

Briefing Paper

Housing Transfer Manual

November 2013

Introduction

The government consulted on the future of the stock transfer programme from June to September 2013; and in November 2013 issued the results of that consultation, right to transfer regulations and revised guidance for the housing stock transfer programme from 2013 to 2015. This briefing paper summarises and comments on the revised guidance with particular reference to the financial implications.

Stock transfer is the process by which local authorities transfer ownership of council houses to housing associations (also known as registered providers). The first stock transfer took place in 1988 and since then about half of England's local authorities have transferred their stock. However, the introduction of self-financing in 2012, by increasing the amount of housing debt that councils are responsible for and by ending government subsidy for stock transfers, has resulted in fewer transfers going ahead. However, it had been expected that the government would take steps to facilitate further stock transfers especially where these are requested by residents. Councils can transfer either all or part of their stock.

Durham County Council, Gloucester City Council, Lewisham Borough Council and Salford City Council are currently considering stock transfers but it is understood that they would need a government write-off of hundreds of millions of pounds to make up the difference between the value of the homes and the debt.

The guidance has been issued later than anticipated supporting the belief that there have been divisions within government regarding how best to manage the stock transfer programme.

One of the contentious issues is timing. The government is offering to write off debt on the stock's housing revenue account to allow the transfers to go ahead, but the offer expires on 31 March 2015. The guidance estimates the stock transfer process will take up to sixty weeks to complete. Effectively this leaves stock-owning authorities with just three months to complete the process and many consider that this is not realistic. Also, the financial risk in the event of a delayed transfer falls to the council.

Stock Transfer and Self-Financing

One hundred and seventy-one English Councils took on an additional £21billion of debt under self-financing reforms in April 2012.

These arrangements are said to create a 'level playing field' between stock retention and stock transfer – with stock transfer not being able to deliver any more than stock retention. However, in practice they have created a disincentive to stock transfer. This is because the tenanted market value that is being used for self-financing makes no allowance for the cost of achieving the decent homes standard or any backlog of repairs; and does not take account of additional costs that would be faced by a housing association such as value added tax.

However, a significant financial advantage that could be gained through a stock transfer under these arrangements would be that the housing association would not have to observe the 'cap' on housing revenue account debt that is imposed on local authorities. A post-transfer housing association would be able to increase its debt following transfer to fund capital investment but only if this was affordable given the constraints that would exist on the income and expenditure account.

The Government's 2011 Policy document stated that:

"The Government considers that self-financing gives all stock owning councils a viable long-term future and it is the assumed solution for maintaining their stock in good repair. Under self-financing, whole and partial stock transfers remain an option for councils and their tenants. However, the Government's policy on the extent of financial support for transfers has changed to better align it with funding for self-financing."

"Although value for money has been a consideration in transfers prior to the development of self-financing, more generous settlements had often been funded to meet tenant aspirations."

"Given the current fiscal climate, a more rigorous approach is required. The Government's starting point for consenting to transfers, set out in a number of recent publications, is that the transfer business plan in aggregate should be justifiable in comparison with the financial settlement for self-financing."

"In considering transfer proposals the Department will take the self-financing valuation as the norm, taking account of any Decent Homes backlog and any additional factors such as different tax treatment which would affect a valuation."

The final paragraph recognised that the valuation for a stock transfer could be different to the self-financing valuation and in particular that the valuation could be reduced to reflect the cost of value added tax to the housing association and the cost of investment needed to attain the decent homes standard. However, if this occurred there would be a viable housing association but the Council would be left with overhanging debt. The policy document did not comment on how this would be financed but Communities & Local Government had no budget for clearing overhanging debt. Now the revised guidance envisages the write-off of debt but it is not clear where central government has a budget to fund this.

The policy document also referred to altering the valuation in situations where there is stock that requires regeneration rather than repair but commented that:

"The Department may agree that the transfer valuation can take account such factors, but this will be the exception rather than the rule."

Self-financing placed a barrier in the way of future stock transfers. This is because a transfer housing association would be obliged to take on all the housing debt of the local authority. This would prevent them from being able to afford to borrow for capital investment and would be a particular problem in the case of a local authority that had yet to attain the decent homes standard. Consequently, for stock transfers to be viable there would be a need to value the stock at a lower level than outstanding debt leaving a balance of 'overhanging debt' that would have to be written off by the government. The revised guidance considers how this would be done.

The Consultation

The government consulted on four specific questions:

Question 1: How could the draft transfer manual express more clearly the criteria to be applied by Government when assessing transfer applications? Where is any further explanation or detail needed?

Question 2: How could the draft transfer manual express more clearly the transfer process? Where is any further explanation or detail needed?

Question 3: Does the draft transfer manual, taken together with the Right to Transfer Regulations and guidance, clearly explain the process for tenant led stock transfer? Where is any further explanation or detail needed?

Question 4: Are there any other comments you wish to make about specific policy issues in the draft manual?

The summary of the responses can be found at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/256525/Housing_Transfer_Manual_-_Summary_of_Responses_to_consultation.pdf

Housing Transfer Manual – Revised Guidance

In his foreword to the guidance, Kris Hopkins MP, Minister for Housing writes that:

“Stock transfer has had a profound impact on social housing in England. Since 1988 around 1.3million former council homes have been transferred to the ownership of registered providers. That’s enabled billions of pounds of investment in bringing homes up to a decent standard and the delivery of thousands of new affordable homes by newly created registered providers of social housing.

“The introduction of self-financing from April 2012 means that we have needed to re-think the case for transfer. For the first time we have put the financing of local authority housing on a stable, long-term footing, and we would not expect to see the numbers of transfers we have seen in the past.

“The tough decisions we have to make to tackle the deficit inherited from the last Administration mean that we will need to look hard at proposals to transfer stock to ensure that they represent good value for money.

“The approach we have set out to support that assessment is a new one, which, as responses to our consultation on the draft manual emphasise, raises the bar for transfer. But where the business case stacks up and transfer is backed by tenants, this manual makes clear we will facilitate and support transfers, including through providing Government support for debt write-off.

“We want to encourage not only stock-holding local authorities, but also tenants and existing registered providers to consider the opportunities which stock transfer may provide. Alongside this manual we are laying before Parliament the Right to Transfer Regulations which will for the first time give local authority tenants a statutory right to initiate a transfer process and require the local authority to co-operate as tenants explore the options.

“Responses to our consultation on the draft manual sought clarification on a number of issues. I hope this manual provides that additional clarity whilst remaining a much shorter document than its 2005 predecessor. That reflects an approach that is based more on principles than detailed prescription; one that I hope will encourage innovative approaches to transfer that will deliver real benefits to tenants and local communities.”

Government wants to encourage transfer where this represents good value for money and where it will lever in additional private investment that delivers growth through:

- More affordable housing;
- Local economic activity; and
- Providing a robust, long-term future for estates and neighbourhoods, including by compliance with the Decent Homes Standard.

The written ministerial statement of May 2013 made clear that the Government wants to see a focus on refurbishment and improvement of rundown or vacant properties rather their demolition.

Government is particularly interested in supporting transfers that are part of a wider vision for achieving or maintaining local growth. The Government will continue to explore options for increasing the role existing registered providers may, with the support of tenants, be able to play in delivering those objectives through transfer.

Government expects transfer to support transparency. Landlords to whom stock is transferred should be open and accountable to their tenants and the wider public.

The manual contains the following sections:

1. Introduction
2. The Housing Transfer Process
3. Deciding to pursue transfer - preliminary activity, leading to a decision to pursue transfer;
4. Submission of an application – preparing an application for stock transfer by demonstrating the maximisation of benefits and minimisation of costs, including, where relevant, specifying any required debt write-off;
5. Submission of a formal consultation proposal – preparing to formally consult tenants;
6. Regulatory requirements – parallel Regulatory activities, including submission of a registration application for a new landlord (where relevant)
7. Submission for Secretary of State's consent and completing the transfer – completing the process.

The manual states that applications to transfer stock that seek support for overhanging debt write-off must be made on the basis that transfer will complete by 31st March 2015. Where Government offers to provide support for overhanging debt write-off in 2014/15 following an application, the support will be conditional on expenditure being incurred by 31st March 2015. The risk of funding being unavailable in the event of delayed completion of a transfer falls to the local authority and not to Government.

Councils that wish to transfer must submit a full business case to government.

Regarding community led stock transfers the guidance states that where a tenant group brings forward transfer proposals under The Housing (Right to Transfer from a Local Authority Landlord) (England) Regulations 2013, then the process set out in the transfer manual would apply in the same way depending on whether the community led stock transfer is a Small Scale Voluntary Transfer or a Large Scale Voluntary Transfer, and in the latter case, whether they are seeking Government support for debt write-off. Broadly the provisions of the transfer manual apply from the stage at which the tenant group has presented its feasibility study to the local authority and this has been accepted. Tenant groups are recommended to engage at an early stage with the Homes & Communities Agency (or in London, the Greater London Authority).

The Transfer Value

The Transfer Value is the amount the receiving landlord will pay for the stock (a purchase generally financed by borrowing). It is therefore also the receipt the local authority will receive and that it can use to pay down associated debt. A local authority intending to transfer homes will need to generate a Transfer Value using a discounted cash flow model for social housing (its Transfer Valuation Model). This method is understood by Government, the Regulator, funders and receiving landlords.

For the reasons outlined above, the debt associated with the stock is more than likely to exceed the Transfer Value in which case the local authority would want to apply for debt write-off as part of its application. The government will wish to be satisfied that the Transfer Value has been maximised and the requirement for overhanging debt write-off accordingly minimised. This is likely to be an area of significant negotiation between the local authority, registered provider and government.

For partial transfers the government considers that the debt should be attributed between the stock being transferred and the stock that is retained on a reasonable basis that can be clearly justified. Local authorities will need to take into account the implications of an increased requirement for overhanging debt write-off on the likely success of the transfer application and ensure that debt retained is affordable and can continue to be serviced by rental income. The government would expect, in the event of a tenant group and a local authority being unable to agree the level of debt attributable to the homes that the tenant group is proposing are transferred under a tenant led transfer, the self-financing valuation of those homes, based on property archetype, to provide the benchmark.

The government does not prescribe a format for the Transfer Valuation Model, but do require that a soft copy is submitted as an annex to the application. The Transfer Valuation Model will apply a discount rate to estimates of future income and expenditure over (standardly) the thirty years following transfer.

The government does not prescribe a standard discount rate and states that applicants will need to determine a rate for use in their valuation which enables them to create a sustainable, fundable Business Plan and takes account of the importance, in the assessment process, of ensuring that the Transfer Value is maximised. However, the government points out that the self-financing valuation is used as a benchmark for the Transfer Value and this used a 6.5% real discount rate. The use of rates below 6.5% would increase the tenanted market value thereby reducing the overhanging debt and, in the government's view would 'enhance the financial case for the transfer'. Conversely, using a rate above 6.5% would reduce the tenanted market value to the advantage of the registered provider and its tenants but would increase the amount of debt that the government would write off. Presumably, government would regard this as 'reducing the financial case for the transfer'. Discount rates may therefore become an area for negotiation.

The government also states that valuation over longer or shorter periods may be used, if this can demonstrate value for money (in particular a lower debt write-off requirement) and is fundable.

The Transfer Value (i.e. what the receiving landlord will pay for the stock) may include considerations not associated with the existing stock (but which are modelled through the Transfer Valuation Model). An example might be income from new build on land associated with the transfer, where this is at an advanced stage and included in a business plan acceptable to funders and the Regulator.

Gap funding grant to support a negative Transfer Value (i.e. where the tenanted market value is negative and the registered provider therefore requires a 'dowry' for the stock) is no longer available. If the Transfer Value is negative support will be needed from the acquiring registered provider or the local authority or both. In practice it would be difficult for either the acquiring registered provider or the transferring council to fund such a requirement.

Other Requirements of the Application

Along with the calculation of tenanted market value, applications must be accompanied by an Economic Case (Economic Impacts Cost-Benefit Analysis); Financial Case (including a tenanted market value reconciliation, five-year fiscal flows, public sector cost-benefit analysis); and information on Value Added Tax, Set-up costs and the preserved right to buy.

To be accepted, a transfer proposal needs to be affordable to central Government and offer good value for public expenditure. Three tools are used to support this assessment:

- The transfer value reconciliation;
- A five year fiscal flows model; and
- A public sector cost-benefit analysis.

The transfer value reconciliation is used to confirm the acceptability of the value placed on the business and the price to be paid for the homes as public assets. The latter two tools are versions of standard models used in Government to ensure that a project or programme's public expenditure is affordable and represents good value in the medium and long term. Across all three tools a positive assessment requires that the cost to central Government is minimised through the Transfer Value having been maximised (along with any contribution from the disposing authority or receiving landlord). We keep coming back to this question of maximising the transfer value and it is clear that authorities that wish to transfer their stock will be under pressure to increase the tenanted market value thus increasing the amount of debt that the transfer registered provider will be obliged to accept.

For the latter two tools, councils will need to provide data to help populate the model but will not have to do the calculations themselves. This will be conducted by Government economists to ensure consistency with other projects and programmes.

Transfer Value Reconciliation

The government states that the 2012 self-financing valuation is their estimate of the financial value of local authority housing stock. They consider that the Transfer Value is the amount a receiving landlord would be expected to pay for stock through a transfer. They therefore expect to see equivalence between the self-financing valuation of stock and its Transfer Value as they consider that this would give assurance that the right price is paid for public assets. However, for reasons outlined above it is unlikely in practice that a registered provider would be able to accept a transfer of housing stock from a local authority at the same level as the self-financing valuation.

Since the self-financing valuation determined both a council's starting level of housing debt within the reformed system and its maximum indebtedness in the future, any differences between the Transfer Value and the self-financing value will also drive the size of any debt write-off requirement and hence the immediate cost to Government of transfer (although the government does note that there is potential for actual debt and modelled maximum indebtedness to differ).

The Transfer Value Reconciliation sheet, required as part of the Financial Case, makes transparent any differences between these valuations. The Reconciliation starts with the relevant self-financing value and moves to the proposed Transfer Value. Intervening rows show any items or proposals that:

- Introduce extra cost or decrease income for the recipient landlord and hence depress the Transfer Value relative to self-financing; these should be further explained where necessary;
- Reduce cost or increase income (and hence increase the Transfer Value); we would expect transfer to deliver management and operational efficiencies and the Reconciliation should clearly set out what these are.

Where appropriate, these rows should also capture any modelling differences that differentially impact on the two valuations, such as the different starting dates or a different discount rate. For complex proposals (such as advanced new build plans) the net impact should be shown in the Reconciliation, rather than separating costs and income.

The Transfer Value Reconciliation is the primary tool used for assessing the acceptability of the proposed Transfer Value through the test of self-financing equivalence. Applicants are required to submit their Transfer Valuation Model as an annex, and where the Reconciliation raises questions about data, assumptions or policy these will be followed up through analysis of the Model. (The Social Housing Regulator will, separately, want to analyse the Transfer Valuation Model and the receiving landlord's Business Plan as part of the registration process.) In completing the Reconciliation sheet applicants should therefore:

- Keep in mind its primary purpose, to show how and why the proposed Transfer Value, and hence receipt, differ from central Government's view of the value of the business; the presentation should be clear and focussed on this point;
- Note that in circumstances where the overall assessment of the application suggests a higher Transfer Value is possible, we reserve the right to make a lower central Government contribution, in the form of overhanging debt write-off, to the valuation, requiring an increase in the Transfer Value or an additional contribution from the transferring authority or receiving landlord.

Value Added Tax

Local authorities are able to reclaim the Value Added Tax charged to them on maintenance and repair works on housing stock and other expenditure whereas registered providers cannot. The government recognises that this will increase costs and hence decrease the transfer value in the transfer scenario, captured in the Transfer Value Reconciliation.

Local authorities may accordingly propose the use of Value Added Tax shelter arrangements where this would have the effect of significantly increasing a Transfer Value that would otherwise be much lower than the self-financing valuation. The government would in general however discourage the use of a Value Added Tax shelter, since they would expect this to increase local authority capital expenditure. The government recognises that funder concerns may mean that a significant proportion of the value of a Value Added Tax shelter cannot be recognised in the Transfer Value and, where this is the case, a Value Added Tax shelter is likely to offer poor value for money for Government.

Irrecoverable Value Added Tax is included as a benefit in the Five Year Fiscal Flows and Public Sector Cost-Benefit Analysis (as additional Value Added Tax revenue flows to Government compared to the base case without transfer).

Set-up Costs

The government expects the local authority and the transfer landlord to each bear the full cost of its share of the set-up costs. Set-up costs may be included in the Transfer Valuation Model, although these will reduce the Transfer Value and the government would expect these costs to be offset by planned efficiencies, for example lower management and maintenance costs that would increase the Transfer Value.

This is an interesting observation as most stock transfers to date have been based on management and maintenance costs increasing after transfer rather than reducing. In the past, registered providers have not been prepared to accept former local authority stock unless the transfer model included provision for increased expenditure on management and maintenance.

In accordance with regulations made under Section 9 of the Local Government Act 2003, a local authority may defray set-up costs from the capital receipt for the stock, but Government will not increase its contribution in respect of overhanging debt write-off to cover any such costs defrayed by the local authority.

Transfer to a newly created landlord may have higher set-up costs, and these will be a higher proportion of overall costs if the landlord is small. These extra costs will be considered as part of the assessment of the transfer application.

Preserved Right to Buy

The government wishes to ensure that, following transfer, tenants continue to have access to good quality, accessible information about exercising their Preserved Right to Buy and would encourage transfer landlords to work with the Department for Communities & Local Government, utilising the tools the Department offers, to ensure that is the case. The government also wishes to ensure that proceeds from Preserved Right to Buy sales are used in a way that maximises the delivery of new affordable housing in line with the reinvigorated Right to Buy programme.

To achieve this, the government intends to require that, for transfers completing after 30th September 2014, net proceeds from Preserved Right to Buy sales are used to fund new affordable housing at no greater subsidy cost than under the main affordable homes programme and that net proceeds that remain unspent after three years are surrendered to the Homes & Communities Agency (or in London, the Greater London Authority) so that they can be re-allocated for investment in new affordable housing. Transfer landlords would be able to deduct the net present value of net rental income foregone on the property sold and transaction and administration costs in arriving at the net proceeds figure. Consequently, the government would not expect anticipated income from Preserved Right to Buy sales to alter the Transfer Value.

The Social Housing Regulator currently sets requirements on the payment of Right to Acquire receipts into the Disposals Proceeds Fund that ensure that net proceeds from these sales are reinvested in new social housing supply. Similar requirements for net Preserved Right to Buy receipts, for transfers completing after 30th September 2014, would meet the government's objective of ensuring that proceeds are reinvested in new supply, and they are working with the Social Housing Regulator to establish how such requirements can best be achieved.

Timetable for Transfer

The government considers that the length of time it takes to go through the transfer process will vary depending on a number of factors, including the amount of funding required and the complexity of the case. The guidance includes an indicative timetable that is intended to be of help to local authorities in their planning. Where Government support for debt write-off or associated early redemption premiums is not sought, no government approval of the application is required.

The indicative timetable is as follows:

1. Preliminary discussions with Homes & Communities Agency / Greater London Authority and submission of draft transfer application leading to formal transfer application (full business case).
2. Homes & Communities Agency / Greater London Authority considers transfer application (6-10 weeks)
 - Where debt write-off is not required the Homes & Communities Agency / Greater London Authority responds directly to the local authority.
 - Where debt write off is required, the Homes & Communities Agency / Greater London Authority works with Communities & Local Government / HM Treasury to assess the application and make recommendations to ministers.
3. Homes & Communities Agency / Greater London Authority notify that government is content and local authority may proceed to formal consultation subject to the offer document being agreed (1 week).
4. Engagement with Social Housing Regulator (20-35 weeks).
5. Transfer completes.

This is the timetable that is considered too 'tight' for authorities to be able to complete before the deadline of 31st March 2015.

The Registered Provider – Securing Funding

The recipient landlord will need to secure the private finance required to fund the transfer and the promises made to tenants in the offer document.

The appointment of funding advisers is normally done after the ballot. However early engagement with potential funders can take place. This early engagement would give an indication to the transferring local authority and the selected new landlord of any potential problems in funding the transfer and help ensure that the application is based on realistic assumptions.

A funding prospectus is required. This is designed to provide full details of the housing transfer to potential funders. It is important that professional independent advice is secured at an early stage in preparing the prospectus, assessing funding offers and selecting a potential lender.

Competition for funding should help to ensure best value. By going to the market for its funding requirements the new landlord should be able to compare the terms and conditions offered by potential funders with those made in the business plan.

Completion of the Transfer

Government support for debt write-off is available in respect of Public Works Loan Board debt and associated early redemption premiums. Exceptionally, on a case by case basis, they may agree to provide support in respect of non-Public Works Loan Board debt, where no Public Works Loan Board debt is available. No support will however be provided for early redemption premiums associated with non-Public Works Loan Board debt. That is considered to be a cost of transfer that would need to be met directly by the local authority or from the receipt from the transfer landlord. In the latter case this would reduce the transfer value and increase the overhanging debt write-off required, making the business case for transfer harder to make. Note that non-Public Works Loan Board debt includes debt to other public sector organisations.

Where support for debt write-off on Public Works Loan Board debt is agreed, the Government will pay the early redemption premiums (net of any early redemption discounts), provided estimates have been agreed as part of the application and any subsequent material changes notified to the Homes & Communities Agency or Greater London Authority.

Following the introduction of self-financing authorities have the option of adopting one of three models for managing debt across the Housing Revenue Account and the General Fund: i.e. the one pool, two pools or three pools approach. Where a local authority is operating a single pool, debt redemption premiums should be calculated on the basis that costs of managing debt are charged equitably and reasonably to the Housing Revenue Account and the General Fund. Where specific debt pool(s) have been created for the Housing Revenue Account the premiums relating to the Housing Revenue Account debt will usually be considered as the premiums for the purposes of debt write-off.

Levies

Levies are payable on large scale voluntary transfers at a rate of 20% on the sum by which the capital receipt from transfer in respect of the housing stock, net of set-up costs and the value of any covenants, undertakings or obligations given by the local authority in respect of the improvement of the stock, exceeds the attributable self-financing debt. In short, the existing position on levies is retained.

Closing the Housing Revenue Account and associated issues

A local authority that transfers all its stock (or subject to Secretary of State direction a majority of its stock so that 50 or fewer dwellings remain) would normally be expected to close its Housing Revenue Account. The Housing Revenue Account can be closed at any time following transfer.

On closure of the Housing Revenue Account, any balance on the Housing Revenue Account accrues to the local authority's General Fund. Since 1st April 2001, authorities have been required to keep a Major Repairs Reserve that is separate from the Housing Revenue Account. The Major Repairs Reserve holds resources available to authorities to meet capital expenditure on maintaining the future condition of their stock.

On the basis that local 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 a registered provider and the transfer is of all remaining dwellings out of the local authority's Housing Revenue Account, the Major Repairs Reserve should, at the time of transfer, be nil. As well as funding capital maintenance, the Major Repairs Reserve may also be used to fund the repayment of housing

Statutory Position

The revised manual replaces the 2005 edition and its 2006 Supplement, and applies (in whole or part) to all housing transfer applications. It is issued jointly by the Homes and Communities Agency (HCA), the Greater London Authority (GLA) and Department for Communities and Local Government (DCLG). It applies to transfers in the period to March 2015.

The manual is aimed primarily at local authorities considering or pursuing transfer but will also be of interest to tenants and prospective recipient landlords. It sets out the process a council is required to follow to gain consent from the Secretary of State to transfer and the issues that will be considered in assessing individual transfer applications. It describes the submissions required ahead of the final application for consent, and the criteria by which these submissions will be assessed.

This process is designed, in particular, to ensure that a transfer receiving consent will deliver maximum benefit, in terms of Government priorities, for minimum cost. Councils will, in general, hold debt secured against their housing stock and serviced by its rents. When stock is transferred the related debt will need to be repaid, and if the Transfer Value of the stock is insufficient for full repayment (which I would always expect to be the case), central Government will be required to assist.

The government states that minimising cost through the transfer process means ensuring transfer values are maximised and overhanging debt write-off minimised.

Consultation with tenants during transfer is governed by statute (Schedule 3A to the Housing Act 1985). The relevant statutory guidance, issued in July 2009, is still current.

The revised manual can be accessed from:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/256529/13111_1_Housing_Transfer_Manual_-_Period_to_31_March_2015_as_published.pdf

Right to Transfer Regulations

The government has also published revised right to transfer regulations. These Regulations compel local authorities to co-operate with a group of its tenants who wish to explore the benefits of a change of landlord. Where a transfer proves to be the favoured and viable option the Regulations compel the local authority to commence the process of transferring ownership of those homes to a registered provider of social housing.

Any such transfer proposal is still subject to existing legislation on stock transfers: that is, the transfer cannot go ahead unless a majority of secure and introductory tenants of the homes in question vote in favour in a ballot organised by the local authority and the Secretary of State has granted consent. The Regulations also allow the authority to, at any time, request the Secretary of State to halt the proposal if it would have a significant detrimental effect on the authority's ability to deliver its housing services or regeneration within the local area.

The revised regulations can be accessed from:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/256523/The_Housing_Right_To_Transfer_from_A_Local_Authority_Landlord_England_Regulations_2013.pdf

Implications for Councils that wish to transfer

It is clear that the revised guidance is not as helpful to councils that wish to transfer their stock as they might have hoped.

Jonathan Hulley, a partner at law firm Clarke Willmott, told 'Inside Housing':

"The timescale is unrealistic given the critical issue of consultation. As lawyers we would never say it's impossible, but it is certainly unlikely."

Catherine Hand, a partner at law firm Trowers & Hamblins, said clarity on how much debt the CLG would be prepared to write off was needed and said:

"If local authorities rush the consultation process with tenants we've seen 'no' votes result in the past."

Lewisham Borough Council, that is considering transferring 13,000 homes to its arm's-length management organisation Lewisham Homes, may not be far enough along to complete the deal in time.

Salford City Council hopes to transfer 8,500 homes to its ALMO Salix Homes. Peter Styche, Chair of Salix, said:

"Our plan has been modified because of the delay in getting the guidance, but we are confident we can do it."

Durham County Council faces a race against time to transfer 19,000 homes to three providers, while Gloucester Council is seeking to transfer 4,200 homes to ALMO Gloucester City Homes.

Conclusions

The revised guidance has mainly caught the headlines because of the 'tight' timetable that it includes and the potential for this to undermine the stock transfer proposals that are already in the pipeline at Durham, Gloucester, Lewisham and Salford.

The delay in providing the guidance hasn't helped with the timetabling issues and also gives credence to the suspicion that there is division within government about the future of stock transfer.

The problem is that the self-financing system has increased local authority housing debt with the result that, for a stock transfer to be viable, some of this debt would have to be written off – and Communities & Local Government has no budget to do this. However, the government still wishes to encourage stock transfer, especially where this is driven by tenants. Hence, the revised guidance that gives some hope to those who would like to transfer. However, when the details are examined it is clear that the government is still wedded to the erroneous idea that the self-financing valuation would usually represent an appropriate valuation for stock transfer purposes. It is also unclear how substantial a budget is possessed by Communities & Local Government for supporting new stock transfers. Consequently they appear to be reluctant to write off much debt and stock transfers, if they occur in future, may not offer tenants as many benefits as earlier stock transfers have done.

Adrian Waite
November 2013

All You Want to Know about Local Authority Housing Finance 2014

February / November 2014

We are running our 2014 series of 'All You Want to Know about Local Authority Housing Finance' at venues in all parts of England from February to November. This seminar and workshop is designed to give an introduction and overview to this important subject and is fully up to date with all developments.

This seminar and workshop is designed for people who are not experts in housing finance, but who need to understand the basics and achieve an overview of what is going on. It is suitable for councillors, housing managers, tenant representatives and finance staff who have limited experience of local authority housing finance and others who realise that an understanding of housing finance can place them at an advantage – especially when considering the financial opportunities that exist for local authority housing!

Do you think that a working knowledge of local authority housing finance would put you and your colleagues in a position of advantage?

We believe in quality rather than quantity and so numbers at each session are limited to twenty people to permit the maximum possible interaction and participation.

What the Session Covers:

The session will answer the following questions:

- How does the Housing Revenue Account work?
- How does the Housing General Fund work?
- What are the Implications of Self-Financing?
- What are the Financial Opportunities for Local Authority Housing?

The session includes a participatory case study and is accompanied by a very useful 100 page book that is designed for reference after the session entitled:

“All You Want To Know About Local Authority Housing Finance 2014”

Venues and Dates:

London: Novotel Hotel, Waterloo – 26th February 2014.

North: Cedar Court Hotel, Huddersfield – 10th June 2014.

London: Novotel Hotel, Waterloo – 11th November 2014.

The seminar is also available in-house.

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For more information about us and our services please visit our website at www.awics.co.uk or contact Adrian Waite at Adrian.waite@awics.co.uk

Services that we offer include:

- Management Consultancy – <http://www.awics.co.uk/ManagementConsultancy.asp>
- Interim Management – <http://www.awics.co.uk/interimmanagement.asp>
- Regional Seminars - <http://www.awics.co.uk/regionalSeminars.asp>
- In-House Training - <http://www.awics.co.uk/inHouseCourses.asp>
- Independent Residents’ Advice – <http://www.awics.co.uk/IndependentTenantAdvice.asp>
- Technical Books - <http://www.awics.co.uk/TechnicalBooks.asp>
- Information Service - <http://www.awics.co.uk/informationService.asp>