**COUNCIL BUSINESS COMMITTEE**

# Consultation Response – Reform of Council Housing Finance 12 November 2009

## Report of Corporate Director (Community Services)

**PURPOSE OF REPORT**

**To consider the response sent to the Department of Communities and Local Government to the Reform on Council Housing Finance consultation paper**

**This report is public**

**RECOMMENDATIONS**

**(1) That the response dated 23 October 2009 sent to the Department of Communities and Local Government on the reform of council housing finance be confirmed.**

**1.0 Introduction**

1.1 On 21 July 2009, Communities and Local Government (CLG) issued a consultation paper 'Reform of Council Housing Finance'. The reforms propose a fundamental dismantling of the current Housing Revenue Account subsidy system and its replacement with a devalued system of responsibility and funding. The consultation details are complex and potentially far reaching. The proposed devalued self-financing model will remove the need to redistribute revenue nationally – currently our Housing Revenue Account contributes about £1.3m a year to the national 'pot'. However, there is likely to be cost to moving to a new system. The historic debt accumulated by Housing Authorities (currently in excess of some £18bn) is proposed to be redistributed across all Housing Authorities. How this is allocated and the repayment liabilities will be critical in moving to a sustainable model for council housing. Officers have attended a number of seminars trying to understand the complexities and potential impact of the proposals and have submitted a draft response (see appendix 1) to meet the CLG deadline.

**2.0 Proposal Details**

2.1 The full consultation document can be viewed on http://www.communities.gov.uk/publications/housing/councilhousingconsultation. There are 17 questions posed as part of the consultation and the questions and our officer responses are attached. The document is financially technical and – as can be seen from our suggested response – the further questions about the proposed reallocation of debt and repayment options are critical to affordability for this council.

## 3.0 Details of Consultation

3.1 This is a wide ranging consultation exercise with responses being submitted from many representative organisations, e.g. Association of Retained Council Housing, as well as individual councils. At this stage it is not clear how or when CLG will respond to the consultation comments it has received. It is clear that this is a fundamental reform proposal and we need to monitor developments closely to assess the likely impact on our 30 year housing business plan.

## 4.0 Options and Options Analysis (including risk assessment)

4.1 The options are

- to endorse the consultation comments already sent to CLG
- to withdraw those comments
- to amend the comments already sent

In terms of an analysis of these options, the reality is that they will be considered along with many other considered replies.

## 5.0 Conclusion

5.1 The current housing revenue account subsidy system needs fundamentally reviewing but the current proposal on reallocation of debt and its repayment methods are critical to the adoption of any new financing system. The current aim is to move towards implementation in 2012/13 so any changes will be in the context of the 2010 Comprehensive Spending Review and a new government.

**CONCLUSION OF IMPACT ASSESSMENT**
**(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)**

Some of these are considered in the response to the document. The main impact will be on the sustainability of our council housing business plan.

**FINANCIAL IMPLICATIONS**

None as a direct result of this response, though clearly the actual outcome of the consultation could have major implications for the Council. These are not quantifiable as such at this time, however - more detail is needed.

**SECTION 151 OFFICER'S COMMENTS**

The Section 151 Officer has been consulted and her comments are reflected in the response attached

**LEGAL IMPLICATIONS**

None as a direct result of this response

**MONITORING OFFICER'S COMMENTS**

The Monitoring Officer has been consulted and has no further comments

| **BACKGROUND PAPERS** | **Contact Officer:** Peter Loker<br>**Telephone:** 01524 582501<br>**E-mail:** peterloker@lancaster.gov.uk<br>**Ref:** reports/councilbusiness/02 |
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## APPENDIX 1

**Response to the Consultation Paper on the Reform of Council Housing Finance**

**Core and Non Core Services.**

***1. We propose that the HRA ring fence should continue and, if anything, be strengthened. Do you agree with the principles for the operation of the ring fence set out in paragraph 3.28?***

***2. Are there any particular ambiguities or detailed concern about the consequences?***

**Response.**

The Council strongly supports the view that HRA resources should be used for spending on landlord services. We therefore welcome any proposal to strengthen the ring fence and clarify any grey areas (such as the maintenance of open spaces and the operation of the Housing Register). We would also welcome any tightening of the definitions of what can legitimately be charged to the HRA (septic tanks in rural areas are of particular concern).

We believe that the suggested "who benefits" test is the right way to move forward. Inevitably however, if these proposals are to be introduced, they will result in significant funding issues for the General Fund in many authorities (including our own) and therefore this would need to be taken account of in future funding settlements, if further cuts to General Fund services are to be avoided.

**Standards and Funding.**

***3. We propose funding the ongoing maintenance of lifts and common parts in addition to the Decent Homes Standard. Are there any particular issues about committing this additional funding for lifts and common parts, in particular around funding any backlog through capital grant and the ongoing maintenance through the HRA system (as reformed)?***

***4. Is this the right direction of travel on standards and do you think the funding mechanisms will work or can you recommend other mechanisms that would be neutral to government expenditure?***

**Response.**

The Council welcomes the proposed additions to the Decent Homes Standard definition. We would in fact argue that the proposals don't go far enough. All our stock has met the DHS for a number of years. For our tenants, the priorities for increased investment are now mainly environmental issues – boundary treatments, communal parking areas, security lighting etc, and also disabled adaptations. We believe therefore that a more comprehensive review of the DHS is required. Of course, any changes to the Standard would be sustainable only if funding is made available to support the additional work.

**Leaseholders.**

***5. We propose allowing local authorities to set up sinking funds for works to leaseholders' stock and amending the HRA rules to permit this. Will there be any barriers to local authorities taking this up voluntarily, or would we need to place an obligation on local authority landlords?***

**Response.**

The council welcomes the proposed introduction of sinking funds as they provide a valuable tool for managing future major repair costs. It is our view that any resistance to their establishment would come from leaseholders and not local authorities. It would therefore be preferable for sinking funds to be obligatory so that leaseholders would not have an opportunity to opt out. It is also noted that the proposals relate to **future** sales only. If implemented therefore, councils will need to produce two different sets of certified annual statements – one for existing leaseholders and one for new sales (which would include sinking fund calculations). This would undoubtedly increase the administrative burden faced by councils and any proposals should aim to mitigate these.

**Debt.**

***6. We propose calculating opening debt in accordance with the principles set out in paragraphs 4.22 – 4.25. What circumstances could lead to this level of debt not being supportable from the landlord business at national level?***

***7. Are there particular circumstances that could affect this conclusion about the broad level of debt at the district level?***

***8. We identified premia for repayment the market debt as issues that would need to be potentially adjusted for in opening debt. How would these technical issues need to be reflected in the opening debt? Are there any others? Are there any other ways that the issues could be addressed?***

***9. We propose that a mechanism similar to the Item 8 determination that allows interest for service borrowing to be paid from the HRA to the General Fund should continue to be the mechanism for supporting interest payments. Are there any technical issues with this?***

***10. Do you agree the principles over debt levels associated with implementing the original business plan and their link to borrowing?***

***11. In addition to the spending associated with the original business plan, what uncommitted income might be generated and how might councils want to use this?***

**Response.**

In principle, the council would support the redistribution of current debt as a reasonable means of developing viable long term self financing business plans. However, we would be concerned if, by taking on too much debt, it would reduce our ability to meet tenants' aspirations and maintain our stock to a high standard. We would be strongly opposed to the overall allocation of more debt than is currently within the system nationally. Potentially, this could lead to unsustainable business plans and a reliance on future capital grants which can't be guaranteed. We would also support the continuation of Supported Capital Expenditure Allocations converted into future capital grants as an appropriate contribution by the taxpayer to the long term sustainability of council housing neighbourhoods.

Whilst the council supports the principle of debt redistribution, the calculation for determining the value of each authority's likely debt appears to be based on a number of factors:

- 30 year rental stream based on HRA subsidy guidelines.
- 30 year management and maintenance also based on subsidy guidelines, uplifted by an average of 5%.
- 30 year MRA , uplifted by an average of 24%.
- A discounted rate of 7%.

There are however a number of serious concerns relating to these assumptions:

- There is no degree of certainty in respect of future rent levels. What are the current views on convergence and what will future policies look like?
- The 5% uplift on management and maintenance is welcomed, but it still leaves local authorities 5% lower than housing association expenditure.
- The uplift of 24% for the MRA falls substantially short of the absolute minimum 43% identified as necessary by the BRE, and many authorities (including our own) have formally agreed a local standard with tenants which exceeds Decent Homes. Most authorities are experiencing problems in funding the ever increasing number of disabled adaptations, and the estimated national backlog now stands at £5 billion. The council believes that funding of adaptations should be mainstreamed into MRA calculations (and not be reliant upon windfall capital receipts as is being proposed).

The NPV approach clearly relies upon a number of questionable assumptions. If these prove to be inaccurate over time, it will be difficult to manage the HRA, especially as under existing legislation, it is unlawful to have a negative balance and government help would therefore be necessary.

The assumption is that Lancaster is likely to gain debt so the question of premia for debt repayment would not be applicable. However, we agree that this would certainly need to be addressed as, undoubtedly, many redemptions will require the payment of a premium which may be substantial. Approximately one quarter of the debt nationally is with the markets (rather than the PWLB), and redemption costs may be very high, or in some cases, not permissible. It would be inappropriate to expect authorities to accommodate all associated premia and redemption costs, and the council feels that all costs associated with debt adjustment must be borne by government.

As the Council consolidates all its debts, it charges an average rate of interest (CRI) to the General Fund and the HRA. An increase in debt as a result of self financing is likely to affect the CRI which will impact either negatively or positively on the General Fund, with an equal but opposite impact on the HRA. Making an adjustment to the opening debt appears to be a complex way of addressing this issue, therefore allowing authorities to calculate a separate interest rate for General Fund and the HRA may be more appropriate, but this would need to be done in a way that was fair to both tenants and council taxpayers.

The fact remains that the change to self financing does not remove the requirement of authorities to comply with the Prudential Code when considering new borrowing.
Yet the proposals in the consultation paper appear to conflict with the stated purposes of self financing and prudential borrowing. Local authorities should retain their income and have full autonomy as to how it should be spent and also retain the freedom to borrow as long as they can afford the capital financing costs. If prudential borrowing following self financing were to be constrained then that may constrain the Councils ability to sustain the housing stock and the housing service.

**<u>Capital Receipts.</u>**

***12. We have set out our general approach to capital receipts. The intention is to enable asset management and replacement of stock lost through the Right to Buy. Are there any risks in leaving this resource with landlords (rather than pooling some of it as at present)?***
***13. Should there be any particular policy about the balance of investment brought about by capital receipts between new supply and existing stock?***
***14. Are there concerns about central government giving up receipts which it currently pools to allow their allocation to the areas of greatest need?***

**Response.**

It is difficult to understand how, if self financing is to be introduced, the pooling of receipts can be justified. If 100% were to be retained for housing purposes, the need for future borrowing would be reduced. Discretion on how to use receipts must remain fully with the local authorities and should be clearly set out in their business plans. It should also be noted that the number of RTB sales has fallen significantly in recent years. In Lancaster we sold only two properties last year and, in the first six months of this year we have sold just one. As a source of future income, capital receipts would be minimal and could therefore not contribute significantly to resolving the problem of funding adaptations in the local authority sector. As previously stated, the issue of funding future adaptations needs to be addressed within the initial debt redistribution calculations.

**<u>Equality Impact Assessment.</u>**

***15. Would any of our proposed changes have a disproportionate effect on any particular groups of people in terms of their gender or gender identity, race, disability, age, sexual orientation, religion or (non political) belief or human rights?***
***16. What would be the direction (positive or negative) and scale of these effects and what evidence is there to support this assessment?***
***17. What would be necessary to assemble the evidence required?***

**Response.**

The proposal that disabled adaptations be funded from future capital receipts would mean that each authority's ability to resolve the housing needs of disabled tenants would be reliant upon the completely unrelated level of demand for RTBs in their area. Councils with high levels of RTB would be better placed to meet the needs of their disabled tenants than other councils (such as Lancaster). Equality could only be assured by including future adaptation requirements within the initial debt redistribution calculations.