Council is able to proceed to formal consultation with all of its tenants on its transfer proposal. The formal consultation process is set out in legislation and requires the Council to ensure its consultation material (primarily the Offer Document) makes clear the background to the decision

Appendix 1: Implications

Finance

Durham County Council is operating to a debt cap of £245m under self financing for the HRA which was implemented in April 2012. The Council is almost at its debt cap already and is unable to borrow any further to invest in new housing. The transfer will enable the new group of landlords to borrow additional funds to invest in housing, regeneration and support services for tenants. In order to qualify for debt write off, transfer must be completed by 31 March 2015.

Transfer will come at a cost to the Council and previous reports have identified an annual cost to the General Fund of £3.6m. Provision for this cost has been built into the latest MTFP Model which identifies this loss of income from 2015/16 onwards.

Implementing stock transfer will incur costs for both the Council and the proposed new group of landlords. The cost of preparing and conducting a ballot for the transfer offer is estimated to be in the region of £280,000 and this amount can be accommodated from existing resources set aside to meet the Council's transfer costs from HRA savings and reserves.

Staffing

Staff are key stakeholders in the transfer process. This includes staff working for the council and for its two housing service providers, Dale & Valley Homes and East Durham Homes. Both preferred options allow the council to consider implications for employment, terms and conditions and pensions.

Transfer of the housing stock will have major financial implications for the council. Stock transfer will result in the closing down of the HRA. In addition to service level agreements for the provision of specific services to the three providers, the council currently recharges central support services from the HRA to the General Fund. There may be limited scope to mitigate the loss of charges to the General Fund and so the council will receive further reports 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 to determine the level of budget reduction likely to be incurred and implications for the council's workforce.

The Housing Directions Team will also require additional support from expert financial, legal and stock condition advisers to complete the transfer of the housing stock, or establish a single ALMO (should the transfer proposal be refused by the Government or rejected by tenants at a ballot). Funding to complete this work should be allocated from the Housing Revenue Account.

Risk

Financial analysis and the outcomes of consultation have underlined some clear risks for the council when moving into the next phase of its option appraisal. Risks include:

- 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 HRA and the General Fund.
- The council has to establish a single Arms Length Management arrangement with area based arrangements and the proposal is met with opposition from stakeholders.
- 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 affects 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:

- 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.
- Continue to provide area based offices and the preservation of "local offers" (that allow services to be tailored according to local priorities) to reduce the risk of opposition to the establishment of a single ALMO.
- Ensure that any future consultation programme on the establishment of a single ALMO explains to stakeholders the reasons for the change, implications for different stakeholder groups and the benefits that could be achieved in establishing a single ALMO with area based arrangements.

Equality and Diversity

The transfer option will impact on protected characteristics. The transfer option meets the priorities set out by stakeholders at the beginning of the project. 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 effects of welfare reform

Accommodation

None

Crime and Disorder

A reduction in crime and disorder is reflected in the offer. This ensures that potential options consider the reduction of ASB and the designing out of crime in homes and neighbourhoods.

Human Rights

None

Consultation

The council plans to deliver an extensive formal consultation programme for each stakeholder group.

Procurement

Specialist financial and legal advisers and an independent tenant advisor have been procured to support the formulation of potential options 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. Depending on the option that the council ultimately selects, these management agreements may be subject to change or redevelopment. There are also significant legal implications if the council transfers its housing stock. The council have instructed specialist legal consultants in the field.