

CHORLEY BOROUGH COUNCIL

HOUSING TRANSFER COMMITTEE – 12.9.06

KEY TASKS TO BE UNDERTAKEN IN THE POST BALLOT PERIOD

1 Introduction

- 1.1 Following a positive result from the ballot of tenants, a considerable amount of work needs to be completed to deliver successfully the sale of the housing stock and the transfer of the housing landlord function. The purpose of this report is to provide Members with a summary of the key tasks that will need to be completed in the period from now up to the completion of the transfer.

2. Recommendation

The Committee is asked to note the key tasks that will need to be undertaken in the post ballot period

3. Background

- 3.1 In the post ballot period there are a number of tasks that are specific to the new Registered Social Landlord (RSL). These include the development of a business plan, the raising of a private finance facility, the production and agreement of policies and procedures, registration with the Housing Corporation and preparations to be operational from the date of the transfer. Few of these tasks can be achieved without the full cooperation of the Council and many derive directly from agreements that must be reached between the two parties.
- 3.2 Whilst many of the tasks to be completed between now and the transfer are linked to others, for the purposes of this report, these have been divided into the following categories:
- a) Identifying the assets (including staff) to transfer;
 - b) Financial elements of the transfer;
 - c) The ongoing relationship between the Council and Chorley Community Homes;
 - d) The legal agreements.

4 Identifying the assets to transfer

- 4.1 It is clear that the transfer will involve the Council's housing stock held at the date of transfer. It may also be understood that other properties, such as garages, may also be included. However there is a range of

further property related assets that may / should be transferred to Chorley Community Homes and agreement will need to be reached. These may include:

- Temporary accommodation for the homeless, the inclusion of which may depend on where the property is currently held (HRA or General Fund) and the arrangements for dealing with homeless applications after the transfer.
- Amenity land on estates, particularly where there is a strong development potential. The inclusion may depend on from where current costs of maintenance are met.
- Associated “property” assets such as shops, electricity sub stations, unadopted sewage treatment works, roads, footpaths and open spaces, play areas and community centres.

4.2 In most transfers the final decision on property assets to transfer is a pragmatic one. It often includes consideration of whether the asset is held in the HRA (the cost of maintenance met by the HRA) and whether any costs are included in the valuation.

4.3 Staff are protected by the Transfer of Undertakings Protection of Employment (TUPE) legislation. In simple terms, staff working “on housing” have the right to transfer to Chorley Community Homes. For many of the staff this is clear as they spend most, if not all of their time on housing management or maintenance duties.

4.4 There are however a group of staff that “support” the housing function, who work in other departments. The Council will need to identify these members of staff and then agree with Chorley Community Homes and the Trade Unions the options that may be available to them. These options will need to have due regard to the staffing needs of the Council and Chorley Community Homes after transfer.

4.5 It is usual in housing transfers that the Council supplies some support services to the RSL for a period (one year) after transfer. This and the implications of this service ceasing to be provided need to be planned.

4.6 Once some clarity is achieved in terms of the property assets and staff transferring to Chorley Community Homes, further consideration can be given to the transfer / sale of other assets, such as:

- Computers (and software), office equipment, office furniture and the like, currently used by the “housing staff”.
- Vans, plant and equipment used by the DLO.
- Offices and depots.

5 Financial elements of the transfer

- 5.1 The main financial element of the transfer is the valuation. The housing stock is valued using the Net Present Value (NPV) of a Discounted Cash Flow (DCF) as required by the DCLG. The income and expenditure is projected forward for 30 years and the surplus or deficit generated each year is discounted back to a present value.
- 5.2 The valuation is dependent on the number of dwellings, the current rents of these dwellings (known), the target rents of the dwellings (calculated in accordance with ODPM guidance), the repair and investment needs of the stock (taken from the independent stock condition survey) and the reasonable costs of managing the stock and providing the service (largely based on the Council's current costs).
- 5.3 In normal circumstances, at the point of transfer a local authority must repay outstanding HRA debt and if the valuation is insufficient to cover this debt the Government will write off the balance of outstanding debt. The estimated valuation for the Chorley housing stock is sufficient only to meet the costs of setting up the transfer and the Council would therefore rely on the Government to write off all outstanding HRA debt.

However the situation in Chorley is particularly complex. As far as the Government is concerned outstanding debt is based on what is known as the Subsidy Capital Financing Requirement (SCFR). This is a notional figure which can vary considerably from the actual outstanding loans held by the Council. In Chorley the situation is extreme with the SCFR standing at approximately £7 million whereas the Council actually has no outstanding debt.

DCLG have suggested that the way they would wish to deal with this situation is as follows:-

- The Council should borrow some £7 million from the Public Works Loan Board (PWLB)
- At the point of transfer the Government will write off the £7 million PWLB debt

This will leave the Council with the £7 million. However the Council has been advised that it will not be allowed to spend the £7 million but will be able to invest the monies and benefit from the interest generated.

- 5.4 Beyond the stock valuation, the Council and Chorley Community Homes need to agree:
 - The division of RTB receipts following the transfer of the stock.
 - The price to be paid for other assets to be sold to Chorley Community Homes (such as IT equipment, plant and machinery, etc.).

- The cost of services to be provided between the Council and Chorley Community Homes.
- The costs (rent) to be paid by Chorley Community Homes for the temporary use of office and / or depot accommodation.

6. The ongoing relationship between the Council and Chorley Community Homes

6.1 In earlier sections of this report mention has been made of some of the relationships between the two parties after the transfer of the housing stock. These can include:

- Chorley Community Homes acting as an agent for the Council in meeting its obligations to the homeless.
- The management of a housing waiting list.
- The provision of support services from one party to the other.

6.2 Beyond the above, the Council will wish to put arrangements in place to monitor Chorley Community Homes's performance to ensure that the commitments made in the consultation document and in any other agreements are met.

7 The legal agreements (the transfer agreement)

7.1 The legal agreements need to cover the obligations of both the parties relating to the transfer itself, the conveyancing of the dwellings and other property assets and describe the contracts and agreements that have been reached between the parties.

7.2 Typically the transfer agreement will cover matters such as:-

- Details of the transferring housing and allied property;
- A deed granting the Council nomination rights to the transferring stock;
- Agreement relating to the provision of temporary accommodation for the homeless;
- Details of on-going contracts to be assigned;
- Staffing issues including disclosures and warranties;
- Covenants granted by both parties;
- Warranties given by the Council;
- Details of outstanding insurance claims;
- Details of leased property where the freehold is transferring;

- Details of the services to be provided by the Council to the RSL;
- Deed of assignment for the rent arrears outstanding at the point of transfer;
- Agreement for sharing future right to buy receipts;
- Agreement for sharing the proceeds from any future sale of land included in the transfer;
- List of office furniture and equipment included in the transfer;
- List of outstanding right to buy applications;
- Details of the VAT shelter;
- Details of the services to be provided by the RSL to the Council.

8 Relationship with the tasks to be completed by Chorley Community Homes

- 8.1 Some of the key tasks that Chorley Community Homes will need to complete were outlined in section 3.1 of the report. These are largely dependent on the Council completing the tasks highlighted in this paper. For example, Chorley Community Homes cannot complete its business plan until it has agreed the valuation, the treatment of RTB receipts and the costs of services to and from the Council. These are in turn dependent on clarification of the property assets that will transfer. Without a final business plan, Chorley Community Homes cannot raise the finance it requires or obtain registration with the Housing Corporation.
- 8.2 Part of the development of the business plan will also be linked to the staffing structure adopted by Chorley Community Homes, which will be influenced to a degree by the number and skills and experience of the staff transferring from the Council under the TUPE arrangements.

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