



**HOUSE OF COMMONS
COUNCIL HOUSING GROUP**

Council Housing: Time to Invest

**Fair funding, investment and
building council housing**

**Our report to the Government's Review of
Council Housing Finance**

Paper 7 INTERIM VERSION

Fair and balanced debate

REVIEW OF COUNCIL HOUSING FINANCE

"The purpose of the review is to ensure that we have a sustainable, long term system for financing council housing... [it will] consider evidence about the need to spend on management, maintenance and repairs."
Yvette Cooper, 12 December 2007

"Housing Minister Margaret Beckett said she wanted local authorities to play a bigger role in the delivery of council housing." (DCLG, *New freedoms to increase council house building*, 21 January 2009)

Preface



**by Austin Mitchell MP,
chair of the House of Commons
'Council Housing' group**

Ministers launched a 'Review of Council Housing Finance' in 2007 with the promise to "ensure that we have a sustainable, long term system for financing council housing" and "consider evidence about the need to spend on management, maintenance and repairs". The Housing Minister is now also consulting on new rules that will enable local authorities to start building new council housing again.

This Review is due to report this spring. It will, we hope, provide for the 'Fourth Option' so long campaigned for. It must create a level playing field freeing councils to invest in existing and new homes, on equal terms with Housing Associations.

To influence the outcome of these consultations our group issued a call for evidence to identify the level of funding required to manage, maintain, repair and improve existing council housing and to start building a third generation of first class council homes.

We have received written evidence from a wide range of organisations. On 25 February 200 tenants, elected councillors, council officers, trade unionists and academics took part in our inquiry session at Westminster. We heard verbal evidence from 26 delegations during the day.

To take the debate forward we are publishing a series of interim papers with the aim of printing a full report. We welcome comments and call for additional evidence to strengthen the arguments. We hope to maintain the dialogue we have started with Margaret Beckett and have also asked to meet the Prime Minister to put the case.

If you would like to contribute to this 'work in progress' please send submission to my office.

● **Austin Mitchell MP, chair House of Commons Council Housing group, House of Commons, London SW1A 0AA. Phone 020 7219 4450 info@support4councilhousing.org.uk and riggsj@parliament.uk**

Papers

Introduction

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8. Case against privatisation

This report is dedicated to Alan Walter, chair of Defend Council Housing. Alan proposed and organised our Inquiry, worked tirelessly to make it the success it became, and died working on this Report. We trust this Report is the final 'heave' to win a secure future for council housing. Without Alan it would not have been possible – we are committed to winning in his name.

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7.1 A Democratic Deficit

The demand for privatisation through stock transfer, PFI, ALMO or Local Housing Companies is driven by government, private landlords and developers including RSLs, and other would-be beneficiaries. Many have massive financial interests and much to gain materially or professionally by driving through privatisation with hard selling. Behaviour that would be illegal in the selling of an insurance policy is routine in stock transfer ballots. Government must go further than the current proposed changes to stop this disgraceful abuse of tenants and democracy.

In 2004-05, tenants from up and down the country reported the biased nature of the stock transfer 'consultation' process. We heard shocking stories of councils' one-sided propaganda pushing transfer, of tenants refused access to meeting halls and denied information and resources, of anti-transfer material torn down, of sly tricks such as changing the start-date of the ballot, and in the worst cases of outright bullying and intimidation of tenants and staff by councils and prospective landlords. A number of senior council figures had openly admitted they were not objective.

We set out the evidence we had gathered in our first report *Support for the 'Fourth Option' for Council Housing*, and we called on the government to change this appalling situation.

Since then there have been more abuses of the ballot process. The use of threats to coerce tenants continues. South Cambridgeshire is currently balloting tenants on stock transfer; a leading councillor says:

"The threatened service cuts if tenants do not vote for transfer is bullying pure and simple. There appears to be no evidence base for this whatsoever." (Cllr Sebastian Kindersley, Leader, Liberal Democrat Group, South Cambridgeshire DC)

With no limits set at present councils spend crazy amounts of money promoting privatisation. A council will typically spend around £500,000 to promote a large-scale stock transfer – most of it tenants' rent money which could be far better spent on their homes. Probably the worst offender was Salford council, who budgeted to spend £10 million (£10,670,600) on its stock options process including separate consultations for stock transfer, PFI and ALMO. For a council with approximately 27,000 homes that's nearly £400 per tenant household. And yet there was

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(Cllr Sebastian Kindersley, Leader, Liberal Democrat Group, South Cambridgeshire DC)**

no budget at all to ensure that tenants hear both sides of the argument, with tenants putting the case against transfer.

Mid-Devon District Council passed a resolution on 3 August 2005:

"That, in the interest of balance and fairness, when this Council next dispatches a communication to all tenants, it shall include, without charge, a communication from a Tenants' Group campaigning against the transfer of the housing stock."

However, council officers refused to include the communication they were given and went back to the following council meeting (31 August 2005) and persuaded them to overturn the previous resolution. Their argument was that the leaflet was not 'balanced' – although the council was already putting out all the pro-transfer arguments!

We reported on some of the abuses of democracy during the ballot at Clapham Park, Lambeth, in our last report; they have since been found 'misleading':

"Clapham Park Homes has been rapped for producing 'misleading' publicity in the run up to its creation. The Advertising Standards Authority upheld two complaints against the landlord, which took over homes on the Clapham Park estate following a stock transfer from Lambeth Council. The watchdog said some of CPH's posters, which were put on display in February last year, were likely to make readers think full stock transfer was already a certainty. But the ballot did not close until March 2005 with the transfer completing in June this year. The ASA also ruled that tenant testimonials on the posters were misleading. Slogans including 'We'll get central heating when Clapham Park Homes refurbishes our flat next year,' did not quote directly from transcripts, and photographs used were not of the people interviewed or even of Clapham Park residents, the watchdog found." (*Inside Housing*, 8 September 2006)

In Swansea opposition councillors and a tenant shadow-board member tried to get information from the council about what land and assets would be transferred with the homes. The council refused to make that information available:

"I have just resigned from the shadow board of the Community Mutual in Swansea. As a tenant representative I was very concerned about the land and assets which would transfer with the →

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→ homes, but I couldn't get satisfactory answers to my questions on this and other issues." (Terry Hennegan, tenant, Swansea)

The council later passed the following motion: "Because of significant concerns and unanswered questions Council, on the 21st September 2006, requested Cabinet to halt the promotion of Housing Stock Transfer until a fair and balanced case could be developed; a case that identified all the pros and cons of the matter and provided the long-term assurances to which it considered tenants and staff were entitled. Council considers that, notwithstanding expenditure in excess of £1.4 million, a fair and balanced case was not presented to tenants. Council further considers that significant unanswered questions remain, such that tenants, staff and the wider Council taxpayers of Swansea have not been provided with the assurances that Council sought. Council notes with concern that the Cabinet nonetheless proceeded with the ballot and specifically criticises Cabinet for ignoring the clear, express view of Council." (City and County of Swansea, 8 March 2007)

It is common practice for councils to victimise and attack tenants campaigning against stock transfer. When Crawley council smeared anti-transfer campaigners the tenants complained to the Advertising Standards Authority, who upheld their complaint:

"Crawley has become the first local authority to be rapped by the advertising watchdog for making misleading claims in its stock transfer publicity. The Advertising Standards Authority said this week it had upheld a complaint of the authority misleading tenants in publicity about the transfer of its homes to a housing association... The council was also found in breach of three clauses of the Committee of Advertising Practice's code for 'unfairly denigrating' the Crawley branch of Defend Council Housing in DVD footage. The film gave the impression that the branch's anti-transfer material was inaccurate, misleading and even threatening, the ASA said." (*Inside Housing*, 19 July 2007)

We received the following evidence from campaigners in Tower Hamlets:

"On three estates (Ranwell, Bow Bridge and Wapping) tenants who have attempted to attend meetings of their estate's 'steering group' have been refused entry. On both the British Street and the Leopold Estate tenants were refused permission to hold a public meeting in the tenants

hall to put the case against stock transfer; the Steering Group on the Christchurch Estate agreed that Tower Hamlets Against Transfer of Council Housing (THATCH) could have a stall at any open-day event but this was over-ruled by senior council officers. On the Withy estate tenants were told they were not allowed to leaflet in the block without the express permission of the steering group. In the run up to, and during the ballot, on the Mile End Estate the council instructed housing workers to remove all anti-transfer posters from notice boards and entrance areas. Adjacent posters supporting the transfer (council and RSL) were left untouched. The Tower Hamlets main weekly paper 'East End Life' – produced by the council and financed from public funds – has banned any critical discussion or debate on transfer proposals, will not publish critical letters and even refuses paid adverts for tenants' meetings to discuss the council's 'housing choice' options." (THATCH, 2006)

We also heard evidence from Sefton, in the north-west of England, in our last inquiry. Since then the council stepped up its campaign of intimidation, harassment and undemocratic procedures. They tried to gag UNISON members involved in the campaign:

"Sefton Council housing staff have joined a Unison-led strike to protest against the prolonged suspension of six anti-transfer campaigners. The industrial action took place on Tuesday, in the middle of the Merseyside authority's stock transfer ballot, which is due to return a result next Thursday. The six staff were suspended following accusations of intimidating behaviour against council officers during a demonstration in May. But Unison north west regional secretary Frank Hont said the length of the 12-week investigation was totally unacceptable. 'The council's over reaction to the alleged incident in Bootle Strand Shopping Centre on 14 May is a totally disproportionate response,' he said." (*Inside Housing*, 11 August 2005)

Sefton tenants voted NO anyway. The council then tried to intimidate tenant campaigners as well and held a second ballot: "Sefton Metropolitan Borough Council is threatening to gag local campaigners as it announced an unprecedented second tenants' ballot on its stock transfer plan just months after it was rejected" (*Inside Housing*, 18 November 2005)

A report into a PFI (Private Finance Initiative) scheme in the Little London estate in Leeds →

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City and County of Swansea Council,
8 March 2007**

→ concludes: “PFI undermines democratic accountability and consultation”. The Little London TRA made a complaint to the Local Government Ombudsman about the consultation process: “the tenants’ group called the timescale ‘insulting’ and felt they were being ‘rail-roaded’ into endorsing the PFI scheme without adequate information...”

Leeds City Council had ignored a democratic ballot which voted against the scheme: “... in March 2002 tenants voted to reject the PFI scheme by 54% to 46%, the strength of feeling reflected in the high turnout (67%) that dwarfed the Ward’s 14.4% turnout in the local elections of 2000” However, the council “refused to accept the result and held a second ballot two months later on a revised scheme containing fewer demolitions and annexing some 300 homes on the estate’s northern edge where a sizeable number of ‘no voters’ had been identified... This produced a ‘yes’ vote for PFI with 56.7% in favour but on a much reduced turnout (46%)...” (*Regenerating Council Estates Within a Neoliberal Straitjacket: The Private Finance Initiative in Little London, Leeds*, Dr Stuart Hodgkinson, University of Leeds)

In the London borough of Lambeth in 2007 the council pushed through an ALMO ballot with a raft of undemocratic practices. A formal complaint sent to the Department of Communities and Local Government about the consultation process lists, among other things:

“Inaccurate financial information... Failure to consult until late in the process... Suppression of opposition to the ALMO... Misleading claims made in LBL publicity... Uncertain outcomes presented as facts in publicity materials... Resident described as supporting the ALMO when in fact she opposed it... Suppression of Tenants’ Council minutes”.

In the ballot itself, the Electoral Reform Society allowed propaganda from the council to be circulated with the ballot papers, which asked leading questions; the ballot controversially gave three choices – ‘Yes’, ‘No’, and ‘Don’t know’. Only 42.5% of those voting voted ‘Yes’ – so it did not achieve majority support; but Lambeth Council went ahead and set up an ALMO. The complaint comments:

“Despite the leading questions, the discarding of the 1,398 Don’t Know votes and a Ballot that was conducted without warning following a £400,000 campaign, the margin between Yes and

No was just 156 votes. This is hardly a resounding victory and certainly not sufficient to provide the “clear evidence” of tenant support required under para 6.3 of the 2004 Guidance.” (*The Lambeth ALMO: A submission from Lambeth Defend Council Housing to the Department for Communities and Local Government*, 16 October 2007)

In no other ballot process in this country is there such a democratic deficit: there would be an outcry if the abuses allowed in transfer ballots were permitted in local elections or referenda. To describe stock transfer ballots we have had to look to the Ukraine, to Zimbabwe. And yet, when we pressed the government we found that despite rhetoric from Ministers about a fair and balanced debate, councils were permitted in law to behave in this way.

7.2 No Legal Obligation to Follow their own Guidance

District Auditors have twice supported tenant complaints that their local authority has unlawfully used public money to promote its objectives. In Bath and North East Somerset, council publicity material was ‘unbalanced, one-sided and misleading’ and the costs therefore ‘contrary to law’ (May 2003). West Wiltshire Council was also found to have acted unlawfully. Eight pieces of publicity were unbalanced ‘and did not cover sufficiently the possible disadvantages of the transfer option’, wrote auditor Richard Lott in his audit and inspection annual letter. ‘Furthermore they were, or could be perceived to be in places, persuasive rather than informative’. (*Inside Housing*, 30 January 2004).”

Ministers have insisted that the process should be fair and balanced:

“The law is entirely clear, which is that tenants need to be presented with equal information about the pros and cons of the various options for which they are being consulted and that is absolutely the principle that we as government and we as ministers conform to...” (Keith Hill, then Housing Minister, London Tenants Federation conference, November 2003)

Government transfer guidelines say tenants “should not feel that the main purpose of the consultation document is to sell the transfer; rather, it should give neutral information. A balanced and informative approach is needed”. The informal consultation material “should state both the possible benefits and disadvantages of the op-

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The Lambeth ALMO: A submission from Lambeth DCH to the Department for Communities and Local Government, 16 October 2007

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→ tions as determined by the investment appraisal” and “never be written in such a way that tenants feel the authority is actively promoting a yes vote by presenting only the pro-transfer arguments.” ([title] Annex N para 9 and 10)

But this is not what happens. We have seen numerous examples of onesided, unjustified and threatening information from or approved by Councils.

When Camden tenants sought Judicial Review against their landlord for failing to provide a fair and balanced debate on the ALMO Justice Munby ruled there was “no legal obligation on Camden to do so”.

“It would, I think, be idle to dispute that the materials Camden has put out have been uniformly positive about the alleged merits of an ALMO. As Ms Markus says, the Camden materials contain only praise for the ALMO. I do not doubt that, in part at least, they have also been, and intentionally so, persuasive rather than merely informative... There have also been a few occasions when Camden’s materials have not been entirely accurate.”

However the judge ruled that legally there was no requirement on the council to be objective and balanced or even to follow the government’s own guidance:

“Failure to comply with the ODPM Guidelines ... I fail to see... how such a failure – even if established – can, of itself, invalidate the consultation process as a matter of law.” (*Beale & Carty v London Borough of Camden 2004*).

In June 2005, we called on government to “Produce guidelines for local authorities and a clear code of practice that insists on a fair and balanced debate so that tenants hear both sides of the argument”. We made seven specific recommendations.

7.3 The Parkside Case

The stock transfer ballot on Parkside estates in the London Borough of Tower Hamlets brought the level of abuses into sharp focus. The ballot took place in July 2005, after a campaign of intimidation by those supporting the transfer. As the government admits:

“The local authority balloted tenants on the proposal to transfer their stock: the result was a majority of seven tenants in favour of the transfer, on a low turnout (45.7% of those eligible to vote). Subsequently, through an organised campaign over a long period, tenants and leasehold-

ers wrote individual letters to the Secretary of State and the local authority alleging ballot irregularities, and petitions were received from both tenants and leaseholders objecting to the transfer. By the time of the local authority’s application for consent to the transfer, the number of signatures received making representations against the transfer (at least 44% of those eligible to vote) exceeded the number of those who had voted in the ballot in favour of the transfer.” (*Housing and Regeneration Bill: Impact Assessment*, CLG, October 2007)

Thousands of signatures from tenants opposing the transfer and challenging the ballot process were collected – more than double the number (just 416) who had voted ‘yes’. When neither the council nor the government were prepared to listen to this, tenant campaigner Carole Swords went to the high court against the government decision to agree the transfer (*Swords v Secretary of State for Communities and Local Government, 2007*). She provided evidence to show that, among other undemocratic processes:

- “the material put out by the council set out the advantages of transfer but not the disadvantages, the benefits but not the risks”; in particular “The Law Centre questioned the Council’s advice on how our legal rights are affected. Official leaflets were inaccurate and unfair”;
- “A number of tenants did not receive ballot papers” (over 150);
- “Old Ford Housing officials targeted elderly and vulnerable tenants and put pressure on them to vote”.

One persistent complaint from elderly tenants was that staff of the prospective landlord turned up at the door with the information that that particular tenant had not voted. This created a climate of fear where tenants felt that if the information as to whether they voted ‘No’ could also be passed on to the prospective landlord. A statement from one tenant said:

“If they knew I had not yet voted I was scared to vote to stay with the council as they would find out and harass me more. They also was doing the same with my neighbours.”

And another:

“Wanted to stay with council, was scared to vote because if Old Ford found out it might be bad for me. They knew who had voted”.

This is the inevitable consequence of the Electoral Reform Society routinely passing information about who has voted to the local →

“The number of signatures received making representations against the transfer (at least 44% of those eligible to vote) exceeded the number of those who had voted in the ballot in favour of the transfer.”
Housing and Regeneration Bill: Impact Assessment, CLG, October 2007

→ authority (but not to anti-transfer campaigners), and is an abuse which must be stopped.

In approving the Parkside transfer, the Secretary of State for Communities and Local Government had in front of her evidence that more than seven people said they were intimidated into voting ‘yes’; and that more than seven (different) people said they would have voted NO if they had received ballot papers. Yet she decided to approve the transfer.

The CLG, Tower Hamlets council, and the prospective landlords (Old Ford HA, part of the CircleAnglia empire) did not deny the claims against them; instead they argued that there was no legal obligation on them to follow the stock transfer guidance.

The Judge agreed with them, and found that: “The Manual was not issued under any express duty or power to do so, nor is there any statutory requirement that local authorities should have regard to the guidance that it contains... the Secretary of State is not required to follow the guidance contained in the Manual rigidly”.

7.4 Raising our demands in Parliament

In 2007/08 the government introduced a Housing and Regeneration Bill (now law). In part this is a response to stock transfer ballot abuses. The government acknowledged that the system of stock transfer ballots had been brought “into disrepute”. They proposed making ballots mandatory and ensuring that the statutory period during which tenants could make complaints would run after the ballot, not concurrently with it. This is welcome, although the government seemed to be more concerned to control and limit tenants’ complaints than to ensure justice is done. (*Housing and Regeneration Bill: Impact Assessment*, CLG, October 2007)

This allowed the Council Housing Group of MPs to raise in the house and in committee the appalling abuses of the ballot process and put forward an amendment to the bill. Based on the code of conduct in our June 2005 report, this would ensure ballots became democratic. The amendment was debated with widespread support from all parties.. Due to this wide support, the government agreed to introduce statutory guidance legally enforceable on local authorities. During the debate housing minister Ian Wright admitted that there was a democratic deficit:

“One of the things that we considered and un-

dertook reviews on was the quality of information provided during large-scale voluntary transfers. At times, the information provided has been slightly one-sided;...I accept the point excellently made by my hon. Friend that there is a need for more objectivity, so with his permission I would like to take this issue away and look at it again...” (Hansard, 31 March 2008)

A draft of this statutory guidance was finally issued in February 2009 and is now being consulted on.

It is a significant step forward that government is finally to make any guidelines a legal requirement, and will give tenants some protection on the kind of information they are given. However, it fails to address many major problems and completely ignores many of the measures vital to a fair and balanced debate so that tenants hear both sides of the argument.

In the following sections of this paper, we give our response to the consultation paper (*Consultation Before Disposal to Private Sector Landlord: Statutory Guidance – A Consultation Paper*, CLG, February 2009). We examine how far the government has gone towards meeting each of our recommendations and what still needs to be included to ensure genuine democratic debate.

Quotations from our original demands are from chapter 7 of *Support for the ‘Fourth Option’ for Council Housing*. Our proposed amendments to the Housing and Regeneration Bill on this issue can be found in full at <http://www.publications.parliament.uk/pa/cm200708/cmhansrd/cm080331/debtext/80331-0020.htm>

7.5 Balanced material

Our demand: **“The right of tenants to choose between all of the options and for these options to be factually presented (not ‘more investment’ v ‘stay as you are’)...Tenants receive material putting both sides of the debate and a commitment that council staff will not be instructed to selectively take down material on estates opposing the proposal”.**

In our proposed amendment to the housing bill we demanded that any council undertaking a stock transfer ballot be legally required to “ensure that material it produces is objective, balanced, informative, and accurate”.

This is the demand government has conceded most towards. They repeat their own principles from the stock transfer guidelines, this time making them a legal requirement which coun- →

“At times, the information provided has been slightly one-sided;...I accept the point excellently made by my hon. Friend that there is a need for more objectivity”
Minister Ian Wright MP, speaking in Parliament, 31 March 2008

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→ cils must follow:

“Local authorities should ensure that the information provided gives a full, fair and objective picture of the proposed transfer so that they can demonstrate that tenants have been properly consulted and informed” (Annex 1:3)

“Tenants need to understand why the local authority is proposing to transfer their housing, but should not feel that the main purpose of the consultation document is to sell the transfer; rather, it should give neutral information. A balanced and informative approach is needed, which provides brief information on all the options that have been considered” (Annex 1:9)

We strongly support this change.

In particular, the proposed statutory guidance explicitly mentions how councils must explain the difference between tenancies before and after transfer:

“The document should set out clearly the terms of the proposed transfer, including tenants’ rights under the assured tenancy regime, and should compare those rights to the rights of secure tenants. The document should explain that, although transferring tenants will have broadly similar rights, some rights will be lost while others will be provided by contract rather than by statute.” (para 16)

“There are additional grounds for possession available to the new landlord that may be used against existing tenants in the event that the transfer goes ahead and these should be explained.” (Annex 1: 20)

This is a very important concession which will mean that the wording of local authorities’ propaganda will have to change; and is welcomed; though it should apply to all material issued or approved by councils and RSLs in run up and during the ballot – not only to the formal Offer Document.

7.6 Access to information

Our demand: “**Public access to all the relevant information (financial information, stock conditions reports, address lists of all those entitled to vote)**”.

In our proposed amendment to the housing bill we included more detail: “place in the public domain all relevant information as is necessary for them to influence or control the management of their accommodation and environment including the resources available to the authority to spend on its stock, stock conditions surveys, the

business plan of the proposed landlord, the transfer valuation, details of any land and property to be disposed of, and any other information on which the Offer Document and transfer proposal is based...ensure at the start of the consultation that all tenants are aware of their rights to access information”

On this subject the consultation paper says:

“It is important that the information given to tenants and promises made regarding future policies on rent and repairs and levels of service are well founded. Formal consultation should not start, therefore, until the authority is sure that this is the case”. (para 27)

“Tenants should receive comprehensive information about the proposed transfer on a single occasion, presented in simple, concise language, without unnecessary repetition and with a clear explanation of why they are being sent the information. The document should provide complete information on why the transfer is being proposed and the terms of the offer presented clearly and accurately...” (Annex 1:2)

It is welcome that the guidance refers to the need for ‘well-founded’ information on rent levels and transfer promises; ‘clearly’ and ‘accurately’. These will give tenants a clear basis on which to challenge bias, misinformation and inaccuracies arising in transfer propaganda.

However, the list of specific types of information we gave includes information which we are informed by tenants is routinely withheld during the transfer process; frequently these types of information are explicitly denied by councils. The items on our list need to be explicitly referred to in the statutory guidance. We are not suggesting that councils routinely send huge quantities of information to all tenants, but that tenants be given the right to access such information promptly on request, and made aware of those rights.

7.7 Access to facilities for debate

Our demand: “**Equal access to meeting halls and other facilities to allow the fullest possible debate**”.

During the housing bill debate we formulated this proposal as follows: “Provide the same level of resources for any tenant group who serves written notice on the authority opposing a proposal as that given to any tenant group making such a proposal so that they can put an alternative view to tenants; not deny any reasonable →

It is welcome that the guidance refers to the need for ‘well-founded’ information on rent levels and transfer promises; ‘clearly’ and ‘accurately’. These will give tenants a clear basis on which to challenge bias, misinformation and inaccuracies arising in transfer propaganda.

→ request from any [such] group ... for lists of addresses and access to notice boards, meeting facilities and other relevant resources to enable all parties to communicate with those entitled to vote”.

The proposed guidance completely ignores this demand.

We note that one of our demands here – the right to access addresses of council stock – has already been won by tenants, and so the guidance would be simply confirming this point. The Information Commissioner has now ruled twice on this matter, rejecting attempts by councils to turn down requests for addresses (see decisions of 4th May 2006, reference FS50082890, and 3 January 2007, FS50066606).

7.8 Guaranteed ballot timetable

Our demand: **“Tenants are given one clear month’s advance notice of when the ballot will start and finish and this timescale will be strictly adhered to”.**

In the housing bill debate we raised this to a more realistic “two months notice of (i) the start and end date of the ballot” and included notice of “(ii) how those eligible will be able to vote”

The proposed guidance does state that stage 1 and 2 notices “should give an indication of the likely timing of the statutory ballot”. It is not good enough that tenants have 28 days formal notice of a proposed transfer, but not of the ballots’ start date. There is much evidence that councils routinely make promises about start dates and then bring them forward to wrong-foot opponents.

7.9 Limit on council spending

Our demand: **“A financial limit on the overall cost of consultation to ensure the maximum resources are spent on improving tenants’ homes.”**

In our amendment to the housing bill we called for councils to “not exceed spending limits for these consultations as may be determined by the Secretary of State and certified as proper by the District Auditor”.

The proposed guidance completely ignores this point: no financial limit is proposed on the amount that can be spent on the consultation.

7.10 Confidentiality

Our demand (in the housing bill): **“ensure that information regarding who has voted at any point in time is treated in confidence”.**

This is a very important safeguard for elderly and vulnerable tenants, as the Parkside case demonstrated (see section 7.2).

The proposed guidance completely ignores this point.

7.11 Changes to management of homes

One of our demands in the housing bill was for all the above demands to apply to “a major change in the management of their homes” (ie. ALMOs and PFI) as well as stock transfer.

The proposed guidance completely ignores this point.

7.12 Other changes

Three other positive points which we note in the proposed guidance are:

“The ballot paper should be delivered to each tenant under separate cover from any consultation material. During the ballot period, a local authority should generally refrain from issuing any further material about the proposed transfer. However, there may be instances where the local authority considers it reasonable to clarify certain aspects; for example, where people have made inaccurate claims about the process, the local authority may wish to issue a statement addressing the points made. It should not, however, raise any new issue.” (para 29)

“The prospective landlord might offer a programme of repairs and improvements. The consultation document should enable each tenant to identify the works that will be carried out to his /her home if the transfer goes ahead.” (para 15)

(Although we believe it should be made clear that such promises are not currently enforceable by tenants.)

“The document should be honest and open about the reasons for and implications of the proposals. It should avoid statements implying that decisions have already been taken when they have not, and throughout the document the future conditional tense (ie would, rather than will), should be used to describe the implications of a proposed transfer. Tenants should be left in no doubt that any undertakings being made about a proposed transfer are conditional on the majority of tenants who take part in the ballot voting in favour of the transfer.” (para 8)

7.13 Recommendations

Legally-binding guidance for local authorities would be an improvement. It would not di- →

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→rectly address the conduct of would-be transfer landlords (RSLs) and Independent Tenant Advisors (ITAs or so-called ‘tenants friends’). We have received evidence of shocking conduct by RSLs and ITAs including lavish and questionable spending by RSLs to promote transfer ; and supposedly ‘independent’ advisors explicitly promoting transfer and endorsing pro-transfer publicity.

Other concerns at the conduct of ballots must be addressed by balloting company ERS. It is not acceptable that voting be conducted in the transfer landlord’s office with their staff on hand, and their promotional posters in the windows. Details of who has voted should not be given to councils and passed on to the prospective landlord. The good name of ERS is being tarnished by such conduct.

Two of our original recommendations have not been directly addressed. In 2005 we said:

Any proposal/process to change from one option to another should be tenant led.

and

The right of tenants to choose between all of the options and for these options to be factually presented (not ‘more investment’ .v. ‘stay as you are’.)

see http://support4councilhousing.org.uk/report/resources/HOCCHG_reportsummary.pdf

Now that the rules of the game are changing rapidly the government should call a moratorium on further transfer proposals and ballots until its inquiry into Housing Revenue Accounts has reported and new funding arrangements are in place. The proposals for new and fairer rules for ballots need to be agreed and implemented. The financial arrangements for the future of council housing must be known and available if tenants are to make a fair and balanced choice.

Stock transfer, PFI, ALMO and Local Housing Companies are promoted by Government as part of a drive to deregulate and privatise public housing. Local authority campaigns to push through these changes are overwhelmingly driven by council housing under-funding and disinvestment. Tenants opposing them are in an unequal battle imposed on them by the Rent Robbery, the unfair burden of historic debt, underfunded allowances for council housing, and the lack of a level playing field for council housing investment.

These are the key issues which the government’s Review of Council Housing Finance is addressing, and it’s outcome will have a direct bearing on any factual presentation of the options

It is not acceptable that voting be conducted in the transfer landlord’s office with their staff on hand, and their promotional posters in the windows. Details of who has voted should not be given to councils and passed on to the prospective landlord. The good name of Electoral Reform Services is being tarnished by such conduct.

for council tenants.

We therefore recommend:

A moratorium on any whole or partial stock transfer of council housing or management until the Review of Council Housing Finance has reported and its impact can be assessed.

In response to the proposed guidance we also recommend:

that the guidance extend the code to cover all proposals for a major change in the management of tenants’ homes;

and that it specifically include a duty on councils to:

- **place in the public domain all relevant information as is necessary for tenants to influence or control the management of their accommodation and environment including the resources available to the authority to spend on its stock, stock conditions surveys, the business plan of the proposed landlord, the transfer valuation, details of any land and property to be disposed of, and any other information on which the Offer Document and transfer proposal is based...ensure at the start of the consultation that all tenants are aware of their rights to access information;**
- **provide the same level of resources for any tenant group who serves written notice on the authority opposing a proposal as that given to any tenant group making such a proposal so that they can put an alternative view to tenants; not deny any reasonable request from any [such] group... for lists of addresses and access to notice boards, meeting facilities and other relevant resources to enable all parties to communicate with those entitled to vote;**
- **give two months notice of (i) the start and end date of the ballot, and (ii) how those eligible will be able to vote;**
- **not exceed spending limits for these consultations as may be determined by the Secretary of State and certified as proper by the District Auditor;**
- **ensure that information regarding who has voted at any point in time is treated in confidence.**

