



**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 8 INTERIM VERSION**

## **The case against privatisation**

### **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.

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# Papers

## Introduction

1. The case for council housing
2. Fully funding allowances: calculating 'level of need'
3. The money's there: debt write-off, gap funding and receipts
4. Ring-fencing the money that belongs to council housing
5. Housing finance : National HRA or Self-financing?
6. Building a third generation of first class council housing
7. Fair and balanced debate
- 8. The 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.**

# 8. The case against privatisation

## 8.1 Privatisation means less security, affordability and accountability

Stock transfer is privatisation. Housing associations or Registered Social Landlords (RSLs) have rents and charges higher than for council tenants, they provide 'assured' not 'secure' tenancies and they have a reputation for being unaccountable.

In our last report we heard evidence from tenants and councillors of the problems associated with stock transfer. We heard of promises made to tenants broken, of problems experienced by staff with the loss of direct labour organisations, of tenants sacked from the board of their stock transfer association for speaking out, and of the devastation caused by large-scale demolition following transfer. In addition we published research which showed that 15 of the 20 fastest-increasing housing association rents between 1997-2004 were in districts which had undergone large-scale transfer. We set out evidence from legal experts about the loss of security in the change from secure to assured tenancies, despite promises made by the council; about increased problems with homelessness following transfer; and research which exposed the truth about tenant disempowerment by RSLs. (See [www.support4councilhousing.org.uk/report/resources/HOCCHG\\_report.pdf](http://www.support4councilhousing.org.uk/report/resources/HOCCHG_report.pdf) for details)

Since then, evidence goes on emerging to show why the privatisation of council housing is bad for tenants.

### Less Security

The most draconian measure which registered social landlords can use against their tenants is 'ground 8' – a 'mandatory' ground for eviction. This means that the court has to order eviction even if rent arrears are not the tenant's fault.

In Wales the use of mandatory grounds has been increasing. The percentage of outright possession orders granted on mandatory grounds against assured tenants of RSLs doubled, from 13 per cent to 26 per cent of all orders granted, between 2004/05 and 2005/06 (*Social landlords possessions and evictions in Wales 2005/06*, National Assembly for Wales, 2006).

In October 2006 the government introduced a 'rent arrears preaction protocol' to try and ensure that social landlords did everything possible to sort out arrears before starting court action. A recent report by the Citizens Advice Bureau found that while this has been very effective in bringing the total number of evictions down,

there is still a huge problem with ground 8. For example, one association used ground 8 in 93% of possession cases.

"Use of this ground... effectively bypasses the pre-action protocol which cannot be invoked by the court to prevent an order being granted. In contrast, the use of Ground 8 is not an option available to local authority landlords

...Advisers thought that such associations tended to use Ground 8 in situations where their motivation was clearly to get rid of the tenant, perhaps because there was a history of anti-social behaviour and it was easier to evict on rent arrears grounds... CAB evidence... suggests that some associations are particularly failing to identify where there are issues of tenant vulnerability or unresolved benefit problems

...It seems unarguable from the evidence of this report that the use of Ground 8 by housing associations is resulting in some households becoming homeless where this would not otherwise have been the case." (*Unfinished business: Housing associations' compliance with the rent arrears pre-action protocol and use of Ground 8*, Citizens Advice Bureaux, May 2008).

### Less Affordability

Government and councils claim that post-transfer rents will be protected by the government's policy of 'rent convergence'. They claim that rent increases will be the same whether tenants stay with the council or transfer to an RSL. However, the policy is in tatters.

"To protect tenants from both high and variable increases in inflation...the rent convergence date will change depending on what the actual rate of inflation is in the September prior to the draft determination being issued. For 2009-10... the convergence date has to be pushed back to 2024-25." (DCLG, letter to councils, 29 October 2008)

The convergence policy is under threat from both sides. On the one hand there is pressure to keep rents affordable from council tenants and councils; and on the other, RSLs are lobbying to increase their rents faster! In March 2009 the Housing Minister bowed to pressure from council tenants and councils and agreed to reduce the rent increase for 2009-10. Almost all, if not all, councils have since implemented the reduction (Parliamentary answer, 22 June 2009). However, RSL tenants have largely not benefited, with the Tenant Services Authority refusing to take responsibility: →

"It seems unarguable from the evidence of this report that the use of Ground 8 by housing associations is resulting in some households becoming homeless where this would not otherwise have been the case." (Citizens Advice Bureaux)

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→ “The Tenant Services Authority (TSA), the new regulatory body for affordable housing, says it cannot instruct housing associations on the rent increases they should levy.” (*The Observer*, 19 April 2009)

A recent sad case in Salford shows the difficulty of holding transfer landlords to promises on rents, as *Inside Housing* reported:

“A Salford housing association tenant has been found hanged after he lost a legal challenge against the size of his rent increase. Neil Hill, 56, sent an apparent suicide note to Treasury solicitors two days after losing his case against City West Housing Trust and communities minister and Salford MP Hazel Blears. He had been fighting the landlord’s average rent rise of 8 per cent, or £4.70 a week, but his case was thrown out on 16 April due to a lack of paperwork. The same day Treasury solicitors served Mr Hill with a legal bill for £3,000... Police found Mr Hill hanged in his Irlam flat on Tuesday, 21 April, after the Treasury solicitor – who had not been at work over the weekend – raised the alarm. Mr Hill had previously obtained a county court injunction against the rent increase, claiming it was a breach of contract under the stock transfer agreement to keep rent increases in line with councils... Salford Council leader John Merry said he had an ‘awful lot of sadness’ about the case as the council had tried to persuade City West Housing to drop rent levels to the same level as Salix Homes, the council’s arm’s-length management organisation. ‘The rental increase was in our view excessive, and there is going to be a big difference between properties retained by the council and those that went to stock transfer,’ Mr Merry said.” (*Inside Housing*, 1 May 2009)

### Less Accountability

A recent survey of MPs showed dissatisfaction with RSLs:

“Some housing associations are out of touch, poor at customer service or just plain dreadful... New research shows MPs want associations to have a local focus and to be better at communicating. The survey, commissioned by the Place Shapers Group, suggests MPs have very mixed views about the social landlords working in their constituencies... ‘Some housing associations treat their local MP with the same contempt as they treat their residents and many do not even bother to reply to letters,’ one MP said. Another complained: ‘Housing associations are dreadful.

“The rental increase was in our view excessive, and there is going to be a big difference between properties retained by the council and those that went to stock transfer”

**Cllr John Merry,  
Leader, Salford  
Council**

I have had loads of complaints about anti-social behaviour and it was all down to housing associations.’ Others were positive about locally-focused associations but critical of ‘absentee landlords’. The research was prompted by coverage in *Inside Housing* of the negative views of associations expressed during the passage of the Housing and Regeneration Bill.” (*Inside Housing*, 9 December 2008)

After a transfer in Tower Hamlets the new landlord sacked residents from the board. The Offer Document had promised: “Toynbee Island Homes will be resident-led. A tenant and a leaseholder from each estate will be elected to the Board of the new organisation where they will make up the majority”. Tower Hamlets Council said they will consider legal action – but nothing has happened yet. This shows not only a failure in accountability but also the impossibility of holding transfer landlords to their transfer promises:

“A council is considering legal action against a stock transfer association, amid concerns that promises to tenants have been broken. East London’s Tower Hamlets Council handed over the management of four estates on the Isle of Dogs to housing association Toynbee Island Homes in December 2005. The tenants on the estates, which comprise 2,100 homes, were promised they would be heavily involved in the running of their homes. One Housing Group became the parent organisation of Toynbee Island Homes last year and in April this year sacked the housing association’s entire board – mainly made up of residents – and appointed an interim board.” (*Inside Housing*, 31 October 2008)

### 8.2 Evidence from our inquiry

Evidence from our recent inquiry showed the same picture.

“What accountability have we got on RSLs? Where’s their head office? If you happen to live in Cornwall and their head office is in Manchester how can tenants have a real input?” (John Pemberton, Wolverhampton council tenant, oral evidence)

“Housing associations effectively operate like private companies... because of the nature of the market, because of the way finance is structured, they take over each other and small community-based RSLs very quickly become large, not irrelevant, but certainly remote, organi- →

→ sations. And it is the devils-own job for my constituents where we've had new stock ... provided through RSLs... you get different standards of service between different providers, none of this is frankly acceptable". (Martin Salter MP, oral evidence)

"Our relationships with housing associations are very good in some areas, but as a local ward councillor, I have found particularly RSLs in my ward, I've had to continually campaign to even recognise that their tenants are allowed to have a decent standard in their homes." (Deborah Edwards, Lead Member for Housing, Reading BC, oral evidence)

"There is still a wide gap in rents between Housing Associations even though they are still going through the convergence, private rented tenancies have even higher rents, shared ownerships is hard to achieve if you are on low wages or benefits. Standard of service and landlord accountability rate high in our area DMBC which is endorsed with regular Satisfaction survey forms." (Allan Miles, Chair, Dudley Federation of TRAs, written evidence)

"Community Gateway has been involved in legal action against Preston City Council since the transfer and has transferred 100 staff from our Council Owned Work's Department signalling a decline in relationships between the two bodies." (Cllr Matthew Brown, Deputy Leader, Labour Group, Preston CC, written evidence)

"I know as an MP with all the different RSLs who have pockets of houses around my constituency that some of them can be a nightmare, head offices in god knows where, certainly not in Chesterfield or Derbyshire but in cities the length and breadth of the country and to get a response from them is far more difficult than down at the local council chamber and lobbying your own local councillors. And of course you can't sack them, once you're in an RSL, you're stuck, you can vote the council out if you don't like them and vote them back in if you change your mind later, that's democracy, you can change your landlord if you're under the council, you can't change your landlord if it's private." (Paul Holmes, MP for Chesterfield and Vice-Chair Council Housing Group)

"Dover District Council Tenants want to remain with the council, we had the vote like everyone else in this room and we voted to stay with the council... Council housing will give us

secure tenancies more than any RSL. We strongly believe in the secure tenancy and we want it to remain not only for our children but our grandchildren and great grandchildren." (Stuart Dimmock, member of Dover District Tenants Group, oral evidence)

### 8.3 Privatisation and the credit crunch

At the heart of the problems with stock transfer is the change from public to private ownership. Privatisation is increasingly risky in today's precarious financial climate.

In the 1980s public subsidies were diverted from democratically elected councils to housing associations or Registered Social Landlords – the so-called 'not for profit sector'. David Orr, chief executive of RSL trade body the National Housing Federation, outlined the logic of this, and its failure, on Radio 4 (Analysis, 26 February 2009):

"Broadly speaking, if you give a pound to a local authority you give one pounds worth of house; if you give it to a housing association you get two pounds worth – that feels like a good deal to me... that will not work in the present market; the market has collapsed around us; the model does not work in this market."

Even before the credit crunch RSLs were bad value for the taxpayer. According to a report by the National Audit Office in 2003, it costs £1,300 per home more for refurbishment after transfer than it would cost for a council to do the same work (*Improving Social Housing Through Transfer*). RSLs have also failed to deliver the new homes needed. Between 1948 and 1980, when councils were the main vehicle for delivering public investment in housing, they built between 74,835 and 198,209 homes a year. From 1980 to the present day, RSLs have built a maximum of 30,888 homes a year (in 1995) dropping to just 10,624 homes in 1986. (Table 2.4, Housebuilding by tenure, CLG)

Increasingly dominated by multi billion pound private companies operating across dozens of local authority boundaries, RSLs adopted business models that built up cash surpluses and land banks instead.

"The TSA's newly published global accounts for 2007/08 show a sector-wide surplus of £328 million. But this was wholly dependent on a £577 million surplus on sales of shared ownership homes and other property." (*Inside Housing*, 26 March 2009)

"Once you're in an RSL, you're stuck, you can vote the council out if you don't like them and vote them back in if you change your mind later, that's democracy, you can change your landlord if you're under the council, you can't change your landlord if it's private."  
Paul Holmes MP



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→ Many of the ‘affordable’ homes they built for rent or sale aren’t ‘affordable’ to those who need them – hence 10,060 stand empty, up from 9,955 in three months (December 08 – March 09).

A second problem was the increased reliance on the private sector house building industry, under ‘section 106’ law private developers are required to include a certain percentage of public housing in their developments. But the parlous state of UK private housebuilding means there are precious few private sector housing developments to achieve planning gain on.

We heard evidence in our inquiry of this slow-down in RSL building:

**“The first signs are evident from housing associations in our area that they are becoming risk averse in the current economic climate, and are dropping out of affordable housing schemes because of the risk of securing funding at favourable rates and becoming over exposed.”**

(Cllr Pauline Stott, Vice-Chairman, East Devon DC; Ted Brown, Vice-Chairman, Housing Review Board; John Golding, Head of Housing, East Devon DC; written evidence)

**“Since [stock transfer in 2005] we have had a situation in Preston where the number of people on waiting lists for social houses has increased from 1500 to over 4000 in 2008. It is obvious that the RSL sector and private sector left to itself is not delivering the amount of social and affordable houses this city needs.”** (Cllr Matthew Brown, Deputy Leader, Labour Group, Preston CC, written evidence)

The central problem of RSLs is that as private, not public, companies they are exposed to the same forces now ravaging private sector companies across the economy. According to housing consultancy Tribal, the credit crisis is so acute in the RSL sector that most lenders have simply shut up shop and walked away. Its report ‘Credit Crunch – where have all the banks gone?’ suggests that the number of banks active in the RSL market has dropped from more than 10 to two or three over the past 18 months. The few remaining lenders are conducting far less business. And lending costs to housing associations have failed to follow cuts in the interest rate.

Law firm Trowers & Hamblins says lenders have ‘plenty of scope’ to increase the repayment cost of the sector’s outstanding £46billion loan book. New applications for loans, mergers or restructuring exercises have all been flagged up as

opportunities to ‘reprice’ existing loans.

The credit crunch is threatening not only RSLs ability to build new homes but their financial viability as well.

Some ‘land banks’ bought by RSLs at the height of the property boom have seen their value slashed by a half. RSLs also faced cash calls from banks to the tune of tens of millions of pounds each, related to complex financial arrangements developed between banks and housing associations over several years and triggered by the collapse of Lehman Bros.

“the housing association sector could post a deficit this year. ...associations have been battered by the collapsing property market – one in six developing associations expect to make write-downs on land or unsold homes in their 2008/09 accounts.... The risk for associations is that making a loss would break covenants on their loan agreements.” (*Inside Housing*, 26 March 2009)

London housing association Ujima has already paid the ultimate price. Its £7m loss prompted a hasty takeover by L&Q but the move sent shockwaves through the battered lending industry which had considered RSL loans very low risk. The sector’s former regulator the Housing Corporation warned that Ujima might not be the last. It said another six to ten RSLs also faced a ‘heightened risk in this situation’.

Tenants need to be aware that these are the risks if their homes are privatised.

### 8.3 Public-Private Partnerships are not the solution

PFI (the Private Finance Initiative) is the most expensive and risky method for refurbishing or building new council housing.

PFI has an appalling record in schools and hospitals. Housing PFI is becoming increasingly unpopular with tenants and it’s record is disastrous. In February 2005 the treasury turned down a PFI bid after six years and £1.6 million worth of negotiations. Even PFI enthusiasts began to criticise the idea, one saying “PFI for refurbishment ought to be put out of its misery as quickly as possible.” (*Inside Housing* 25 February 2005; *Society Guardian* 24 February 2005 and 3 March 2005). In June 2005 Ashford council dropped its plans to use consortium United House in a PFI scheme after the problems in Islington were discovered (*Inside Housing*, 9 June 2005 and 20 June 2005). Even the government

**“The first signs are evident from housing associations in our area that they are becoming risk averse in the current economic climate, and are dropping out of affordable housing schemes because of the risk of securing funding at favourable rates and becoming over exposed.”**

**East Devon District Council**

→ admitted that PFI to improve housing is not a good solution. (*Society Guardian*, 22 June 2005)

PFI is expensive because of the high rates of interest to banks and profits for the private company (PFI developers expect a 15% profit on their investment). Massive amounts are spent on lawyers and consultants because PFI schemes are so complicated to set up. There are also extra costs in monitoring the contract.

The government claimed that it will provide extra money in the form of 'PFI credits' to cover the cost of private finance. But we have discovered that these PFI credits are in fact paid for out of the national Housing Revenue Account (see paper 3) – so tenants pay for the whole cost of PFI from their rents!

PFI schemes last for thirty years. If they get into trouble then tenants will pay the price. Ministers argue that PFI schemes remove financial risk from public bodies, but this is false – in cases where the finances have not stacked up, the PFI consortiums demand more government subsidy – and the government has obliged.

Government is heavily promoting a new type of public-private partnership called Local Housing Companies. But any schemes which rely on private finance – from PFI to regeneration to Local Housing Companies – are risky – and 'bad value'.

Partnership schemes use public land but rely on building for private sale. If house prices do not rise then 'profit' from the scheme will go down and there will be even less homes for rent. If prices fall then the whole LHC could become unviable – at the council's risk. With the credit crunch the picture is likely to end up even worse.

Public/private partnerships have a disastrous track record. The deals are long-winded, complicated and can take years to set up. Impressive sounding objectives to meet public need at the beginning of projects invariably get scaled back. These schemes mean a private company "generating income" from estates, and often includes demolition and building homes for private sale. The private sector 'partners' will be looking to maximise profits and minimise their exposure if the business plan goes pear-shaped and councils have a poor record of effectively policing these schemes.

Since Ministers have now conceded that councils can retain rents and receipts and apply for 'Social Housing Grant' on the same terms as other landlords, it makes sense for councils to

build new council housing on council land, rather than subsidising private developers and builders.

### 8.5 Conclusion

For both tenants and for public finances, it's clear that decent, secure, affordable, accountable council housing is the best solution. Tenants value the secure tenancies, low rents and accountable landlord which no other private or public-private organisation can offer. It is the cheapest and most cost-effective way of solving the current housing crisis. Council housing must be placed on a secure sustainable footing for the future to avoid the risks and unnecessary expense of privatisation, and councils must be properly funded to build new council housing.

Any schemes which rely on private finance – from PFI to regeneration to Local Housing Companies – are risky – and 'bad value'.