


<p><b>London Borough of Hammersmith &amp; Fulham</b></p> <p><b>CABINET</b></p> <p><b>7 DECEMBER 2015</b></p>	
<p><b>RECOMMENDATION OF THE RESIDENTS' COMMISSION ON COUNCIL HOUSING AND OUTCOME OF THE STRATEGIC HOUSING STOCK OPTIONS APPRAISAL</b></p>	
<p><b>Report of the Cabinet Member for Housing: Councillor Lisa Homan</b></p>	
<p><b>Open</b></p>	
<p><b>Classification - For Decision</b></p> <p><b>Key Decision: Yes</b></p>	
<p><b>Wards Affected: All</b></p>	
<p><b>Accountable Director: Mike England, Director, Housing Strategy &amp; Options</b></p>	
<p><b>Report Author:</b> Charles Hyde, Programme Manager</p>	<p><b>Contact Details:</b> Tel: 020 8753 6688 E-mail: Charles.Hyde@lbhf.gov.uk</p>

**1. EXECUTIVE SUMMARY**

- 1.1. The Council's housing stock has been paid for by generations of Hammersmith & Fulham residents both to meet their own housing needs and to provide for those who come after them.
- 1.2. Council homes represent an affordable place to live for many of the borough's residents, across a diverse range of incomes, backgrounds and family circumstances. This significance is increasing as Hammersmith & Fulham is now the third most expensive place to live in the country. The great majority of people living in the borough do not have household incomes that would allow them to buy a home here and many, even on substantial incomes cannot accommodate themselves in the private rented market. For many residents, particularly those on low or modest incomes, their ability to continue to live within their existing community depends upon access to a council home.
- 1.3. Most importantly, having the stability of being able to live in a council home in Hammersmith & Fulham makes it easier to gain and retain employment; to access and benefit from local schools and educational opportunities; to provide support to existing, settled family members and a wider local community network. In short, the Council's housing stock provides an anchor that allows communities to develop and thrive. This in turn is greatly to the economic, social and cultural benefit of the borough as a whole. Its significance therefore stretches well beyond the fabric of the buildings.

- 1.4. In its manifesto “The Change We Need” the Administration committed itself to “take immediate measures to protect council homes now and in the future” and to “work with council housing residents to give them ownership of the land their homes are on.” In December 2014 it established a Residents’ Commission on Council Housing to look at the options for the future ownership and management of the housing stock. The Commission is an independent body with a majority of residents (both tenants and leaseholders), but including independent experts. It is chaired by the Right Honourable Keith Hill.
- 1.5. In particular, the Residents’ Commission looked at how to:
  - Safeguard Council homes and estates for the future;
  - Give residents greater local control over their homes;
  - Protect tenants’ rights and keep rents and service charges at levels residents can afford; and
  - Fund improvements to homes and housing services.
- 1.6. The Commission’s aim was to identify the best way to enable residents to have greater local control of their housing and maximise investment in existing and future council homes.
- 1.7. The Commission has now finished their work and produced their final report. Their report, and the Strategic Housing Stock Options Appraisal (SHSOA) which was carried out in parallel with the work of the Commission are shown at Annexes A and B respectively.
- 1.8. The recommendation of the Residents’ Commission is that the Council transfer the ownership of its housing stock to a new, locally-based, not-for-profit, resident-led Registered Provider (RP) constituted on the Community Gateway Association (CGA) model<sup>1</sup>. This recommendation follows an extensive resident engagement programme over the summer and a thorough assessment of the options.
- 1.9. This report proposes to Cabinet that the recommendations of the Residents’ Commission should be accepted in full. There are a number of key reasons for this:
  - a) The proposal to transfer is the option most likely to deliver the Council’s policy towards its housing stock, set out formally in the Council’s Housing Strategy approved in May 2015;
  - b) The financial modelling carried out during the work of the Commission shows that if the Council retains ownership of its homes it cannot deliver the investment to existing homes shown to be required by a comprehensive new Stock Condition Survey. As a consequence, repairs, maintenance and improvements will have to be stopped or deferred;
  - c) Transfer would increase the prospect of the building of more new affordable homes;
  - d) The new landlord receiving the transfer would be unencumbered by what the Commission’s report refers to as the “dead hand” of

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<sup>1</sup> This does not include homes on the West Kensington and Gibbs Green estates that are sold to Capital & Counties PLC (Capco).

the debt cap imposed by Central Government on the Council's Housing Revenue Account and which restricts the Council's ability to invest in new and existing homes;

- e) Transfer to a resident-led body can ensure that the transformation of services to tenants and leaseholders can take place hand in hand with residents taking and exercising control over the development of those services;
- f) Transfer would be designed to protect tenants' rights and level of security and ensure that rents were at least as affordable as they would be with the Council;
- g) For leaseholders a transfer would ensure that necessary repairs and maintenance were carried out and that the value of their home was protected;
- h) In future, plans for investment in or the remodelling or regeneration of estates would be developed by and with residents themselves;
- i) Transfer would bring wider benefits to the community as a whole by providing homes for people in housing need, reducing the cost to the council taxpayer of temporary accommodation for homeless households and bringing benefits to the local economy.

1.10. The Commission's achievement has been remarkable and unique. It has absorbed and interpreted a vast amount of complex and technical material, In addition to this though, the Commission has had residents themselves as its driving force and it has conducted its business with a degree of openness and transparency not seen anywhere else.

1.11. In coming to its conclusions the Commission has also had to take on board the significant changes to social housing and welfare benefit policy proposed by Central Government during summer 2015 and now before Parliament in the Housing and Planning Bill and Welfare Reform and Work Bill, which were previously not anticipated. These include 1% reductions in social housing rents over each of the next four years; higher rents for tenants with incomes of over £40,000; the introduction of a Right to Buy for Housing Association tenants leading to a requirement on local authorities to sell some vacant properties and pay the proceeds to Government; and reductions in benefits, benefit caps and tax credits. In the case of the rent reductions this has had an important impact on the Commission's recommendations.

1.12. From the Council's point of view there have been a number of other valuable benefits from the work of the Commission and the associated Stock Options Appraisal. These include:

- a) A comprehensive new Stock Condition Survey setting out in detail the investment requirements of council homes over the next 40 years;
- b) A revised Business Plan for the Housing Revenue Account, taking account of the investment promised for 2015/16 and 2016/17 together with the investment advised in new stock condition information and the fundamental changes to housing finance announced by the Chancellor in the Summer Budget in July 2015;

- c) A sea-change in the level and quality of resident engagement in the development of housing services, including a new survey of resident opinion and aspiration;
  - d) A blueprint setting out a vision for how housing services should be provided in the future.
- 1.13. This report and the various appendices set out the large volume of work needed and the important stages required before a transfer could be achieved. Chief amongst these are the consent of the Secretary of State, together with satisfactory financial arrangements, further consideration by the Council itself of the terms of any transfer and most importantly of all receiving the agreement of residents through a formal ballot. This report invites members to begin this process and to:
- a) Pursue a stock transfer through consultation with residents, drawing up an offer that could be put to residents in a ballot, entering into discussions with DCLG and the GLA over a transfer proposal and making a formal application to them when it is clear how and when this is to be done. The provisional timetable would be to aim for a ballot in the Autumn of 2016 and a transfer of ownership by Spring 2017.
  - b) Immediately begin a service transformation programme for the housing service, focussed on the requirements of residents and in close consultation with the existing and emerging resident involvement structure.
  - c) Create the organisation capable of becoming the new landlord on the model proposed by the Commission and, now that the work of the Residents' Commission has finished, invite those members of the Commission who wish to do so to form an Advisory Group to advise upon a process for establishing a new landlord, including a Shadow Board.

## 2. RECOMMENDATIONS

That Cabinet:

### **The Stock Options Appraisal and Report of the Residents' Commission**

- 1.1 Thank the Residents' Commission on Council Housing ("The Residents' Commission") for its report and the time, effort and expertise that has gone into its production.
- 1.2 Note the outcome of the Stock Options Appraisal and the officer comments on it.
- 1.3 Accept in full the recommendations of the Residents' Commission as to the:
  - Future ownership of the council's housing stock;
  - Means of increasing resident control over the ownership and management of council homes;
  - Improvement of services to tenants and leaseholders
- 1.4 In the light of the Stock Options Appraisal and the report of the Residents' Commission, resolve to formally pursue the transfer of the Council's

housing stock to a resident-led Registered Provider which is constituted on the Community Gateway model.

- 1.5 Note the benefits to residents and the Council arising from the work of the Residents' Commission and the Strategic Housing Stock Options Appraisal and in particular the new Stock Condition Survey, the updating of the Housing Revenue Account Business Plan, and the significant improvement in the breadth and quality of resident involvement in on the development of services to tenants and leaseholders.

- 1.6 Note that the implementation of a stock transfer would be subject to consultation and a ballot of residents, the availability of funding and the negotiation of a satisfactory financial settlement, including on the overhanging debt, the consent of the Secretary of State, and a further decision by the Council itself to proceed.

#### **Application for Stock Transfer**

- 1.7 Authorise the Chief Executive, in consultation with the Cabinet Member for Housing, formally to apply to Communities and Local Government (DCLG) and the Greater London Authority (GLA) for approval to commence the preparation for a Large Scale Voluntary Transfer (LSVT) of the Council's housing stock.

- 1.8 Delegate to the Chief Executive the authority to hold discussions with DCLG and GLA in pursuance of the transfer proposal.

#### **Transforming Services and Increasing Resident Control**

- 1.9 Note that the Lead Directors for Housing are initiating a customer service improvement programme based on the Blueprint proposed by the Residents' Commission for the Housing Service and centred on the requirements of customers and increasing resident control over housing services. This programme will be developed in full consultation with residents and is the subject of another report on this Cabinet agenda (Transforming the customer experience of the Housing Service).

#### **New Structures for the Future of Housing**

- 1.10 Delegate to the Chief Executive, in consultation with the Cabinet Member for Housing, the authority to create a new organisation constituted as proposed by The Residents' Commission capable, subject to the agreement of tenants in a ballot, of receiving the transfer of the Council's housing stock.

- 1.11 Invite members of the Residents' Commission who wish to do so to form an Advisory Group to advise on the implementation and planning of Recommendation 2.10 above.

#### **Community Benefits, Corporate and Financial Implications**

- 1.12 Note the impact of the Chancellor's announcements in the July 2015 Summer Budget on the HRA Business Plan (and of the Housing Bill and the outcome of the Comprehensive Spending Review).

- 1.13 Note that there will be a corporate impact of a stock transfer; including an impact on the General Fund should it proceed and instruct Officers to report further on this in the report to the Cabinet Member for Housing in March 2016.

- 1.14 Note the potential implications for Council staff should a stock transfer proceed.

- 1.15 Agree an additional budget of £372,000 from the General Fund and £80,000 from the Housing Revenue Account which can be funded from underspends in the Housing Revenue Account and the carry forward of the predicted £245,000 underspend from the Residents' Commission budget for the initial work to develop the business case and the Offer for implementation of the proposals set out in this report for the pursuit of a Large Scale Voluntary Transfer and for a service transformation programme which will fund the programme until March 2016 at which point progress will be reviewed and formally reported to the Cabinet Member for Housing.
- 1.16 Delegate authority to the Cabinet Member for Housing to release a further £778,000 from the General Fund and £125,000 from the Housing Revenue Account to progress beyond the business case to finalise and seek DCLG/HCA consent to a detailed Offer during financial year 2016/17.
- 1.17 Delegate authority to the Cabinet Member for Housing to release up to £500,000 further funding from the General Fund in the event of any significant delays in decision making by the Department for Communities and Local Government.
- 1.18 Delegate authority to the Lead Directors for Housing in consultation with the Cabinet Member for Housing to exercise the option to extend the term of the following five contracts:
  - a) external Independent Tenants' and Leaseholders' Adviser, let to TPAS UK Ltd, to allow for further advice and independent support for tenants and leaseholders in the lead up to a ballot of residents.
  - b) external legal advice, let to Trowers & Hamlins LLP, to allow for further advice in developing the Business Case to be submitted to DCLG and the Offer Document in the lead up to a ballot of residents.
  - c) external property and surveying advice, let to Savills (UK) Ltd, to allow for further advice on the stock condition survey and specialist structural surveys, environmental surveys, periodic updates throughout the programme as required, rights to the data and analysis be available/assigned to any new organisation(s) and their advisers in the lead up to a ballot of residents.
  - d) external financial advice, let to Capita Property and Infrastructure Ltd, to allow for further advice in developing the Business Case to be submitted to DCLG and the Offer Document in the lead up to a ballot of residents.
  - e) external Communications and Consultation Adviser, let to SKV Communications Ltd, to allow for further advice in developing the Business Case to be submitted to DCLG and the Offer Document in the lead up to a ballot of residents.
- 1.19 Delegate authority to the Lead Directors for Housing in consultation with the Cabinet Member for Housing to procure as appropriate and award contracts for the provision of external advice required to progress the programme up to and including a ballot of residents.

## **2. REASONS FOR DECISION**

- 2.1 The Residents' Commission in conjunction with the Strategic Housing Stock Options Appraisal process has identified the transfer option as the most effective way to deliver sustainable housing for the future.
- 2.2 This report recommends that the Council accepts the Commission's recommendations in full and seeks authorisation for a programme of activity to further their implementation.
- 2.3 The technical appraisal carried out by external advisers and validated by officers supports the recommendations of the Residents' Commission.
- 2.4 The decision reflects corporate commitments to put residents at the heart of services, and build on the resident involvement networks that have been successfully expanded and developed over the last 18 months.
- 2.5 The decision will lead to further exploration of the options available to give greater powers to residents of the Council's housing estates across a broad range of areas to deliver the requirements of the Localism Act 2011 where the Council is committed to devolve more control to the community.
- 2.6 The decision will ensure that there is no detriment to tenants and leaseholders in service delivery in future years from the constraints of the financial outlook. A new Registered Provider would be able to both invest in the housing stock at levels that would not be viable if the stock were to be retained and also access funding to increase the provision of affordable housing within the Borough.

## **3. INTRODUCTION AND BACKGROUND**

### **History**

- 4.1. On 11 November 2014, the Economic Regeneration, Housing and the Arts Policy and Accountability Committee resolved "*to request the Administration to establish a Residents' Commission on Council Housing to consider the options for empowering residents to take local control over their homes and for maximising investment in existing and new council homes.*"
- 4.2. The Council decided on 1 December 2014 to undertake the Strategic Housing Stock Options Appraisal process which would examine the long-term future housing investment needs of its housing stock. In addition to that, the Council agreed to establish a Residents' Commission with an independent chair and 12 members whose membership would have a resident majority. The remit of the Commission was "*to consider the best options for the future of social housing in the borough.*"
- 4.3. The Commission was established in February 2015. It has overseen the production of a technical options appraisal report (Annex B) and receiving evidence through public hearings, evidence gathering visits, closed deliberation meetings, training workshops and receiving reports of the stock condition survey and financial appraisal. The Commission has now considered both the technical report's appraisal information and their own findings. As part of the Commission's process, they received advice from an independent tenants' and leaseholders' adviser (ITLA); legal and other experts to help inform their deliberations and process.

- 4.4. On 3 November 2015, the Commission presented their recommendation to the Economic Regeneration, Housing and the Arts Policy and Accountability Committee for a full stock transfer to a resident-led Registered Provider which is constituted on the Community Gateway Association model as detailed in their report (Annex A). The Commission's decision was based on a comprehensive appraisal of options for the future financing, ownership and management of the Council's homes. Following questions from the Committee and residents, the Cabinet Member for Housing requested officers to consider the implications of the recommendations and formally report to Cabinet for decision at the earliest opportunity.

**Government policy announcements (Chancellor of the Exchequer's Summer Budget 2015, Welfare Reform and Work Bill, Housing & Planning Bill)**

- 4.5. The Government has adopted a new policy position on social housing and welfare benefits following the Chancellor's Summer Budget 2015 and the proposals outlined in the draft Welfare Reform and Work Bill published in July 2015 and draft Housing & Planning Bill published in October 2015. Among the announcements were the following: -
- a) Reduce social sector rents by 1% each year for 4 years from 2016-17;
  - b) Freeze working-age benefits, tax credits and Local Housing Allowances for 4 years from 2016-17;
  - c) Reduce the Overall Benefit Cap to £23,000 in London and continue the introduction of Universal Credit;
  - d) End automatic entitlement to Housing Benefit for 18-21 year olds;
  - e) Pay to Stay: higher income (>£40,000) social housing tenants to pay up to market rents; and
  - f) Forced sale of higher value council voids.
- 4.6. As detailed in the Financial Adviser report attached at Annex D, the Government has now taken control of rent setting and is legislating to force all social housing rents to reduce by 1% each year over the next four years, meaning the Council will receive £24 million less income over the next four years alone to invest in maintaining and improving homes and estates. The Government seeks to reduce welfare spending by reducing the housing benefit paid for social housing however this rent reduction will force the Council to significantly delay investment in capital works to homes and estates of at least £67 million over that period. This will have knock-on effects for the condition, subsequent viability and availability of the property. Whichever option the Council decides for the future of its housing stock, rents will be similar though there is an opportunity for more investment and new homes from the stock transfer option.
- 4.7. There is no confirmation in the draft Housing and Planning Bill that local authorities will be allowed to retain receipts sufficient to replace the void homes sold, as the money raised is to be used to fund the extension of the Right to Buy to housing association landlords. As such, there is currently no proposal to force housing association to sell empty properties. This would appear to point to a further advantage of transfer, though the



Secretary of State would have the power, if he chose to apply the void sale requirement to the transferee landlord. This is reinforced by the proposals on “Pay to Stay”, in which the Council would be required to pay the additional income back to the Government while a transferee landlord would be allowed to keep it.

#### **Technical 2015 Strategic Housing Stock Options Appraisal report**

- 4.8. The technical 2015 Strategic Housing Stock Options Appraisal report (Annex B) draws together the current local profile of the borough and its housing stock; ascertains the condition of the stock and how much investment is required to improve and maintain homes and estates. Then details what models of ownership and management – basically stock retention by the Council or stock transfer to a new organisation – need to be considered to secure the investment needed as the basis for the Residents’ Commission to make their recommendation.

#### **Stock Condition Survey report**

- 4.9. A warrantable stock condition survey was commissioned with Savills (UK) Ltd. to assess the current condition of the Council’s housing stock and how much investment is required to maintain and improve homes and estates over a 40-year period. The sample, with +/-4% statistical accuracy, looked at 11.6% of tenanted properties (totalling 1,362 properties), communal areas and various related assets that exist within the stock such as: garages, un-adopted areas, shops, commercial units, hostel and support schemes (The Savills’ Stock Condition Survey report is attached at Annex C).
- 4.10. Overall, the condition of the stock is on average good, partly because of the Decent Homes investment undertaken and stock investment since. However it needs significant investment now and in the future to improve and maintain its condition. Over a 40 year period, the investment needs of the stock have been identified as approximately £1.4 billion. This has had a considerable impact upon the recommendation to retain the stock or transfer to a new organisation.
- 4.11. Specialist structural surveys were also conducted by Curtins Consulting Ltd., a sub-contractor to Savills (UK) Ltd., on a sample of high-rise and low-rise blocks to confirm their structural integrity. Given that this was a sample survey, further detailed investigation is required into the level and type of investment required in the future. A provision has been included within the Stock Condition Survey in the interim.

#### **Financial Appraisal report**

- 4.12. A comprehensive financial appraisal was commissioned with Capita Property & Infrastructure Ltd. to validate the existing HRA Business Plan and develop retention and transfer models (the Capita Financial Appraisal report is attached at Annex D).
- 4.13. The report details that the Council had a sound Housing Revenue Account (HRA) 40 year Business Plan approved on 5 January 2015 that could deliver the investment in existing homes to maintain them to a Minimum Letting Standard. However, the changes announced by Government in the Summer Budget 2015 have had a major impact on the position of the HRA. The announcements mean the Council’s present HRA investment plans can no longer be funded at their present levels and some of the

necessary major works will have to be re-phased for a later period, scaled down or cancelled altogether. The extent of this investment shortfall is estimated to be at least £67 million over ten years. Consequently, the Council's retention of the housing stock under the current HRA business plan is not a practical option.

- 4.14. The investment position would still be challenging after stock transfer, however, greater investment could be delivered with greater certainty and it would be under greater local control. A stock transfer would see the new resident-led landlord assuming greater control over the investment programme in the existing stock, offering greater opportunities for provision of more affordable housing in the borough and developing the local economy through creation of employment opportunities.
- 4.15. A key advantage of the stock transfer option would be protecting the standard of the investment programme for all homes in the borough, including that achieved by the ALMO up to 2011 as well as safeguarding the estates, maintaining security and affordable rents and giving residents control. If the Council proceed with a potential stock transfer, the Council will need to seek Government support to write-off £208 million of debt plus associated early repayment premia. To do this, the Council will need to demonstrate that the transfer will provide a range of economic, financial and social benefits.

#### **Independent Tenants' and Leaseholders' Adviser (ITLA) report**

- 4.16. In accordance with best practice, an ITLA was appointed by residents with the support of officers to act as independent advocates of the options appraisal process. TPAS UK Ltd. report noted that the process the Council has followed has been a robust and transparent one, with examples of good and best practice evident within some elements of the programme. The elements of good practice are the empowerment of tenants and leaseholders by their appointment to the Residents' Commission and best practice is demonstrated by the transparency of the process in particular the filming of the public hearings and the creation of transcripts of the public hearings which were all available to view and download from the Residents' Commission's independent website which received over 19,000 hits.
- 4.17. The ITLA reported that in the latter stages of the programme, the tenants and leaseholders' awareness increased and at the conclusion of the programme, evidence from the sample opinion survey of tenants and leaseholders' conducted by TPAS suggested that 34% of tenants and leaseholders' were aware of the Residents' Commission programme.
- 4.18. From results of the sample opinion survey, created by the Residents' Commission, and carried out by TPAS, it is clear that the satisfaction levels amongst tenants and leaseholders about their location (78%), and the quality of their home (58%) are comparatively high. Tenants and leaseholders were particularly satisfied about the location of their homes, with the proximity to transport links and shops, a clear advantage. The feedback regarding the quality of their immediate neighbourhood (48%) and housing service (51%) is reasonable, but not as good as high performance benchmarks of other social landlords in London. Further detail is provided in their report at Annex E.

## **Summary of Residents' Commission findings**

4.19. The Commission's recommendations are as follows:

- a) That the Council should take the immediate necessary steps to prepare for a large scale voluntary transfer of its stock of council homes<sup>2</sup> to a new organisation that would be a locally-based Registered Provider with a constitution based on the 'community gateway' model.
- b) That the Council should draw up a timetable setting out a programme of actions to achieve the transfer of ownership to the new organisation subject to the outcome of a formal ballot of council tenants.
- c) That the Council should draw up a programme of engagement with tenants and leaseholders living in council homes to ensure first, that they receive full and prompt information about the proposed transfer and the programme leading up to it, second, that they have every opportunity to get involved in preparations for the transfer including discussions about the constitution of the new organisation and the 'offer' to residents and third, that they are in a position to make an informed choice if and when asked to vote on the proposal.
- d) That the Council should enter into discussions with the GLA, DCLG and HM Treasury to establish the terms on which its transfer application might be approved.
- e) That the Council should at an early stage make arrangements for the establishment of a 'shadow' Board for the proposed new organisation to ensure that its legal structure of membership and governance, its identity and values, financial viability, business plan, operational model and communications strategy can be given clear direction.
- f) That the Council should carry out a study of opportunities to deliver new homes and community-led regeneration that will provide resources to support the business plan of the new organisation while simultaneously helping to meet the aims of the Council's Housing Strategy and local residents' aspirations.
- g) That the Council should initiate a programme of improvement and transformation for housing services guided by the principles developed by the Commission as a 'Blueprint' for a new housing organisation.

## **5. THE OPTIONS**

5.1. The options are detailed in the technical 2015 Strategic Housing Stock Options Appraisal report attached at Annex B.

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<sup>2</sup> This does not include homes on the West Kensington and Gibbs Green estates that are sold to Capital & Counties PLC (Capco).

## 6. PROPOSAL

### Accepting the Commission's Recommendation

- 6.1. The Residents' Commission has made a recommendation *"that the Council should take the immediate necessary steps to prepare for a large scale voluntary transfer of its stock of council homes<sup>3</sup> to a new organisation that would be a Registered Provider with a constitution based on the 'community gateway' model."* It is proposed that the Council accepts this and other recommendations in full.
- 6.2. The Council now faces a major challenge in relation to the long-term viability of its HRA, and the full implications of the Summer Budget proposals and other recent legislative changes are not yet known. There is considerable pressure for additional affordable housing. The residents' survey conducted by the Residents' Commission found that 79% of residents surveyed want more control over decision-making and that there is a desire from residents for more local self-determination in the management of their homes and the development of services.
- 6.3. The options appraisal considered the condition of the stock and its investment needs in the context of the projected levels of income and the impact of the debt cap. It was concluded that should the council continue to be the landlord and own the homes, then over the next 10 years: -
  - a) There will be a shortfall of at least £67 million and the Council will not be able 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.
  - b) Further efficiencies will be required to balance the HRA business plan, to maximise revenue contributions to capital investment and reduce the investment gap.
  - c) 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.
- 6.4. The council has prioritised investment into sustainable housing stock by achieving efficiency savings and securing savings from procurement exercises. Despite this, 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 case for pursuing stock transfer to a not-for-profit Registered Provider that would not be subject to the same financial restrictions as the council.
- 6.5. The transfer proposals mean that ownership of the Council's homes would transfer to a new locally-based, not-for-profit Registered Provider, who would become the landlord in their own right. The Commission selected transfer as their preferred option because this could achieve a number of benefits including:

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<sup>3</sup> This does not include homes on the West Kensington and Gibbs Green estates that are sold to Capital & Counties PLC (Capco).

- a) Enabling the new landlord to invest in homes and neighbourhoods when it is required avoiding the deferral and delay of works that might occur if the Council retains ownership of the stock.
- b) Delivering a solution that means that all homes owned by the new Landlord across the borough would be in the ownership of an organisation whose constitution would preserve resident control.
- c) Joining social housing services up across the borough, the new landlord would be a Registered Provider making the homes and estates more consistent with other RPs.
- d) Enabling residents to be fully involved in the decision-making of the organisation.
- e) Generating economic growth through the construction of new homes.
- f) Enabling more capital receipts and resources from sales to be kept locally.

### **Application for Stock Transfer and the Process**

- 6.6. The decision to transfer its housing stock lies not entirely with the Council. Tenants would need to be consulted and then their final view ascertained by a formal ballot. Additionally, Secretary of State's consent will also be required.
- 6.7. The recommendation in this report is therefore that the Council should begin producing a business case and an offer document for initial discussion with and approval by DCLG as a basis of consulting with its tenants on stock transfer leading up to a ballot. If the ballot result is positive, then a fully informed decision to transfer could be made. The process could be halted at any time if it became clear that a transfer could not be achieved.
- 6.8. A key consideration for the Government will be delivery of new affordable housing. To that end, the new landlord may consider options that include a mixture of cross-subsidy from market housing to affordable housing and some regeneration. However, the report of the Commission makes it clear that this would only be at the instigation of residents themselves via their control of the new landlord. The Commission's report suggests that an initial aim would be to build at least 500 new homes on what is currently HRA land.
- 6.9. 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.
- 6.10. The Secretary of State will not grant consent 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 before transfer can proceed. Government approval of the process would be required to allow the Council to access the overhanging debt write off it requires.
- 6.11. The Council will need to request the Government to write off a substantial amount of its housing debt, estimated to be £208 million plus debt premia. 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 will expect to see evidence of this in the Council's application to transfer its homes.

- 6.12. The Council can only submit its application to transfer its homes once a new Housing Transfer Manual for transfers beyond March 2016 is published. Officers are aware that a number of other local authorities are currently assessing the case for stock transfer of their homes at this time including Barnet Council, whose stock is currently managed by an ALMO, Barnet Homes Ltd. Officers anticipate the Government will issue a Housing Transfer Manual and the Council will need to be in a position to submit an application for the Transfer Programme immediately.
- 6.13. 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 the new landlord is registered with the Homes & Communities Agency (HCA). 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 following the ballot. The HCA registration process cannot begin however until permission has been granted to start the consultation process. To meet the timescales, work would need to commence before the outcome of the ballot is known, but this is now common practice.

#### **Transforming Services, Increasing Resident Control & New Structures for the Future of Housing**

- 6.14. The Residents' Commission made a recommendation "*that the Council should initiate a programme of improvement and transformation for housing services guided by the principles developed by the Commission as a 'Blueprint' for a new housing organisation.*" It is proposed that this recommendation be accepted.
- 6.15. The Housing Service is currently scoping a customer service improvement programme to capture, progress and monitor all service improvement projects across the service.
- 6.16. A Programme Board made up of the Housing Directors will help the Housing Service to identify workstream and project priorities for effective decision making. As well as improving the co-ordination of existing improvement work, this programme will also be a vehicle through which to channel useful ideas and insights for service improvement that come from residents and council officers in a structured manner. The programme will help to form a culture of continuous improvement and performance management to improve and transform housing services for residents.
- 6.17. Funding is likely to be required to resource project management expertise to deliver the improvement projects and/or specific skills required to meet the needs of the Housing Service following a review of the customer service improvement programme and agreed strategic priorities subject to another report on this Cabinet agenda (Transforming the customer experience of the Housing Service). This programme of review and transformation will need to ensure that integration between Housing and other services, for example Adults' Services, is maintained and enhanced.

#### **Community Benefits, Corporate and Financial Implications**

- 6.18. This report proposes that the transfer of the Council's homes to a new landlord would greatly benefit existing tenants and leaseholders. However,

there are also a number of significant benefits which would accrue to the community as a whole.

- 6.19. The building of new affordable homes would be of benefit to those residents of the borough who are in housing need now or in the future but who are not currently residents of council homes. This development will be sustainable by the new landlord as they will have access to private funding and development will be planned and led by residents.
- 6.20. The shortage of affordable homes means that the Council, through its General Fund, is forced to incur significant and growing costs in providing temporary accommodation for homeless households that it would not need to incur if more, permanent affordable homes were available after a transfer. To illustrate the financial effect of this, the average annual net cost to the General Fund of keeping a family in a bed and breakfast hotel is £10,000.
- 6.21. It is likely that some at least of the new homes provided would be for sale or part-sale. This would meet the aspirations of borough residents who are not council tenants but who would not otherwise have the opportunity to buy their own home.
- 6.22. It is clear from the report of the Residents' Commission that investment in existing council homes cannot be sustained at an adequate level if the Council retains ownership. This would lead eventually to an effective loss of the current quantum of good quality affordable housing in the borough and hence deprive homeless households and people in housing need in the community at large of the opportunity to access an affordable home.
- 6.23. The new landlord would also have the opportunity to retain Right to Buy receipts in the borough ring-fenced to fund replacement homes and thereby have more sources of funding to build new homes. The building of new homes and sustaining the current stock of council homes in good condition will have important knock on benefits for residents and will support lower paid service work, which is essential to sustain the local economy. There is clear evidence that having access to suitable accommodation which is affordable has beneficial effects on the health (including mental health) of occupants, upon educational attainment and upon success in gaining and keeping employment. Conversely, the lack of such accommodation acts as a barrier to a good quality of life, with associated costs to the council tax payer and to the public purse as a whole.
- 6.24. The creation of a new social landlord in the borough on the model proposed free of some of the restrictions placed on the local authority, will have a number of direct benefits for the community, including the creation of local job opportunities, support for the voluntary sector and the building of community cohesion and social inclusion.
- 6.25. A significant factor for the council of a stock transfer will be the future of activities currently performed by the council on behalf of the HRA, for which the latter pays the general fund a recharge. The recharges of around £6.5 million of central support costs and SLAs from the HRA to the General Fund cover the provision of services including: Corporate finance and treasury management, ICT, HR, Corporate and Commercial Property,

Legal Services, Communications and Democratic Services, some of which are shared services.

- 6.26. A preliminary corporate impact assessment has been produced detailing the implications of transfer and it is unlikely that many of the council's staff providing these services to the HRA will qualify for Transfer of Undertakings and Protection of Employment (TUPE) and therefore transfer to a new landlord. This is because the majority of the staff in these services do not dedicate 50% or more of their time to providing services to the council's Housing Service. Back office functions that do not move to the new landlord through TUPE will face one of two options. If the new landlord does not want to procure these services from the council, they would need to be reduced within the council to reflect the lower level of activity following the transfer of the HRA. Or, the functions can continue to be performed by the council for the new landlord in return for payment—much as the council does for some schools that left local authority control to become academies. It is likely that a combination of both these eventualities would occur. Contracts have been assumed to novate directly to the new landlord in the event of transfer however this will be confirmed in the detailed corporate impact assessment in the New Year. Other areas of financial implications such as unfunded pension costs will be considered as part of the detailed Corporate Impact Assessment that would be conducted early in 2016.
- 6.27. At the outset of the Strategic Housing Stock Options Appraisal a programme budget of £1.5 million was identified within the General Fund Reserves. Upon completion of this first phase there is a forecast underspend of £245,000.
- 6.28. After carrying forward the predicted underspend, an additional budget of £372,000 from the General Fund and £80,000 from the Housing Revenue Account to 31st March 2016 will be required to develop the business case and Offer, at which point progress will be reviewed and formally reported to the Cabinet Member for Housing. The report then asks for authority to be delegated to the Cabinet Member for Housing to release a further £778,000 from the General Fund and £125,000 from the Housing Revenue Account to progress beyond the business case to finalise and seek DCLG/HCA consent to a detailed Offer during financial year 2016/17.
- 6.29. If there are significant delays in decision-making within DCLG, it is possible that up to an additional £500,000 may be required.
- 6.30. The Council will need to consider projected costs to the General Fund within the context of potential economic benefits to the borough arising from stock transfer detailed in paragraphs 6.18 to 6.24.
- 6.31. The Financial Appraisal has identified that a stock transfer would likely offer more affordable housing for the borough, reduced homelessness costs for the council and improved opportunities for residents and businesses in the borough.
- 6.32. It is also important to note that upon transfer, a residual retained HRA for West Kensington & Gibbs Green Estates would remain preventing closure of the HRA (which is normally expected following transfer), even though the Estates are sold and therefore any reserves would not accrue to the Council's General Fund. The opening HRA reserve balance as at 1 April



2015 was £13.17 million and current modelling shows that by April 2017 this could be around £11.5 million.

- 6.33. Expert advice will be required to support the development of the business case and Offer; contracts for the Strategic Housing Stock Options Appraisal included a provision for extensions to allow continuity of advice should stock transfer be recommended. Contracts were let for legal, financial, communications, property and independent residents' advisers. It is therefore necessary to seek to extend the external advisers' contracts for the next stage or to reprocure such advice should contract extensions not be agreed with incumbent advisers.

## **7. COMMUNICATION & ENGAGEMENT**

- 7.1. The formal communication and engagement with tenants and leaseholders commenced in January 2015 with the Cabinet Member for Housing writing to residents explaining the establishment of the Residents' Commission and inviting residents to apply for represent their community on the Commission.
- 7.2. The communication methods were comprehensive, enabling people to receive information and respond in a variety of ways including via the Council's website, the Commission's dedicated website, email, telephone or postal returns. Information about the Commission and SHSOA was provided through monthly newsletters, face-to-face contact opportunities for established resident groups, tenant and leaseholder conferences, estate visits, sheltered housing coffee mornings and monthly briefings for staff across all housing offices.
- 7.3. The engagement programme also invited residents and other stakeholders to express their views on current service provision and their top service priorities. This information will be taken into account in future service design and in identifying priority areas of focus by the customer service improvement programme.
- 7.4. From a low base, there have been major gains in resident involvement and knowledge because of the work of the Commission and parallel work by staff. A Residents' Survey indicates that residents love living in Hammersmith & Fulham and are generally content with their homes. Residents think the Housing Service is "OK" but could be greatly improved and there is some support for regeneration as long as it is resident-led. Noting the low base of resident engagement and awareness at the outset, which has now increased to 35%. There have also been 19,000 hits on the Housing Commissions website indicating a high level of interest in its work. There is however still more work to do in relation to engaging with residents going forward.

## **8. EQUALITY IMPLICATIONS**

- 8.1. The Council needs to consider the impacts on residents when shaping future housing policy particularly the specific impacts on those residents belonging to protected groups under the Equalities Act 2010.
- 8.2. Approval of the Residents' Commission recommendation for transferring the Council's housing stock requires the Council to undertake a full and

comprehensive consultation with all secure and introductory tenants of the Council. This consultation will lead to a ballot of all secure Council tenants and will therefore cover those from the protected groups.

- 8.3. Stock transfer could offer more affordable housing and reduced homelessness through the ability to invest in new and existing homes without the encumbrance of the HRA debt cap. Greater financial freedom and flexibility and the ability to secure specialist expertise on the Board of the new organisation would provide greater local business trading opportunities and better opportunities for local communities through improved health and wellbeing as well as increased skills and employment training that the retention option would not be able to fund.
- 8.4. Further reports to be presented to Cabinet will include a full Equality Impact Assessment assessing impacts of the recommended option on those protected groups informed by the results of the comprehensive consultation.
- 8.5. Implications completed by: David Bennett, Head of Change Delivery (Acting), Innovation and Change Management, Finance and Corporate Services, 020 8753 1628.

## **9. LEGAL IMPLICATIONS**

- 9.1. The Housing Transfer Manual for the period to 31 March 2016 (“the Manual”) from the Department for Communities and Local Government (“DCLG”), the Homes and Communities Agency (“HCA”) and the Greater London Authority (“GLA”) provides useful guidance on the requirements for a Large Scale Voluntary Transfer (“LSVT”).
- 9.2. The first stage of a LSVT involves agreeing a business case for transfer followed by complying with requirements of the Manual and also the statutory guidance on consultation with tenants.

### **The Current Housing Transfer Manual**

- 9.3. The current Manual will not be applicable after 31 March 2016. The new manual will set the basis on which the DCLG and the GLA expects a housing transfer process to be conducted and the criteria by which an application for debt write-off (including the payment of redemption premia) and also for consent to transfer will be assessed. The current legal implications, therefore, consider the criterion to be applied under the current Manual.

### **Consent**

- 9.4. The Secretary of State must give consent to the Council under sections 32 - 43 of the Housing Act 1985 before the Council can transfer its stock. The criteria for consent is set out in section 7.2 of the Manual and comprises of the following:
  - (i) That the local authority’s consultation exercise has been adequate;
  - (ii) That the majority of secure and introductory tenants voting in the ballot are in favour of transfer;
  - (iii) That the acquiring landlord is registered with the Regulator;
  - (iv) That the acquiring landlord is independent of the Council;

- (v) That, where Government support for debt write-off is sought, the transfer is on the same basis as previously approved at application stage or following amendments subsequently agreed;
- (vi) That the terms of the transfer are acceptable;
- (vii) That the local authority will be able to fulfil its statutory obligations under the Housing Act 1996 and has adequate nomination rights.

9.5 In addition to consent under Section 32 - 43 of the Housing Act 1985 the Council will need to secure ancillary consents under Sections 25 of the Local Government Act 1988 and Section 133 of the Housing Act 1988.

### **Consultation**

9.6 Schedule 3A of the Housing Act 1985 (as amended by the Housing and Regeneration Act 2008) makes a ballot of the Council's affected secure and introductory tenants mandatory. The form of consultation is stipulated in the Manual and is also the subject of statutory guidance. In summary, the requirements are that:

- (i) the material must present an "accurate picture" about the proposed transfer and the implications of staying with the Council;
- (ii) Tenants must have the information needed to express a fully informed opinion; and
- (iii) the Council must not seek to persuade tenants to vote one way or the other.

9.7 Stage 1 of the consultation requires the Secretary of State to give its consent to the Council proceeding (i.e. the circulation of the formal offer document). Stage 2 involves any changes arising from the consultation during stage 1, followed by a ballot on the proposals.

9.8 The ballot is determined by a simple majority of those voting. Tenants also have the right to make representations to the Secretary of State. The Secretary of State will not give his consent if a majority of affected tenants are opposed to the proposal as well as on other grounds.

### **Leaseholders**

9.9 There are no express statutory requirements to consult leaseholders, but the statutory guidance provides that leaseholders should be kept informed and told that they may make objections to the Secretary of State who will take those objections into account when considering the Council's application for consent to transfer. It is common practice though to consult leaseholders fully about stock transfer and include them in a Test of Opinion.

9.10 The new landlord is required, legally, to comply with the terms of the leases granted when the right to buy was exercised. There is currently a requirement that service charges relating to works facilitated by the transfer are capped at £15,000 in any five year period following transfer.

### **Tenancy rights**

9.11 Secure tenancies are converted into assured tenancies (under the Housing Act 1988) as an automatic consequence of transfer. Tenants are given similar tenancy rights to those enjoyed by secure and introductory tenants.

### **Right to Buy**

- 9.12 The Right to Buy is preserved by statute when stock transfer takes place. There are minor differences between the Right to Buy regime which applies to secure and introductory tenants and the Preserved Right to Buy which applies to transferring tenants.

### **TUPE (and pensions)**

- 9.13 In the event of stock transfer, relevant Council staff will transfer to the new landlord under the Transfer of Undertakings (Protection of Employment) Regulations (TUPE).
- 9.14 The new landlord can be expected to be admitted to the Local Government Pension Scheme (LGPS) with the effect that transferring staff will continue to be members of the LGPS.

### **Registration of the new landlord**

- 9.15 The new landlord must be registered with the HCA as a private registered provider. The new landlord must satisfy the HCA's Regulatory Framework requirements and its criteria for Registration as a Provider of Social Housing. The Manual and the Registration criteria focus in particular on independence of the new landlord and limits the constitutional involvement of the Council in the new landlord.
- 9.16 The new landlord can adopt the CGA form of constitution or a variant thereof. The CGA model is designed to involve and empower tenants, including arrangements for the devolution of at least management (if not ownership).
- 9.17 CGA principles may be embodied in either a company limited by guarantee or Community Benefit Society form of constitution. The transfer agreement between the Council and the new landlord can provide for the Council's entitlement to any places on the board. The HCA will expect those places to be no more than one third of the total.
- 9.18 Implications completed by: Tazafar Asghar, Barrister - Senior Lawyer (Housing & Litigation), 020 8753 2724.
- 9.19 It is noted that the proposed extensions are permitted within the terms of the five aforementioned contracts. In relation to any new procurement exercise, the Council should conduct this in accordance with the Public Contracts Regulations 2015 and the Council's Contract Standing Orders.
- 9.20 Implications completed by: Kar-Yee Chan, Solicitor (Contracts), Shared Legal Services, 020 8753 2772.

## **10. FINANCIAL AND RESOURCES IMPLICATIONS**

- 10.1. The report recommends, in the light of the Strategic Housing Stock Options Appraisal and the report of the Residents' Commission, that the Council should pursue the transfer of the Council's housing stock to a resident-led Registered Provider which is constituted on the Community Gateway model. The report also asks Members to note that any stock transfer would be subject to consultation and a ballot of residents, the availability of funding and the negotiation of a satisfactory financial settlement, including on the overhanging debt, the consent of the Secretary of State, and a further decision by the Council itself to proceed.
- 10.2. The report asks for an additional budget of £372,000 from the General Fund and £80,000 from the Housing Revenue Account to 31st March 2016

- after carrying forward the predicted £245,000 Residents' Commission underspend for the pursuit of a Large Scale Voluntary Transfer.
- 10.3. At this point progress will be reviewed and formally reported to the Cabinet Member for Housing. The report then asks for authority to be delegated to the Cabinet Member for Housing to release a further £778,000 from the General Fund and £125,000 from the Housing Revenue Account to progress beyond the business case to finalise and seek DCLG/HCA consent to a detailed Offer during financial year 2016/17.
  - 10.4. If there are significant delays in decision-making within DCLG, it is possible that up to an additional £500,000 may be required, the report delegates the release of this to the Cabinet Member for Housing.
  - 10.5 The £372,000 of additional funding required from the General Fund for the next phase of progressing the stock transfer will be funded from the Corporate Demands and Pressures reserve and the predicted £245,000 budget underspend from the Residents' Commission on Council Housing will be carried forward. The balance of the Corporate Demands and Pressures reserve was £10.8m at the start of 2015/16. The funding for the next phase from the HRA of £80,000 will come from under spends in the 2015/16 HRA budgets. Should the Cabinet Member for Housing review in March agree the release of the additional £778,000 from the General Fund and £125,000 from the Housing Revenue Account to progress beyond the business case to finalise and seek DCLG/HCA consent to a detailed Offer during financial year 2016/17 this will be funded from the same budgets.
  - 10.6 While some contingency amounts are included in the above budgets, with an undertaking of this size there is a significant risk that delay, especially that caused by factors outside of the Council's control, may result in additional costs being incurred at each stage. This risk diminishes as each stage of the programme is achieved, so for example the risk of stock transfer not being achieved is much lower after a positive ballot than before, the principal post ballot risk being that funding for the new organisation cannot be raised on the markets. This will require careful control of expenditure.
  - 10.7 The risk of a stock transfer not being achieved is high at this point for a number of reasons:
    - a) At the time of writing it is not clear if there is a budget for stock transfer in the Government's Comprehensive Spending Review due to be issued in late November or in any subsequent decision following the CSR. Stock transfers are in line with Government policy, however, so it would present a significant departure from current Government policy for there to be no further transfers;
    - b) Aside from the need for a budget, as with any proposed transfer there is a risk DCLG and HM Treasury may not accept that the benefits arising as a result of stock transfer in LBHF are sufficient to outweigh the cost to the public purse of writing off the overhanging debt and associated early repayment premia and consent to proceed to ballot may not be received;
  - 10.8 To manage these risks, spending will be staggered as set out in paragraphs 2.15 to 2.17 and constantly reviewed in light of Government policy and decisions.

- 10.9 As well as one-off costs the potential stock transfer also has on-going revenue implications for the council. These mainly arise from HRA contributions towards central support costs. Approximately £6.5m is currently charged to the HRA for services such as insurance, accommodation, ICT and human resources. Whilst some of these costs would transfer directly to the new organisation or continue to be provided for the new organisation in return for payment, it may be that other central costs will need to be reduced to reflect lower demand. All other contracts have been assumed to novate directly to the new landlord in the event of transfer however this will be confirmed in the detailed corporate impact assessment in the New Year.
- 10.10 It may be several years before the impact of the transfer on support services is fully realised. Nevertheless this potential impact is significant. It will need to be taken account of within the Council's future financial plans and the future design of back office functions such as IT.

**The current HRA business plan and what transfer may be able to deliver**

- 10.11 The Financial Appraisal Report from Capita at Annex D sets this out in detail. In summary:
- a) Without the Government's enforced 1% reduction in rents every year for the next four years a 40 year business plan which both balanced expenditure and income and delivered the needed investment in existing Council Homes could have been agreed. However this business plan would have required borrowing up to the debt cap of £254.617m, so there would for the next 10 years at least, be no capacity to borrow to develop new homes. The current plan is closer to the cap than the 2014/15 plan as a result of two factors:
    - i. Edith Summerskill House is now assumed to be developed 100% as social housing. This has resulted in the removal of a £12m capital receipt from the business plan.
    - ii. The first realisable capital receipt under the Conditional Land Sale Agreement for the West Kensington and Gibbs Green Estates has reduced from £18m to £4m as it is now believed that any initial phase would be smaller than previously predicted.
  - b) Even without the Government's 1% rent reduction the current HRA business plan is very sensitive to fluctuations in the income and costs associated with the Land Sale Agreement for the West Kensington and Gibbs Green Estates. Previously the business plan had sufficient headroom to be able to accommodate this but recent movements in both this project and Edith Summerskill House mean that this headroom has been utilised.
  - c) The imposition of the Government's 1% rent cut results in the average rent per property being over £17 less per week by 2019/20 than that assumed previously. This removes over £24m from the business plan in just the first 4 years. The rent reduction means that the Council will be unable to carry out the planned

repairs required to keep the homes in a decent lettable condition and there is a significant risk that homes will fall into disrepair.

- d) Selling properties to cover this gap is no longer practical as the Government is proposing to legislate to force councils to pay over capital sums that are calculated based on the assumption that high value empty Council homes are sold. In practice funding this will force the Council to sell some empty homes and result in a diminishing stock of social housing, which is likely to decrease the homes available for people who are homeless and increase costs in the General Fund. This forced sale means that there is unlikely to be capacity to make additional sales to fund the gap in the business plan. The sale of potential development sites for new homes is not normally practicable as the majority of these are embedded within existing estates. However Officers will continue to actively seek out other options to raise capital funding to close the gap including reviewing existing contracts.
- e) The stock transfer organisation business plan for the new potential organisation shows that with a 75% VAT shelter in place a viable business plan can be produced that enables all the required investment in existing homes to be undertaken. We understand from our advisors that under current market conditions it is likely that funding for the new organisation could be raised.
- f) However stock transfer would require Government to write off circa £208m of housing debt and the associated early repayment premia currently estimated at £72m to enable the transfer. This would be reliant on LBHF being able to demonstrate benefits arising as a result of transfer to the value of at least this amount and on there being a stock transfer programme of sufficient scale included in the comprehensive spending review.
- g) The new organisation would be able to build new homes by raising additional funding facilities as its borrowing ability would be constrained by the markets and not by the HRA debt cap. If stock is retained within the Council the ability to build new homes would be severely limited by the HRA debt cap.
- h) The Council is prevented as a result of the Conditional Land Sale Agreement from transferring the West Kensington and Gibbs Green Estates to any new Community based organisation but would be able to transfer the replacement homes received at a later date. This means that the Council will continue to run a HRA. This will mean that HRA reserves would not be available to the General Fund.
- i) As set out above, if a stock transfer occurs, services provided by the council to the HRA will need to be reshaped if the new Landlord does not continue to procure them, otherwise there could be a loss to the general fund arising from a reduction of economies of scale in the back office.
- j) It is important to note that the numbers will continue to move as the Council works through the process.

## **VAT Implications**

- 10.12 In the event of an HRA stock transfer a significant amount of the Council's 'VATable' expenditure would also transfer. This would see a reduction in the Council's input tax (i.e. the VAT incurred on VATable expenditure). While this may sound like a benefit, in practice, because the Council is able to reclaim its VAT, there is no direct benefit to the Council from reducing its input tax. There is however likely to be an adverse impact on the Council's Partial Exemption position. This is because the level of Input Tax determines the "Partial Exemption threshold".
- 10.13 Special provisions exist for Local Authorities to be able to reclaim VAT incurred on VAT-exempt activities, providing this does not exceed 5% of the overall level of input tax. This calculation forms the Partial Exemption threshold. If this threshold is breached all VAT incurred on exempt supplies becomes payable (i.e. both that incurred below and above the threshold). A breach would cost the Council at least £2m, so the Council monitors its position very closely to prevent this occurring.
- 10.14 Currently the HRA incurs between £80-90m of expenditure (both capital and revenue), annually, which is subject to input tax. This equates to about £16m of input tax each year which, in-turn, represents approximately a third of the Council's overall input tax for an average year. On this basis, in the HRA were to transfer, the Partial Exemption threshold would be reduced by a third. This would likely require strict tax management moving forwards (opting to tax all relevant capital projects for example) and may affect some exempt activities.
- 10.15 Implications completed by: Kathleen Corbett, Lead Director for Housing & Director of Finance & Resources, 020 8753 4023.

## **11 RISK MANAGEMENT**

- 11.1 Now that the Strategic Housing Stock Options Appraisal has been completed and a recommendation made for the future of housing; the Council will now be embarking upon a large scale programme that will need to be referenced as a scheme in the Corporate Shared Services Risk Register. Any large scale programme should be referenced in that register in order that both Business Board and Councillors are able to determine the level of risk at any time as the programme develops. A well-defined approach to risk management must be developed and maintained throughout. Governance rules for risk management should be established early on to enable easy identification and escalation of significant risks for decision and early mitigation. The Housing Service remains responsible for the identification, management and reporting of risks for their service area. A risk management system operates in the service that reviews risks periodically at management team level, a programme of this nature should be included in that reporting system and inform services or departments where emerging programme risks may impact on their areas.
- 11.2 There are number of risks inherent in the next stage of an application for stock transfer, which include:
- a) The council's proposal to transfer the housing stock is rejected by the Government on the basis of value for money.
  - b) The council's proposal to transfer the housing stock is rejected by tenants at a ballot.



- c) 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 under investment becomes more prolonged and the council is unable to achieve its ambitions for improving the communities in Hammersmith & Fulham.
- 11.3 The council can undertake a series of actions to mitigate against these risk and reduce their likelihood. These actions include:
  - a) Observe the guidelines set out in the recent Housing Transfer Manual<sup>4</sup> and continue to work with the DCLG and the GLA when submitting an application for stock transfer.
  - b) Ensure a gateway review for progress is conducted in March 2016 with delegated decision to the Offer with the Cabinet Member for Housing following the development of the business case and detailed corporate impact assessment.
  - c) Provide a gateway for approving further funds for the consultation and ballot by Cabinet at the point of seeking approval to consult on the Offer.
  - d) Revise the already developed comprehensive communications and consultation strategy for pursuing stock transfer to explain the role of the council; the transfer option; offers and implications for all stakeholders.
- 11.4 The Council's Strategic Risk Register will in future require modification to note the scheme however the report proposals are to seek approval to develop a business case and establish the structures necessary for a transition.
- 11.5 The identification and management of risk will be critical to the success of the programme. A structured and auditable process for the benefit of the London Borough of Hammersmith & Fulham and all others involved with the programme which is dedicated to identifying, appreciating, controlling and mitigating risks concerned with the development of the transfer business case and the successful implementation.
- 11.6 The risk management process will be carried over from the SHSOA stage and maintained in conjunction with the Shared Services Risk Manager to be proactive and can make significant contributions to the manner in which the programme is managed and delivered.
- 11.7 Risk management is a practical aid to the programme team. It cannot, and is not intended to, supplant intuitive programme management. It adds structure to the team's appreciation of risks, provides assurance, which all parties can understand and agree to. It enables decisions to be validated.
- 11.8 Risk management will continue to be applied by the Programme Team in conjunction with the Shared Services Risk Manager to the full process of implementation at all stages of the programme. It has the greatest potential to mitigate risks when deployed early as in the case of the SHSOA, well in advance of the circumstances, which might give rise to risks. Assessment of risk takes into account contractual, commercial,

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<sup>4</sup> Housing transfer manual: period to 31 March 2016, DCLG, 14 July 2014

safety, environmental and quality issues. The specific assessment and management of safety risks is dealt with separately in this report.

- 11.9 It is recognised within the risks that are encountered at three overlapping levels:
- a) Strategic level;
  - b) Change; including programme (or objective) level; and
  - c) Business as usual.
- 11.10 Financial analysis and the outcomes of the consultation will identify and underline some clear risks for the Council when moving into the next phase of its Strategic Housing Stock Options Programme.
- 11.11 The Council will undertake a series of actions to identify risks, plan and allocate measures to mitigate against these risks and reduce their likelihood. These measures include:
- a) The comprehensive communications and consultation strategy should be projected over a two-year timeframe and its central aim should be the achievement of a ballot result based on full information.
  - b) Work with stakeholders to complete a transparent review of the costs associated with a variety of self-financing arrangements. The investigation should also consider the programme objectives of the SHSOA; local service delivery; and efficiency savings and a whole stock solution.
  - c) Further develop robust governance arrangements for assurance purposes and risk reporting that will include consideration for Information Management, Technological, Continuity of Service, Counter Fraud, Human Resource, Customer/Citizen, Finance and Legal risks throughout as is consistent with the Council's Risk Management Strategy.
- 11.12 Any significant change in the delivery methodology of the Council's services will be subject to careful and detailed management to avoid or minimise adverse implications for the Council's General Fund.
- 11.13 Risks associated with pursuing stock transfer remain the responsibility of the Housing Service who hold their own risk registers and are monitored periodically.
- 11.14 Implications completed by: Michael Sloniowski, Shared Services Risk Manager, Finance and Corporate Services, 020 8753 2587.

## **12 IMPLICATIONS FOR BUSINESS**

- 12.1 The local economy will benefit from the recommendations of this report. One of the principal reasons for recommending a transfer is that, free of the encumbrance of the HRA debt cap, a new landlord could invest more in new and existing homes than would be the case if the Council retained the housing stock. This would mean more opportunities for creating and sustaining jobs and skills for local people and reviving the local economy through ensuring that refurbishment and building contracts include clauses which support local labour in construction; 'white collar' job opportunities; and apprenticeships delivered by the new resident-led landlord in partnership with educational institutions and local businesses.

- 12.2 Housing organisations can play an important role in sustaining local economies and the transfer option offers increased opportunity for community led regeneration and new build where the construction of new homes would offer more immediate job opportunities in the borough.
- 12.3 The new landlord would have the opportunity to use its greater flexibilities and freedoms to introduce innovation and expertise into its operations and onto its Board which would make greater use of its assets and benefit the local economy. For example, the Council also owns a significant portfolio of retail units in the Housing Revenue Account that are largely located on ground floor areas of estate blocks. More focussed work by a locally based housing organisation could generate better and more creative uses for these assets to the benefit of local businesses and the local economy.

### **13 PROCUREMENT AND IT STRATEGY IMPLICATIONS**

- 13.1 Officers from the Corporate Procurement Team has been involved throughout this programme.
- 13.2 Specialist consultancy advice in respect of valuation, surveying, communications, financial and legal advisers and an independent tenants' and leaseholders' adviser were procured in compliance with both the Public Contracts Regulations and the Council's Contract Standing Orders to support the formulation of potential options for the SHSOA and provisions were included within the contracts for extensions should further stages of the programme be approved.
- 13.3 The Interim Heads of Procurement accordingly concur with the recommendations of the report.
- 13.4 Implications completed by: Robert Hillman, Procurement Consultant, Corporate Services Procurement Team, 020 8753 1538.

### **LOCAL GOVERNMENT ACT 2000**

#### **LIST OF BACKGROUND PAPERS USED IN PREPARING THIS REPORT**

<b>No.</b>	<b>Description of Background Papers</b>	<b>Name/Ext of holder of file/copy</b>	<b>Department/ Location</b>
1.	None	Charles Hyde x6688	Housing Service, 3 <sup>rd</sup> Floor, Town Hall Extension

## **Annexes**

Annex A	Residents' Commission report
Annex B	2015 Stock Housing Stock Options Appraisal report
Annex C	Savills Stock Condition Survey report
Annex D	Capita Financial Appraisal report
	Appendix A Financial Appraisal Options Diagram
	Appendix B Financial Appraisal Summary of Options
	Appendix C(i) Financial Appraisal R1 HRA Business Plan
	Appendix C(ii) Financial Appraisal R2 HRA Business Plan
	Appendix D(i) Financial Appraisal T4 Valuation Cashflows
	Appendix D(ii) Financial Appraisal T4 Net Present Value Cashflows
	Appendix D(iii) Financial Appraisal T4 Business Plan Cashflows
	Appendix E Financial Appraisal T4 Results of Stress Testing
Annex E	TPAS Independent Tenants' & Leaseholders' Adviser report
Annex F	Resident Involvement team's report on estate engagement
Annex G	Commission's Blueprint for the future housing organisation
Annex H	Personal Statement from Resident Commissioners
Annex I	Results of the Commission's independent telephone survey
Annex J	Equalities Impact Assessment