



Department for  
Communities and  
Local Government



Homes &  
Communities  
Agency

**MAYOR OF LONDON**

# Consultation on the Housing Transfer Manual

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July 2013

ISBN: 978-1-4098-3949-1

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# About this Consultation

## Scope of the consultation

<b>Topic of this consultation:</b>	<b>The consultation is on a revised version of the housing stock transfer manual, which will detail the process for taking stock transfers forward and the criteria to be applied in assessing applications to transfer stock in the period up to March 2015.</b>
<b>Scope of this consultation:</b>	This consultation seeks views on whether the draft manual sets out the proposed transfer process and criteria for assessing applications clearly, and how the current text could be improved. It also invites consultees to respond on specific policy issues which are of interest or concern to them.
<b>Geographical scope:</b>	England
<b>Impact Assessment:</b>	There is no Regulatory impact on the private sector and no impact assessment has been prepared.

## Basic Information

<b>To:</b>	<b>This consultation is aimed primarily at local authority landlords (especially those considering stock transfer) and their tenants. In addition housing and treasury management consultants, private registered providers who would be interested in taking on transfer properties and private sector funders and representative groups may also have an interest in responding</b>
<b>Body/bodies responsible for the consultation:</b>	This consultation is being run by the Department for Communities and Local Government (DCLG), in partnership with the Homes and Communities Agency (HCA) and the Greater London Authority (GLA)
<b>Duration:</b>	This consultation will run for six weeks from 22 July – 2 Sept
<b>Enquiries:</b>	Please contact <a href="mailto:housingtransferconsult@communities.gsi.gov.uk">housingtransferconsult@communities.gsi.gov.uk</a> ; <a href="mailto:stock.transferconsultation@hca.gsi.gov.uk">stock.transferconsultation@hca.gsi.gov.uk</a> ; or (for London) <a href="mailto:stocktransferconsultation@london.gov.uk">stocktransferconsultation@london.gov.uk</a> .
<b>How to respond:</b>	By e-mail to <a href="mailto:housingtransferconsult@communities.gsi.gov.uk">housingtransferconsult@communities.gsi.gov.uk</a> address

	<p>Or by post to:</p> <p>Sally Hunt  Department for Communities and Local Government  Zone 1/E1  Eland House  Bressenden Place  London SW1E 5DU</p>
<b>Additional ways to become involved:</b>	We are willing to engage (via the HCA, or in London, GLA) with local authorities interested in transfer and other interested parties. Subject to demand and available time and resources we may be able to arrange seminars to discuss key issues arising from the draft manual during the consultation period.
<b>After the consultation:</b>	DCLG, HCA and the GLA will analyse consultation responses with a view to publishing a final transfer manual in the light of these in September
<b>Compliance with the Code of Practice on Consultation:</b>	The consultation period has been set at four weeks, in recognition of extensive prior engagement and discussion of the key issues set out in this manual with those we know have an interest in transfer; the limited nature of this consultation; and, the need to publish a final transfer manual quickly so that local authorities can complete the transfer process by March 2015.

# Ministerial Foreword

Stock transfer has had a profound impact on social housing in England. Since 1988 around 1.3 million former council homes have been transferred to the ownership of private registered providers. That's enabled billions of pounds of investment in bringing homes up to a decent standard and the delivery of thousands of new affordable homes by newly created private registered providers of social housing.

The introduction of self-financing from April 2012 means that we have needed to re-think the case for transfer. For the first time we have put the financing of local authority housing on a stable, long-term footing, and we would not expect to see the numbers of transfers we have seen in the past.

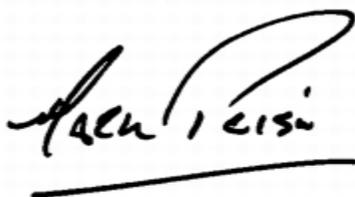
The tough decisions we have to make on public spending to get the country's public finances back on track mean that we will have to look hard at proposals to transfer stock to ensure that they represent good value for money.

But we want to continue to facilitate and support transfers, including through providing Government support for debt write-off, where transfer offers opportunities for more investment in the existing stock, additional affordable housing, wider regeneration benefits and efficiencies, and transfer is backed by tenants.

We want to encourage not only stock-holding local authorities, but also tenants and existing private registered providers to consider the opportunities which stock transfer may provide. Alongside this draft manual we are publishing our response to the consultation on the Right to Transfer and the Regulations which we intend to lay in Parliament at the same time as we publish the final manual. Those Regulations will for the first time give local authority tenants a statutory right to initiate a transfer process and require the local authority to co-operate as tenants explore the options.

This consultation draft of the revised transfer manual is some 200 pages shorter than its predecessor. That reflects an approach that is based more on principles than detailed prescription; one that I hope will encourage innovative approaches to transfer that will deliver real benefit to tenants and local communities.

I welcome your comments on the approach to transfers in the period to March 2015 that we have set out in the following pages. I intend to publish a final version of the Transfer manual early in the Autumn once we have taken those into account.

A handwritten signature in black ink, appearing to read 'Mark Prisk', with a horizontal line underneath it.

**Mark Prisk MP**  
**Minister for Housing**

# Background and Context

1. In *Laying the Foundations: A Housing Strategy for England* the Government committed to bring forward proposals for a new programme on housing transfer. This draft manual sets out the Government's proposed approach to stock transfer in the context of the self-financing settlement. It applies to transfers in the period to March 2015.
2. We recognise in the interests of brevity, detail contained in the previous version of the housing transfer manual has been removed. Whilst our intention is that the draft transfer manual is clear, we do not expect it to take account of every issue which may arise from transfer proposals coming forward in a wide range of circumstances. We would expect those interested in transfer to discuss at an early stage with the HCA or GLA the specific circumstances which apply to them and questions arising.
3. The draft manual sets out the criteria that Government intends to apply when assessing whether the Secretary of State should grant consent to a transfer. Those criteria reflect both the advent of self-financing and strong focus on securing good value for money from transfer.

**Question 1: How could the draft transfer manual express more clearly the criteria to be applied by Government when assessing transfer applications? Where is any further explanation or detail needed?**

4. The statutory requirements and the process leading up to seeking consent from the Secretary of State remain largely unaltered. The draft manual however sets out an approach which 'front loads' the transfer process, with the approval of transfer applications by the HCA or GLA, and where support for overhanging debt write-off is sought, central Government, as an effective pre-condition for formal consultation with tenants and a ballot.

**Question 2: How could the draft transfer manual express more clearly the transfer process? Where is any further explanation or detail needed?**

5. We are publishing at the same time as this draft manual our response to our consultation on Right to Transfer and a final version of the Regulations. We are not consulting further on the Regulations but, taken with these, the draft manual seeks to ensure that tenant groups who wish to take forward transfer proposals can clearly understand what is required.

**Question 3: Does the draft transfer manual, taken together with the Right to Transfer Regulations and guidance, clearly explain the process for tenant led stock transfer? Where is any further explanation or detail needed?**

6. Our broad position on the criteria and process for transfer is settled, but we recognise there may be specific issues of policy contained in the manual where consultees will wish to make observations or suggestions for change.

**Question 4: Are there any other comments you wish to make about specific policy issues in the draft manual?**

# Appendix

## Housing Transfer manual

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Homes and Communities Agency

Greater London Authority

Department for Communities and Local Government

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# 1. Introduction

- 1.1. Housing transfer is the voluntary transfer of ownership of all or some of a local authority's tenanted and leasehold homes to a private registered provider (see Section 2 for definitions) in return for a payment for the value of that stock.
- 1.2. Government wants to encourage transfer where this represents good value for money and where it will lever in additional private investment that delivers growth through:
  - more affordable housing;
  - local economic activity; and
  - providing a robust, long-term future for estates and neighbourhoods, including by compliance with the Decent Homes Standard.
- 1.3. As the written ministerial statement of 10 May 2013<sup>1</sup> makes clear, the Government wants to see a focus on refurbishment and improvement of rundown or vacant properties rather their demolition. We would expect, in line with George Clarke's ten point plan, landlords to consider options to upgrade and refurbish existing homes, in consultation with tenants, prior to considering demolition.
- 1.4. Government is particularly interested in supporting transfers that are part of a wider vision for achieving or maintaining local growth. The Government will continue to explore options for increasing the role existing private registered providers may, with the support of tenants, be able to play in delivering those objectives through transfer.
- 1.5. This manual replaces the 2005 edition and its 2006 Supplement, and applies (in whole or part) to all housing transfer applications. This edition is issued jointly by the Homes and Communities Agency (HCA), the Greater London Authority (GLA) and Department for Communities and Local Government (DCLG). It applies to transfers in the period to March 2015.
- 1.6. This manual is aimed primarily at local authorities considering or pursuing transfer but will also be of interest to tenants and prospective recipient landlords. It sets out the process a council is required to follow in order to gain consent from the Secretary of State to transfer and the issues that will be considered in assessing individual transfer applications. It describes the submissions required ahead of the final application for consent, and the criteria by which these submissions will be assessed.

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<http://www.publications.parliament.uk/pa/cm201314/cmhansrd/cm130510/wmstext/130510m0001.htm#13051033000001>

- 1.7. This process is designed, in particular, to ensure that a transfer receiving consent will deliver maximum benefit, in terms of Government priorities, for minimum cost. Councils will, in general, hold debt secured against their housing stock and serviced by its rents. When stock is transferred the related debt will need to be repaid, and if the transfer value of the stock is insufficient for full repayment, central Government will be required to assist. This is a process known as overhanging debt write-off. Minimising cost through the transfer process means ensuring transfer values are maximised and overhanging debt write-off minimised.
- 1.8. Consultation with tenants during transfer is governed by statute (Schedule 3A to the Housing Act 1985). The relevant statutory guidance, issued in July 2009, should be read alongside this manual and can be accessed at:

<https://www.gov.uk/government/publications/consulting-council-tenants-about-selling-their-homes-to-a-private-landlord-statutory-guidance>

## 2. The Housing Transfer Process

- 2.1. For transfer to take place the consent of the Secretary of State under sections 32-34 and/or 43 of the Housing Act 1985 is required. Before giving that consent and agreeing to provide any support for debt write-off, the Secretary of State will wish to be sure that the proposal offers value for money; accords with Government policy; has the support of the tenants involved; and provides them with the protection of a regulated landlord.
- 2.2. The Secretary of State will consider these matters in full when deciding whether to grant consent to the transfer. In addition, prior to proceeding to formal consultation, the local authority must have its application for transfer approved by the HCA or GLA and, where applicable, DCLG. The decision on whether to approve an application will be based on an assessment of the business case for transfer, as described below.
- 2.3. The Transfer Manual (“the manual”) is divided into five further sections, corresponding to the main activities and decisions in the transfer process.
  - Section 3: Deciding to pursue transfer - preliminary activity, leading to a decision to pursue transfer;
  - Section 4: Submission of an Application – preparing an application for stock transfer by demonstrating the maximisation of benefits and minimisation of costs, including, where relevant, specifying any required debt write-off;
  - Section 5. Submission of a formal consultation proposal – preparing to formally consult tenants;
  - Section 6: Regulatory requirements – parallel Regulatory activities, including submission of a registration application for a new landlord (where relevant)
  - Section 7: Submission for Secretary of State's consent and completing the transfer – completing the process.
- 2.4. A local authority pursuing transfer and the receiving landlord will also need, in parallel, to pursue the financing of the transfer.
- 2.5. Any organisation receiving local authority stock must be a private registered provider registered by the Social Housing Regulator (“the Regulator”). It can be a not-for-profit or a for-profit organisation. Such a recipient is referred to in this manual as a private registered provider to distinguish it from the transferring local authority, which is also a registered provider. Not-for-profit private registered providers are informally known as housing associations.

## Large Scale Voluntary Transfers

- 2.6. A Large Scale Voluntary Transfer is the transfer of 500 or more tenanted and leasehold properties. A Large Scale Voluntary Transfer can include all the stock owned by a local authority or a part of it. The latter is known as a partial stock transfer. Any Large Scale Voluntary Transfer which requires central Government to write-off housing debt or associated earlier redemption premiums will need to follow all stages set out in the manual.
- 2.7. A local authority wishing to carry out a Large Scale Voluntary Transfer which requires central Government to write-off housing debt may apply at any time through submission of an application (see Section 4). As noted in Section 3, the HCA/GLA will expect to have significant contact with a local authority prior to the submission of an application, and hence would expect to already be aware of any such proposals.
- 2.8. A local authority wishing to carry out a Large Scale Voluntary Transfer which does not require debt write-off or Government support for early redemption premiums will be required to follow a similar process including approval from the HCA/GLA to proceed to formal consultation, but no DCLG approval will be required beyond provision of consent to transfer from the Secretary of State at the end of the process. There will be scope to reduce the application requirements on a case by case basis at the discretion of the HCA/ GLA. As noted in Section 3 the HCA/GLA will expect to have had significant contact with a local authority in this position prior to the submission of an application.

## Small Scale Voluntary Transfers

- 2.9. A Small Scale Voluntary Transfer is the transfer of 499 or fewer tenanted and leasehold properties over 5 years or less. Government support for overhanging debt is not available for Small Scale Voluntary Transfers.
- 2.10. A local authority wishing to carry out a Small Scale Voluntary Transfer will be required to follow a similar process to that described for Large Scale Voluntary Transfers in paragraph 2.8 above, including submission of an application. However there will be scope to reduce the application requirements including the following:
  - in Annex A, Application Pro-Forma, the level of detail provided against narrative questions should be commensurate with the scheme's size and complexity;
  - whilst a completed Transfer Value Reconciliation is required, supporting information should be commensurate with scheme size;
  - a Cost Benefit Analysis will not be required.
- 2.11. As noted in Section 3, the HCA/GLA will expect to have had significant contact

with a local authority in this position prior to the submission of an application.

## Community Led Stock Transfers

- 2.12. Where a tenant group brings forward transfer proposals under The Housing (Right to Transfer from a Local Authority Landlord) (England) Regulations 2013, then the process set out in this transfer manual applies in the same way depending on whether the community led stock transfer is a Small Scale Voluntary Transfer or a Large Scale Voluntary Transfer, and in the latter case, whether they are seeking Government support for debt write-off.
- 2.13. Tenant groups interested in pursuing transfer should in the first instance familiarise themselves with the 'Right to Transfer Regulations' and the associated statutory guidance.
- 2.14. Broadly the provisions of the transfer manual apply from the stage at which the tenant group has presented its feasibility study to the local authority and this has been accepted. Tenant groups are recommended to engage at an early stage with the HCA (or in London, the GLA). The HCA/GLA will not consider a transfer Application whilst a request for a Determination from the Secretary of State is outstanding.

## The Role of Government and its Agencies

### **Role of the Department for Communities and Local Government (DCLG)**

- 2.15. DCLG is responsible for:
- setting, articulating and interpreting the overall policy framework and value for money criteria which will apply in assessing transfer applications;
  - approving, in conjunction with HM Treasury, transfer applications where support for debt write-off or early redemption premiums is sought, following recommendations from the HCA or GLA;
  - considering whether consent to transfer should be granted by to the Secretary of State; and
  - any central Government arrangements for the payment of debt, early redemption premiums or discounts.

### **Role of the Homes and Communities Agency (HCA) and the Greater London Authority (GLA)**

- 2.16. The GLA acts in relation to stock owned by London Boroughs, the HCA in the rest of England. They are responsible for:
- initial discussions with a council that is considering transfer;
  - carrying out formal assessments of each transfer application, including an

assessment of value for money based on reliable evidence of how the proposal delivers Government, and in London, Mayoral, priorities; and the provision of tenant information in the formal consultation;

- negotiation of improved applications, re-assessment and making recommendations to DCLG;
- assessing the provision of tenant information in the Formal Consultation;
- submission of details of debt write-off requirements to DCLG;
- recommendations to DCLG on consent to transfer applications to the Secretary of State;
- managing the transfer caseload, including agreeing each local authority's transfer timetable.

#### 2.17. Within the HCA:

- area officials may advise transferring authorities at their request;
- the HCA in its capacity as Regulator will:
  - decide, through its Registration Committee, whether any proposed new social landlord, created to receive transferring stock, meets the criteria for registration; and
  - discuss with an existing private registered provider the implications for its current business plan of taking on additional stock through transfer.

Regulatory engagement, including where relevant the registration process, will largely occur following the approval of the transfer application. Given the need for registration prior to final Secretary of State consent, comments from the Regulator will be considered as part of earlier assessments of the initial application. Otherwise, the HCA will manage any conflicts of interest between its functions through appropriate “Chinese walls”.

## Completion deadline

- 2.18. Applications to transfer stock under the terms of this manual that seek support for overhanging debt write-off must be made on the basis that transfer will complete by 31 March 2015. Where Government offers to provide support for overhanging debt write-off in 2014-15 following an application, the support will be conditional on expenditure being incurred by 31 March 2015. The risk of funding being unavailable in the event of delayed completion of a transfer falls to the local authority and not to Government.

## 3. Deciding to Pursue Transfer

- 3.1. A local authority landlord will review the make-up and delivery of its services on a regular basis, and consideration of transfer may result from this. Reasons for considering transfer include:
- to allow the transfer landlord to borrow on private markets outside constraints on public debt, in order to invest in new or existing stock and create local economic activity;
  - in response to tenant wishes or to create new or innovative models of public service delivery;
  - and for partial transfers, to remove stock from the Housing Revenue Account which is challenging for a self-sustaining business plan, due to its construction, occupancy or estate issues.
- 3.2. Self-financing has enabled council landlords to implement sustainable 30 year business plans and asset management strategies. Any transfer proposal should emerge from and be aligned with these documents.

### Preliminary Activity

- 3.3. Submission of a transfer application will draw together significant preliminary work. A local authority will need to ensure it has evidence to illustrate how it meets the conditions and criteria used in assessment, including the demonstration of councillors' support. More generally any transfer proposal will need to demonstrate value for money (in particular by minimising any required debt write-off) and alignment with Government priorities. These should inform consideration of transfer from the outset.
- 3.4. A local authority should inform the HCA/GLA of its interest in transfer at the time this is first given serious consideration. The local authority should maintain a dialogue with the HCA/GLA prior to the submission of a transfer application, to help it provide the required information.

### Involving Tenants

- 3.5. Tenant consent, through a ballot, is required before a transfer can occur. The Secretary of State's consent will only be obtained if tenants have been full participants in decision making from the outset. Within the Application the local authority will need to confirm that tenants were involved in the appraisal of options prior to the decision to move towards transfer.

## Community-initiated transfer proposals

- 3.6. Where a tenants' group wishes to explore the benefits of transfer, The Housing (Right to Transfer Local Authority Landlord) (England) Regulations 2013 will require local authorities to co-operate with that process.
- 3.7. There are a number of options for community-based, tenant-led private registered providers to receive transferred stock, including co-operatives, tenant and staff mutuals, tenant majority boards and Community Gateways. As with all transfer applications, significant weight is likely to be given to the extent to which the transfer landlord can deliver efficiencies and contribute to local economic growth through the delivery of new affordable housing. Transfer to an existing private registered provider able to generate economies of scale and with a track record of house building may accordingly be a better option.

## Proposed partial transfers

- 3.8. When proposing a partial transfer, the local authority will need to demonstrate (as part of the application) that the proposal has been considered in terms of community geographical boundaries or communities of interest. The local authority is responsible for ensuring the sustainability of the stock retained following a partial transfer.
- 3.9. The importance of early consultation with tenants applies to partial transfers.

## Choosing the prospective new landlord

- 3.10. A local authority will need to identify the proposed type of receiving landlord before submitting an Application, or, where this is outstanding, a clear process for making the specific choice of landlord, including details of any competitive process (see Section 6: Regulatory Requirements).

## Options for the type of landlord

- 3.11. As a part of its preliminary work, a local authority will need to consider with its tenants what type of new landlord should take over the housing. The options are:
  1. an existing private registered provider;
  2. a newly established subsidiary of an existing private registered provider (either part of an existing group structure or through the creation of a new group structure);
  3. a newly established free-standing private registered provider;
  4. a number of newly established private registered providers that will make up a new group;

5. a newly established free standing private registered provider based on an existing organisation managing the stock, e.g. an Arms Length Management Organisation.

## Involving Tenants

- 3.12. The local authority should work with, and consider ways of helping tenants in, weighing up the relative advantages of:
  - different types of transfer landlord (including set-up costs, ability to obtain private finance, and the potential to minimise Government debt write-off and hence maximise the application's chance of success); and,
  - specific potential recipients for their homes.

The latter might be as part of an informal selection procedure or through holding a competition between invited private registered providers. Tenants might, for example, be involved in drawing up the specification for potential bidders, agreeing a short-list and contributing to the final selection (see Section 6).

- 3.13. As a part of its application, a local authority will need to confirm that tenants have been/ will be made fully aware of all the new landlord options and what each option offers to tenants in relation to their particular circumstances, and provide evidence that they are fully involved in the final landlord choice.

## Using a Competitive Process for Landlord Selection

- 3.14. The Government encourages the use of a competitive landlord selection process as a means of ensuring the best price is obtained for the stock being transferred and optimising value for money.
- 3.15. The local authority should ensure that all bids are capable of complying with the Regulator's policies and registration criteria. The local authority must provide copies of any bids received from existing private registered providers to the Regulator. The private registered provider should inform the Regulator when they are bidding for stock. The Regulator will not interfere with the commercial negotiations between the local authority and interested private registered providers but the Regulator will consider the reasonableness of key assumptions underlying the different business plan projections of private registered providers' bids and provide this analysis to the HCA/GLA for the purposes of the value for money assessment.

## Establishing a Group Structure

- 3.16. A local authority with large stock holdings may consider establishing a new private registered provider with a group structure, or transferring as a subsidiary

of an existing private registered provider. The Regulator should be consulted about a proposed group structure at an early stage (see Section 6).

- 3.17. When these options are being considered, there should be no constitutional or contractual constraints on future restructuring of the group, e.g. there should be mechanisms which allow subsidiaries to demerge from the group (subject to consent of the parent private registered provider, not unreasonably withheld).

## Transferring a Direct Labour Organisation

- 3.18. A local authority will need to decide whether any Direct Labour Organisation should transfer. If a Direct Labour Organisation is transferred this should not add to the transaction cost of the transfer (including the set-up costs). In their assessment of value for money the HCA/GLA will expect to review the impact on set-up costs. As described below, however, a Direct Labour Organisation may offer good value for money through VAT efficiency.

## Corporate impact and employment arrangements

- 3.19. The local authority is responsible for assessing the effect of transfer on its wider position and activities, and specifically (i) the delivery of other services, (ii) the overall financial position, covering the general fund, (iii) for whole stock transfers, the effect on its corporate structure, and (iv) for partial transfers, the continuing viability of its Housing Revenue Account Business Plan for the retained stock. The local authority will continue to have a strategic housing role after transfer and should ensure it retains a sufficient budget and staff complement.
- 3.20. The local authority is responsible for assessing the implications of transfer on employment arrangements and for consultation with staff, including ensuring compliance with Transfer of Undertakings (Protection of Employment) Regulations (TUPE) where relevant.

## Maintaining an Alternative

- 3.21. There are risks to the successful completion of a transfer: for example Ministerial consent may be withheld at some stage in the process, private finance may be unobtainable, the tenant ballot may be against proceeding, or it may not be possible to complete the transfer by March 2015. It is therefore important that throughout the development of the transfer proposal an alternative plan for the landlord function, with a viable long-term business plan, is maintained.

## 4. Submission of an Application

- 4.1. The process for approving transfer applications described in the 2005 edition of the transfer manual no longer applies. This section of the manual sets out the process for the submission and approval of a transfer application and explains the tools and supporting documentation that authorities will be asked to submit. The Secretary of State is unlikely to grant consent to a transfer unless a transfer application has been approved in advance of the local authority proceeding to formal consultation.
- 4.2. Whilst the same principles apply, the amount of information required within a transfer application will vary depending on the size and complexity of the transfer in question. Local authorities considering transfer should engage with the HCA or GLA at an early stage to discuss the likely requirements in their case.
- 4.3. Tenant led transfers should follow the same process, though it is likely to be the tenant group, supported by the local authority or private registered provider to which it is proposed the stock will be transferred, which will be submitting the business case and associated documents. Any application should be sent to the local authority at the same time as it is sent to HCA/GLA. HCA/GLA may contact the local authority directly either for clarification or confirmation of factual information.

### The Approval Process

- 4.4. The approval process centres on consideration by the HCA or GLA, and where debt write-off and/or support for early redemption premiums is required, also by DCLG in conjunction with HM Treasury, of the local authority's business case for transfer. Applications will be assessed to ensure that:
  - 4.4.1. they present a strong case for transfer: **the Strategic Case** covering drivers for change, with strong emphasis on macro benefits. Criteria include how the transfer will help deliver wider Government, and in London Mayoral, housing and social policy objectives (in particular the contribution to growth through additional homes, investment in the existing stock and local economic activity);
  - 4.4.2. they deliver value for money: **the Economic Case** covering the macro financial position which monetises the benefits shown in the strategic case to demonstrate the benefit to cost case. Where precise figures are unavailable estimates are acceptable, though HCA/GLA will challenge figures which are not based on reliable evidence;
  - 4.4.3. the transfer is viable: **the Commercial Case** covering indicative fundability of the transfer, asset management, delivery risks and landlord selection;

4.4.4. they are affordable by Government: **the Financial Case** covering the specific costs of the proposed transfer. Criteria include demonstrating that the transfer value has been maximised and any debt write-off requirements minimised; the benchmark for assessing this criterion is the self-financing valuation of the same stock. Evidence includes submission of information allowing Government to assess the costs and benefits of a proposal and a Transfer Value Reconciliation (see below); and

4.4.5. they can be delivered within an agreed timetable: **the Management Case** covering the timely delivery of the transfer project. Criteria include demonstrating that the project plan for transfer is achievable given the resources available. Local authorities should be guided by the outline timetable in Annex G and agree a credible date for transfer with HCA/GLA.

- 4.5. Annex A, Part 3 sets out the specific issues relevant to transfer that authorities must consider under the five elements of the business case set out above. The full business case must be presented in line with these five headings, which follow HM Treasury Green Book business case guidance ([http://www.hm-treasury.gov.uk/data\\_greenbook\\_business.htm](http://www.hm-treasury.gov.uk/data_greenbook_business.htm)) and include an executive summary.

The full business case should be signed by the lead local authority officer/project leader, the council's Chief Executive and the Leader of the council.

- 4.6. In addition to the full business case the local authority must submit as part of its transfer Application:
- Annex A Part 1, Introductory Information
  - Annex A Part 2, Confirmation of compliance
  - Annex B: a reconciliation of the transfer valuation to the self-financing valuation
  - Information to enable a cost-benefit analysis to be undertaken (see Annex C) (not Small Scale Voluntary Transfers)
  - A Transfer Valuation Model (either within or annexed to the full business case)
  - Where Government support is sought: details of its portfolio of debts and which it proposes should be paid off by the receipt from the transfer landlord and Government support; an estimate of premiums or discounts on the early redemption of debt and how these are calculated

## The Transfer Value

- 4.7. A local authority intending to transfer homes will need to generate a Transfer Value using a discounted cash flow model for social housing (its transfer valuation model or Transfer Value Model). This method is understood by

Government, the Regulator and funders. The Transfer Value is the amount the receiving landlord will pay for the stock, and hence the receipt the local authority will receive and which it can use to pay down debt associated with the stock. If this debt exceeds the Transfer Value the local authority may want to consider applying for debt write-off as part of its transfer application.

- 4.8. Government will wish to be satisfied that the Transfer Value has been maximised and the requirement for support for overhanging debt write-off accordingly minimised, but this will not in itself be sufficient for approval to be given to a transfer application. Applications will also need to meet the tests set out in the cost benefit analysis section below. There may be cases where the Transfer Value needs to be enhanced in order to meet these tests or where the assessment of value for money indicates that a higher transfer valuation may reasonably be expected. In these cases we will expect the acquiring private registered provider or the local authority or both to make a contribution to enhance the Transfer Valuation. The Transfer Value Reconciliation includes a line below the subtotal that allows this to be captured.
- 4.9. The Transfer Valuation Model will include as standard estimates for income and expenditure over the 30 years following transfer, and use a 3.5% real discount rate (or 6.5% nominal) to convert future values to a Net Present Value. A valuation over longer or shorter periods, or for a discount rate other than 3.5% real, may be used provided this delivers enhanced Value for Money (in particular a lower debt write-off requirement) and is fundable.
- 4.10. We do not prescribe a format for the Transfer Value Model, but do require that it is submitted with the Full Business Case. The Transfer Value Model is distinct from the Business Plan that needs to be prepared by the prospective new landlord for private funders and for registration. This is commented on in more detail in Section 7 below.
- 4.11. The starting point for assessing value for money in a transfer proposal is the expectation of equivalence between a local authority's self-financing valuation and its Transfer Value. Since the self-financing valuation determined both a council's starting level of housing debt within the reformed system and its maximum indebtedness in the future, any differences between the Transfer Value and the self-financing value will also affect the size of any debt write-off requirement and hence cost to Government (noting the potential for actual debt and modelled maximum indebtedness to differ at self-financing commencement and at the time of transfer). Note in addition that, with regard to any final debt write-off agreed:
  - any overhanging debt write off agreed will, in practice, be applied to the actual debt on the day of transfer (and not, for example, the settlement debt level)
  - for partial transfers debt is calculated based on the debt attributable to the homes being transferred under self-financing using property archetypes, not on a pro-rata basis.

## The Transfer Value Reconciliation

- 4.12. An example of a Transfer Value Reconciliation is included in Annex B.
- 4.13. The Transfer Value Reconciliation sheet makes transparent any differences between the proposed Transfer Value and self-financing value. It starts with the self-financing valuation figure for a local authority as at March 2012. Local authorities may enter further details to show the effect of, for example, changed stock numbers or updated stock condition information. The calculation will start with the original self-financing figure and end with the Transfer Valuation. Intervening rows will show any items or proposals which introduce extra cost for the recipient landlord (and hence depress the Transfer Value relative to self-financing) and any which reduce cost or increase income (and hence increase the Transfer value).
- 4.14. We would expect transfer to deliver management and operational efficiencies (increasing the transfer valuation compared to self-financing) and the Transfer Value Reconciliation should clearly set out what these are. As self-financing equivalence is the benchmark used to judge value for money, any items decreasing the Transfer Valuation will need a full justification in terms of the benefits derived and how these address Government, and in London Mayoral, priorities.
- 4.15. The Transfer Value Reconciliation includes a line below the sub-total that captures any contribution to be included. This can be used where the acquiring private registered provider or the local authority or both wish to make a contribution to enhance the Transfer Valuation.
- 4.16. Where a new build programme is planned for the transfer landlord this should be excluded from the Transfer Value Reconciliation because the transfer price should relate only to the existing stock that a local authority proposes to transfer. Any assumptions relating to a new build programme, including new borrowing, grants and other contributions to cover development costs, new income generated by those homes and related management and maintenance costs should be modelled as a development option in the business plan.

## Cost Benefit Analysis

- 4.17. The purpose of the Cost Benefit Analysis is to support the Economic and Financial Case for transfer. It monetises the costs and benefits described in the Strategic Case and compares the costs and benefits to the public sector of the transfer to show whether, compared to the local authority retaining the stock, the transfer proposal is a demonstrably preferable option both for the Government and more widely.

4.18. The model uses a 3.5% per annum discount rate on real values to calculate a net present value for the transfer. The Cost Benefit Analysis used to assess transfer proposals has two parts

- a financial case which is used to assess the affordability for Government - a calculation of the fiscal impact on the public sector of transfer;
- an economic case - a calculation of the wider economic and social benefits and costs of transfer (calculated in line with HM Treasury's Green Book methodology)

In order for a transfer application to be approved we would expect fiscal costs to be minimised and the Net Present Value over 30 years of the financial and economic case to be, as a minimum, positive.

4.19. Calculations for the purpose of assessing applications will be made using standard methodologies by economists in DCLG to ensure consistency between transfer applications and other programmes. Local authorities interested in transfer are encouraged to engage through the HCA or GLA, with DCLG economists at an early stage, so that they can provide assistance in providing preliminary calculations for the local authority. DCLG will require, via the HCA or GLA, assurance that the data provided for the purposes of making cost-benefit calculations is accurate and robust.

## Financial Case - Costs and Benefits to the Public Sector

4.20. A list of the necessary inputs in order to make the Net Present Value assessment is included at Annex C. Benefits and costs of transfer to the public sector may include:

- value of housing assets being transferred, as determined by the self-financing valuation;
- the receipt from the transfer landlord;
- loss of local authority rental income;
- loss of costs associated with management and maintenance and major repairs;
- additional net Value Added Tax revenues resulting from transfer to the private sector;
- reduced Housing Benefit costs due to lower reliance on private sector renting as a result of additional affordable housing and fewer void properties;
- early redemption premiums on non-Public Works Loan Board debt;
- Central Government interest payments on Public Works Loan Board debt repaid by local authorities

Ongoing costs and benefits should be presented on an annualised basis from the proposed year of transfer.

## Wider Economic and Social Costs and Benefits

- 4.21. This calculation looks more generally at the wider costs and benefits of transfer and compares these with Government expenditure resulting from transfer. Local authorities are encouraged to consider the benefits of transfer which can be monetised. The case for including them in the Cost Benefit Analysis calculation in line with standard Government approaches should be discussed, via the HCA or GLA, with DCLG economists at an early stage.
- 4.22. We consider potential benefits might include:
- consumption of housing and value uplift due to construction of new build and the reduction in the number of voids;
  - creating training opportunities for apprenticeships through new build construction and renovation work to Decent Homes standards;
  - improvements to public health through the renovation of non-decent homes;
  - reduction in energy usage which depends on the number of properties brought to Decent Homes Standards;
  - labour mobility which depends on the number of voids prevented and new build units;
  - educational impact which depends on the number of voids prevented and new build units.

## Submitting an Application

- 4.23. A local authority should send an electronic version of their transfer Application comprising the information set out above to HCA/ GLA, at the address given, with e-signatures where required.
- 4.24. Advice and guidance on making a submission is available from the HCA/ GLA via the contact details at Annex H.
- 4.25. If the intention is to transfer to an existing private registered provider landlord the local authority should make clear how it intends to select it and include this process in its transfer project plan and timetable. If the intention is to transfer to a newly created private registered provider it should explain the proposed governance arrangements and provide a detailed plan for creating the new organisation. In either case, the Application would benefit from evidence that transfer to the preferred landlord delivers better value for money and/or a higher transfer value than transfer to another landlord.

## Evaluation of an Application

- 4.26. The HCA/ GLA will seek clarification or further evidence as necessary. If modifications to the application are required these will be discussed and agreed with the local authority.
- 4.27. The HCA/GLA will review the Full Business Case and associated information, and take a view on whether the application should be approved. Where no debt-write off is required the HCA/GLA will inform the local authority of its decision directly.
- 4.28. Where debt write-off is required and the HCA/GLA considers the Application should go forward, they will prepare a recommendation to DCLG, who will consider it through their normal internal procedures for assessing the value for money and the affordability of spending proposals. They will also involve HM Treasury.
- 4.29. DCLG and HM Treasury will, following consideration and Ministerial approval:
- accept the Application and give approval for the local authority to move to formal consultation with tenants; or
  - accept the Application subject to certain conditions. Approval for the local authority to move to formal consultation will be given only once DCLG and HM Treasury are satisfied these have been met; or
  - reject the Application, ending the transfer process.
- 4.30. The HCA/ GLA will inform the local authority of the Government's decision and confirm, where approval has been given, the amount of Government support to enable the debt to be written down and (on an indicative basis) to meet early redemption premiums. The HCA/ GLA will issue an invitation to compliant applicants to submit a proposal for Formal Consultation with tenants, and agree a timetable for this submission. Annex G sets out an indicative timetable for the process from submission of a transfer Application to Secretary of State consent to transfer. Agreement to proceed to Formal Consultation with tenants (subject to agreement of the Offer document) does not guarantee Secretary of State agreement to the consent application but should provide significant confidence to authorities that consent will be given provided that the terms of the transfer remain substantially the same.

## Changes to the Transfer Valuation

- 4.31. Any change in the Transfer Valuation which increases the amount of overhanging debt write-off required from Government will require the business case to be re-submitted for approval by DCLG and HM Treasury. The local authority should contact the HCA/GLA immediately if any issues arise with the Transfer Valuation

following approval of the Application. The valuation should not change substantially prior to transfer. Any decrease in the valuation may result in the Secretary of State withholding consent.

- 4.32. We recognise that at the time a transfer Application is submitted there may be uncertainty, for example about the numbers and condition of the properties to transfer or about the availability and cost of financing for the transfer landlord. Local authorities should take a balanced view and take reasonable steps to minimise uncertainty. Where overhanging debt write-off is required and the sum required increases at a later stage due to uncertainty at the Application stage the new factors will need to be reflected in a revised business case for consideration by Government before approval for further support will be given. The risk of delay to transfer caused by re-submission of an Application, and that in consequence the transfer will be unable to complete by 31 March 2015 and funding for overhanging debt write-off will not be available, rests with the local authority.
- 4.33. We recognise that premiums or discounts on the early redemption of debt cannot be predicted with certainty in advance, but local authorities which are seeking Government support should contact the HCA/GLA where they consider that they are likely to differ materially from estimates provided with the transfer Application.

## Dealing with a Negative Value Transfer Valuation

- 4.34. Gap funding grant to support negative value Transfer Valuations is no longer available. If the Transfer Valuation is negative support will be needed from the acquiring private registered provider or the local authority or both.

## Levies

- 4.35. The Government indicated in *Implementing Self-Financing* in February 2011 that it was minded to abolish transfer levies. We consider that, since we are continuing to make support for debt write-off available, the option of raising a levy should also remain. We anticipate however that a levy would be payable only in exceptional circumstances. We propose that a levy should be payable, at a rate of 20%, on the sum by which the capital receipt from transfer in respect of housing stock exceeds the attributable self-financing debt (not the actual debt at the point of transfer) on the stock being transferred. We propose to revoke the Disposals Levy (Deduction) (England) Determination 2004 and make a new Determination to reflect this revised calculation of 'D' for the purposes of section 136 of the Leasehold Reform, Housing and Urban Development Act 1993.

## Premiums and Discounts on Early Redemption of Debt

- 4.36. Government support for debt-write off will be applied to Public Works Loan Board debt (and associated premiums) only. It will not be applied to non-Public Works Loan Board debt (and associated premiums). If a council holds debt with private sector funders we would expect the principal and premiums to be paid from the receipt for the stock.
- 4.37. Where support for debt write-off on Public Works Loan Board debt is sought and approved, the Government will meet the cost of associated early redemption premiums, provided estimates have been submitted and agreed as part of the transfer Application and where the local authority considers that these are likely to change materially this has been notified to the HCA/GLA.
- 4.38. Following the introduction of self-financing authorities have the option of adopting one of three models for managing debt across the Housing Revenue Account and the General Fund: i.e. the one pool, two pools or three pools approach. Where a local authority is operating a single pool, debt redemption premiums should be calculated on the basis that costs of managing debt are charged equitably and reasonably to the Housing Revenue Account and the General Fund. Where specific debt pool(s) have been created for the Housing Revenue Account the premiums relating to the Housing Revenue Account debt will usually be considered as the premiums for the purposes of debt write-off. Further details are provided in Annex D.

## Value Added Tax

- 4.39. Local authorities are able to reclaim the VAT charged on maintenance and repair works on housing stock and other expenditure whereas private registered providers cannot.
- 4.40. However transfer landlords are able to minimise the cost of VAT by use of a VAT shelter arrangement. We therefore expect transfer landlords to implement a VAT shelter.
- 4.41. We expect transfer landlords to maximise the value of the VAT shelter and for VAT shelter income to be reflected in the landlord's business plan and in the Transfer Value (thus reducing the debt write-off required). The proportion of the VAT shelter included in the valuation will vary from case to case, but we would expect to see it maximised within the context of a specific proposal. Any restrictions on the proportion included (for example to meet funder concerns) will need to be backed by evidence and will make it harder to demonstrate value for money for Government and the public sector in the Cost Benefit Analysis.

4.42. Applicants may wish to propose not operating a VAT shelter. We will consider this option, but it is not preferred and applicants will need to demonstrate a clear Value for Money case for Government to support it.

## Set-up Costs

4.43. Set-up costs are those costs relating to leviable assets (i.e. the dwelling-houses) which were incurred by the local authority in pursuing the transfer. These costs include the costs incurred by the local authority in discharging its statutory duty to consult under Schedule 3A to the Housing Act 1985 and the administrative costs of and incidental to the disposal defrayed by the local authority. These costs may include the costs of:

- consultants and other advisors
- tenant advisors
- the ballot or opinion survey
- consultation and communication
- staff change and consultation
- accommodation
- Board appointment and training
- staff training
- IT

4.44. Any costs incurred by the local authority of meeting any shortfall or deficit in their pension scheme at the time of transfer are not considered to be a 'cost of and incidental' to the transfer and as such may not be included in the set-up costs.

4.45. The local authority and the transfer landlord should agree between them a basis for sharing the set-up costs.

4.46. The local authority and the transfer landlord will each bear the full cost of its share of the set-up costs. Set-up costs will not be included in the Transfer Valuation Model and will therefore not impact on the transfer valuation. Government will not increase its contribution to overhanging debt write-off in respect of any set-up costs offset by the local authority against the capital receipt from the transfer landlord.

4.47. For the transfer landlord there will be an expectation that the value of its set-up costs will be matched by planned efficiency gains, for example lower management and maintenance costs, which enhance the Transfer Value.

4.48. Transfer to a newly created landlord may have higher set-up costs, and these will be a higher proportion of overall costs if the landlord is small. These extra costs will be considered by the HCA/GLA as part of the assessment of the Application.

## Preserved Right to Buy

- 4.49. Transfer applications should include a commitment that the transfer landlord will use all receipts, after accounting for net revenues foregone from the sale and administration costs, from Preserved Right to Buy for new affordable housing. At the point of transfer, the private registered provider would be required to enter into an agreement with DCLG to use all net receipts for new affordable housing. The transfer landlord could instead agree to pass the receipts to another private registered provider to deliver new affordable housing on the same terms or surrender net receipts to the HCA/GLA. Given uncertainties we would not expect income from Preserved Right to Buy sales to be reflected in the Transfer Value or included in the Transfer Value Reconciliation.

## Completion Deadline

- 4.50. As noted in Section 2 any local authority making a transfer Application under the terms of this manual and which requires Government support to redeem overhanging debt must complete transfer by 31 March 2015. Where Government offers to provide support that will be conditional on expenditure being incurred by 31 March 2015.

# 5. Submission of a Formal Consultation Proposal

## 5.1. The statutory guidance on tenant consultation

<https://www.gov.uk/government/publications/consulting-council-tenants-about-selling-their-homes-to-a-private-landlord-statutory-guidance>

covers requirements for the formal two-stage consultation process: the language and tone that should be used in Stage 1 (the Offer Document); the conduct and timing of Stage 2 (the Ballot); the local authority's post ballot tasks, and the rights of interested parties to make representations about the transfer proposal to the Secretary of State.

- 5.2. A local authority must present an accurate picture to its tenants about the transfer proposal and the implications of staying with the council, but it should not seek to persuade tenants to vote one way or the other.
- 5.3. The prospective new landlord and tenants groups can, however, present the benefits of transfer prior to the issuing of Stage 1 formal consultation as long as this material is fair and accurate. Following the start of Stage 1, material can be sent from the prospective new landlord to correct inaccuracies.
- 5.4. Where Tenant Management Organisations exist or are proposed, these should be involved from the outset. In particular, the Tenant Management Organisation will want to consider the implications for the housing management responsibilities it carries out under its management agreement with the local authority.
- 5.5. Annex F sets out some good practice guidance on tenant consultation.
- 5.6. The HCA/GLA is required to ensure a local authority follows statutory guidance and good practice during the formal consultation (i.e. Stages 1, the Offer Document, and 2, the Ballot). In submitting a proposal for Formal Consultation authorities should provide copies of:
  - the Offer Document
  - formal letters to residents

These will be assessed to ensure that they meet the requirements of the tenant consultation guidance and are consistent with current policy and other requirements. The local authority is also asked to confirm that there has been no significant change regarding the information set out in the Application, and that the timetable set out there will be met, and provide an update of this where relevant.

- 5.7. A local authority should send an electronic version of the material to the HCA/GLA, at the address given.
- 5.8. If the assessment of the Offer Document is satisfactory the HCA/GLA will give consent for the local authority to proceed to Stage 1 consultation. We would usually expect, subject to extensions agreed with the HCA or GLA, and subject to Regulatory requirements being satisfied, that when a local authority has received clearance to proceed to formal consultation it will complete its transfer within one year from the date of that clearance.

## 6. Regulatory Requirements

- 6.1. Local authorities may transfer tenanted housing to a private registered provider, which can be either a not-for-profit or for-profit organisation. The HCA, in its role as Regulator, decides whether a proposed landlord meets the criteria for registration. It is also responsible for the regulation of existing private registered providers and will therefore need to be satisfied that an existing provider has the capacity to take on additional stock through transfer.
- 6.2. The Regulator's registration team is responsible for assessing compliance with registration and regulatory requirements for stock transfer. Local authorities should make contact with this team at an early stage, preferably prior to submission of a transfer Application, to ensure that the Regulator is fully engaged.
- 6.3. The following summarises the key areas of regulatory engagement:

### Setting up a new landlord

- 6.4. Where it is proposed that transfer would be to a newly established private registered provider a large part of the transfer process involves setting up the new landlord. This section outlines some of the issues connected with establishing a new landlord as a private registered provider of social housing. For further guidance, a local authority proposing to set up a new private registered provider should refer to the Regulator's regulatory framework and guidance for applicants for registration
- 6.5. The Secretary of State's final consent to transfer will not be given until the new landlord is registered with the Regulator.
- 6.6. There are typically three organisational structures for transfer private registered providers:
  - **A single centralised organisation.** The most common structure with a management board made up of tenants, local authority nominees and independents.
  - **A single decentralised organisation.** A management board and a number of operating divisions with delegated powers from the management board. The operating divisions are managed by management committees (or similar).
  - **A group structure.** The new landlord is part of a group structure which can be of other newly formed transfer landlords or of existing private registered providers or a mixture of both, or as a subsidiary of a non-registered entity. Each member of the group has its own legal constitution. The group structure and the relationship of group members must be able to meet the requirements of the Regulator's regulatory framework with particular reference to the governance element within the Governance and Financial Viability Standard.

- 6.7. A private registered provider must be independent from the local authority and other organisations (except if it is a subsidiary of another organisation).
- 6.8. The Regulator must be informed of any contracts into which the local authority proposes to enter with the new landlord.

## Selecting an existing landlord

- 6.9. If, after the appropriate tenant consultation, it is decided that transfer will be to an existing landlord the Regulator will require confirmation of the short-listed private registered providers. This will enable the Regulator to engage with the short-listed private registered providers prior to landlord selection. Once landlord selection has taken place the Regulator will commence a detailed assessment of the transfer and the impact the transfer will have on the receiving private registered provider. Whilst there is no registration requirement if transfer is to an existing private registered provider the Regulator has to confirm to DCLG that the selected private registered provider has the financial, governance and management capacity to take the transfer and to deliver the promises made to transferring tenants.

## Securing funding

- 6.10. The recipient landlord will need to secure the private finance required to fund the transfer and the promises made to tenants in the offer document.
  - **Appointment of funding advisers.** This is normally done after the ballot, however early engagement with potential funders can take place. This early engagement would give an indication to the transferring local authority and the selected new landlord of any potential problems in funding the transfer and help ensure that the Application is based on realistic assumptions.
  - **Drawing up a funding prospectus.** The funding prospectus is designed to provide full details of the housing transfer to potential funders. It is important that professional independent advice is secured at an early stage in preparing the prospectus, assessing funding offers and selecting a potential lender.
  - **Competition for funding** should help ensure best value. By going to the market for its funding requirements the new landlord will be able to compare the terms and conditions offered by potential funders with those made in the business plan.

## Drawing up the transfer contract

6.11. The transfer contract governs the sale of the housing and the relationship between the local authority and the private registered provider.

- The transfer contract, and a plain English summary of its contents, must be submitted in support of a disposal consent application to the Regulator.
- The transfer contract should include all agreements entered into by the local authority and private registered provider in respect of the transfer.
- The local authority may be asked to provide warranties covering certain matters affecting the transferred stock. Where either party is to provide services to the other the terms should be set out in Service Level Agreements.
- A local authority will need to consider carefully how other responsibilities, such as common landscaping, will be dealt with.
- The private registered provider should covenant with the local authority to keep any promises made to tenants by the local authority during consultation, to offer transferring tenants a new tenancy agreement and to meet the Regulator's Regulatory standards.
- The transfer contract should detail the treatment of net Preserved Right to Buy receipts.
- The Transfer Agreement should not compromise the independence of the private registered provider.

## Finalising the tenancy agreement

6.12. Private registered providers shall offer tenancies or terms of occupation which are compatible with the purpose of the accommodation, the needs of individual households, the sustainability of the community, and the efficient use of their housing stock.

6.13. They shall meet all applicable statutory and legal requirements in relation to the form and use of tenancy agreements or terms of occupation.

## Issuing Section 172 Consent

6.14. The Regulator will issue a consent under section 172 of the Housing and Regeneration Act 2008 and any other required consents at the time of completion of the transfer. This consent is required to enable the receiving landlord to borrow from its funders to pay the local authority the value of the transferring stock.

## Post transfer requirements

- 6.15. Under its Regulatory framework, the Regulator will undertake visits to a new private registered provider during the first 12 to 18 months after transfer.
- 6.16. If the receiving landlord is a newly registered organisation the level of Regulatory engagement after transfer will be higher than with an existing private registered provider. This is because the new landlord has no operational track record of performance and the Regulator will want to assure itself that the new private registered provider is working towards compliance with the regulatory framework. This higher level of engagement will generally involve quarterly meetings commencing some three months after transfer with the executive management team of the new private registered provider and attendance at one or two board meetings.

# 7. Submission for Secretary of State's Consent and Completing the Transfer

## Applying for consent to the transfer

7.1. A transfer can only go ahead if the Secretary of State grants consent to it under sections 32-34 and/or 43 of the Housing Act 1985.

## Criteria for consent

7.2. In considering an application for consent the Secretary of State will apply the following criteria:

- that the local authority's consultation exercise has been adequate;
- that the majority of secure and introductory tenants voting in the ballot are in favour of transfer;
- that the acquiring landlord is registered with the Regulator;
- that the acquiring landlord is independent of the council;
- that, where Government support for debt write-off is sought, the transfer is on the same basis as previously approved at Application stage or following amendments subsequently agreed;
- that the terms of the transfer are acceptable;
- that the local authority will be able to fulfil its statutory obligations under the Housing Act 1996 and has adequate nomination rights.

7.3. In addition the Secretary of State may consider any other matters which seem relevant.

## Submitting an application and supporting documentation

7.4. Once there has been a positive ballot and the council decides that it wishes to proceed with the transfer, all parties should agree with the HCA/GLA the date that, subject to the Secretary of State's agreement and subject to Regulatory requirements being satisfied, the transfer will be completed. This should usually be no more than 9 months after the ballot in the case of a new provider and no more than 6 months in the case of an existing private registered provider.

7.5. The local authority should submit a letter formally applying for consent under section 32-34 and/or 43 of the Housing Act 1985, addressed to the Secretary of

State, at least four weeks before the proposed transfer date. Certain additional items of supporting information are required; details are listed in **Annex E** under headings “Four weeks prior to consent day checklist” and “Summary of Key Facts.”

- 7.6. Authorities should note that consent cannot be granted unless all the items listed in **Annex E** have been received. We appreciate that some of the required documentation, for example the transfer contract, will not be finalised until the end of the transfer process, near to the date when consent is expected to be granted. Nevertheless, we need adequate time to consider the proposed terms of the transfer before consent can be given and it is therefore advised that a draft of the transfer contract is provided once the majority of the detail has been agreed.

## Disposal of non-housing assets

- 7.7. Authorities may include the transfer of non-housing assets in a proposed transfer of dwellings to a new landlord. Such proposals may add value to stock transfers and frequently offer enhanced potential for future growth or regeneration.
- 7.8. The local authority and the receiving landlord are expected to negotiate the terms of any transfer of non-housing assets in advance of the completion of the transfer, allowing enough time for any relevant consents to be obtained so that the application for the Secretary of State’s Consent for the transfer of housing assets is not delayed.

## Plain English summary of the transfer contract

- 7.9. In order that we can properly consider the proposed terms of the transfer, we require authorities to provide a plain English summary of the transfer contract. Authorities should obtain their own legal advice as to its contents.
- 7.10. The plain English summary should cross-refer to the relevant sections in the transfer contract. The final version of the summary should be certified by a senior legal officer to the effect that it represents an accurate reflection of the transfer contract’s contents.

## Final version of the transfer contract

- 7.11. DCLG needs to receive an electronic copy of the final transfer contract and the plain English summary three working days before consent is required. It is DCLG’s practice not to give consent to a transfer until the final version of the transfer contract has been received and agreed.

## Consent under other legislation

- 7.12. At the same time as it submits its application for consent to the transfer under sections 32 and/or 43 of the Housing Act 1985, the local authority should consider, in conjunction with the new landlord and its funders, what consent under other legislation might be required. Sufficient time should be allowed to enable other consents to be secured. It should obtain its own legal advice as appropriate.

## Confirmation of consent

- 7.13. Subject to the Secretary of State agreeing that the transfer should take place, DCLG will issue a formal letter electronically to the local authority confirming that consent has been granted. At the same time DCLG will confirm whether any other consents requested have been granted.

## Arrangements where there is overhanging debt

- 7.14. Where DCLG has agreed to write down any overhanging debt and early redemption premiums associated with the transfer, the local authority should contact the Public Works Loans Board by telephone, two working days before the intended repayment date, to give formal notification of the principal to be redeemed. They can be contacted on 0845 357 6610 between 9.30 and 16.15. (The local authority should consider discussing the matter informally with the Public Works Loan Board at an earlier date).
- 7.15. On completion of the call the Public Works Loan Board will calculate any accrued interest and premium / discount due and will telephone the local authority as soon as possible with details of the total amount that will be required in order to redeem the agreed amount of principal.
- 7.16. The local authority should notify DCLG of the amounts for repayment as soon as they receive them from Public Works Loan Board. DCLG will arrange for the repayment of the share of the principal it has agreed to meet and premiums associated with the transfer to be made directly to the Public Works Loan Board. The local authority will be responsible for repayment of any accrued interest. Where discounts arise on the repayment of the debt, DCLG will reduce its contribution to the repayment of the principal by the amount of those discounts. Where discounts exceed DCLG's agreed contribution to debt write-off, DCLG will make no payment to the Public Works Loan Board and the local authority will pay the difference to DCLG

## Closing the Housing Revenue Account and associated issues

- 7.17. A local authority that transfers all its stock (or subject to Secretary of State direction a majority of its stock so that 50 or fewer dwellings remain) would normally be expected to close its Housing Revenue Account.
- 7.18. On closure of the Housing Revenue Account, any balance on the Housing Revenue Account accrues to the local authority's General Fund. Since 1 April 2001, authorities have been required to keep a Major Repairs Reserve, which is separate from the Housing Revenue Account. The Major Repairs Reserve holds resources available to authorities to meet capital expenditure on maintaining the future condition of their stock.
- 7.19. On the basis that authorities should meet major repairs when they fall due, any balance on the Reserve should represent provision in respect of future expenditure needs. The amounts involved could be significant. Where housing is about to be transferred to a private registered provider and the transfer is of all remaining dwellings out of the local authority's Housing Revenue Account, the Major Repairs Reserve should, at the time of transfer, be nil. As well as funding capital maintenance, the Major Repairs Reserve may also be used to fund the repayment of housing debt.

## HCA/GLA role in completing the transfer

- 7.20. The HCA/GLA will issue a letter shortly before the local authority is required to submit a final application for consent. This will remind the local authority of the information and document requirements, re-confirm the key dates and set out the staged steps leading up to completion of the transfer. HCA/GLA will produce a report and recommendation that will be submitted to DCLG in support of the local authority's request for consent. This will be confirmation that the HCA/GLA are content that the transfer is taking place on the basis agreed by Government.

## Regulator role in completing the transfer

- 7.21. Where a receiving landlord wishes to borrow from a private lender to fund the purchase of transferred stock it usually secures the loan on the transferring stock. The receiving landlord must obtain a specific consent to grant a security interest in favour of the private lender. The Regulator has powers under section 172 of the Housing and Regeneration Act 2008 for giving of consents to private registered providers.
- 7.22. Other consents may also be required.

7.23. The receiving landlord should follow the guidance for obtaining consents which is available on the HCA's website:

<http://www.homesandcommunities.co.uk/ourwork/consent-disposals>

and should obtain its own legal advice.

7.24. All appropriate consents must be obtained prior to the Secretary of State granting consent.

## DCLG role in completing the transfer

7.25. DCLG officials will manage the final part of the transfer application and will complete the process. They will:-

- administer the local authority's application for consent to dispose and other related consents after having been supplied with one electronic copy of the transfer agreement and plain English summary.
- supply electronically signed versions of the consent letters followed by hard postal copies
- administer the payment of Overhanging Debt as applicable (see Annex D).

### **Issuing the Secretary of State's consent to dispose to the local authority**

7.26. As soon as possible after receipt of the formal consent application, DCLG officials will prepare a draft of the main consent letter. It will include the names of the local authority and the new landlord, the date by which the transfer should take place and any additional conditions. The draft consent letter will be sent to the legal advisers acting for the local authority and the new landlord for checking.

7.27. Once the content of the main consent letter and any other related letters has been agreed it will be authorised as at the date consent is to be granted.

### **Issuing other consents under other legislation**

7.28. A local authority may wish to supply a loan to the receiving private registered provider, for example to assist with the private registered provider set-up costs and pre-transfer costs. To enable this, the local authority should use the general consent to provide financial assistance under Section 25 of the Local Government Act 1988, issued by DCLG in December 2010.

**Sending letters to Members of Parliament whose constituencies are affected by the transfer**

7.29. At the time that consent to dispose is given the Minister is likely to write to the local Member(s) of Parliament within whose constituency the transfer properties lie confirming his agreement to the transfer.

# Annex A: Application Pro Forma

## (1) Introductory Information

<b>Local authority submitting proposal:</b>	
Full name and address, including e-mail of lead local authority officer/project leader	
Full name and address, including e-mail of the council's Chief Executive	
Full Name and address, including e-mail of the Leader of the council	
Full names and where possible, email addresses, of local MPs whose constituencies fall within the transfer area	
Is this a whole stock or partial stock transfer proposal?	
<b>If partial stock</b> , give the name of area or that by which transfer proposal is known AND % of total housing stock that would transfer	
How many units would transfer?	
Of these how many leasehold properties would transfer?	
Of these how many units that are currently tenanted would transfer?	
How many non-decent rented units would transfer?	
How many of these were non-decent on 01 April 2012 (i.e. Decent Homes Backlog as defined within the Decent Homes Backlog programme)?	

## (2) Confirmation of compliance

In submitting this Application the local authority certifies that the following conditions are met:

- (i) That the transfer is supported by councillors. (Please also provide a copy of resolutions regarding transfer passed by the council, stating the extent of support for these.)

- (ii) That the proposed transfer is on freehold terms.
- (iii) That, where a local authority will have overhanging debt, the receipt will be used to offset the loan and premiums.
- (iv) That tenants have been instrumental in developing the transfer proposal and there is a place for continued active tenant involvement throughout the proposed scheme design and delivery stages, including considering and choosing landlord options and, where there is a competition for the prospective new landlord, that tenant representatives will be included on the assessment panel.

### (3) Assessment criteria and evidence

The local authority should submit a business case addressing all of the criteria stated below through the evidence required in the right hand column. The full business case must be set out under these five elements of the case, which follow HM Treasury Green Book business case guidance ([http://www.hm-treasury.gov.uk/data\\_greenbook\\_business.htm](http://www.hm-treasury.gov.uk/data_greenbook_business.htm)) and include an executive summary. The full business case should be signed by the lead local authority officer/project leader, the council's Chief Executive and the Leader of the council.

<b>CRITERIA</b>	<b>EVIDENCE</b>
<b>STRATEGIC CASE</b> (what are the drivers for change with strong emphasis on macro benefits)	
<b>GROWTH CASE</b>	
<p>1. <b>Additional market homes.</b></p>	<ul style="list-style-type: none"> <li>• What is the estimated total number of new homes to be built?               <ul style="list-style-type: none"> <li>○ Of which, what is the estimated number of new homes (i) for private rent; (ii) for sale?</li> </ul> </li> <li>• What is the estimated delivery profile (annualised) of these new homes?</li> <li>• What is the estimated net additional number of homes?</li> <li>• Are these additional to existing plans for the area?</li> <li>• What is the current ownership of land which will be developed?</li> <li>• Are these homes deliverable without transfer (e.g. through disposal of land, a joint venture etc.)? Explain your response.</li> </ul>

<p><b>Additional affordable homes</b> (taking account of further cost to Government through expected grant) in areas where there is continuing need and demand, in the context of current government policy in the first 5 years following the transfer and across a full 30 year business plan.</p>	<ul style="list-style-type: none"> <li>• What is the estimated total number of new affordable homes to be built? <ul style="list-style-type: none"> <li>○ Of which, what is the estimated number of new homes (i) for rent (and at what rents); (ii) for LCHO?</li> </ul> </li> <li>• What is the estimated delivery profile (annualised) of these new homes?</li> <li>• What is the estimated net additional number of affordable homes?</li> <li>• Are these additional to existing plans for the area?</li> <li>• What is the evidence of need and demand for the number and type of homes in the context of current government policy (e.g. Welfare Reform)?</li> <li>• What is the current ownership of land which will be developed?</li> <li>• Are these homes deliverable without transfer (e.g. through disposal of land, a joint venture, etc.)? Explain your response.</li> </ul>
<p><b>2. Decent Homes and other capital works</b></p>	<ul style="list-style-type: none"> <li>• What is the estimated cost to make decent any <u>backlog</u> of non-decent homes (separating out those non-decent at 1 April 2012 and those which have become non-decent since that date)?</li> <li>• How will the transfer business plan address the backlog (include an annualised profile of homes made decent)?</li> <li>• What is your forecast <u>total</u> non-decent homes profile (separating backlog and newly arising if relevant) without transfer (annualised, for the period you feel relevant)?</li> <li>• Is maintaining stock at the Decent Homes Standard possible without transfer (e.g. within your Housing Revenue Account business plan)? Please explain. If stock cannot be maintained at the Decent Homes Standard without transfer, please estimate the size and</li> </ul>

	<p>value of consequences (e.g. how much stock would become unlettable and what would be the profile of that?).</p> <ul style="list-style-type: none"> <li>• What is your forecast total non-decent homes profile following transfer (separating backlog and newly arising if relevant; annualised)?</li> <li>• How will the transfer business plan address maintenance of stock at the Decent Homes Standard (include an annualised figure for the number of homes receiving decency works, and the estimated cost of these works)?</li> <li>• Are there any other (non-Decent Homes Standard) capital works required for sustainability of your stock? If yes: <ul style="list-style-type: none"> <li>○ What is the estimated cost of these works?</li> <li>○ Is delivering these works possible without transfer (e.g. within your Housing Revenue Account business plan or through an alternative approach to the problem)? Please explain.</li> <li>○ How will the transfer business plan address these works?</li> <li>○ Please state your view of the external costs of these issues if not addressed (i.e. will properties become unlettable and what would be the profile?)</li> </ul> </li> </ul>
<p>3. <b>Local economic activity</b> created through transfer, including employment opportunities, apprenticeships and support for Small and Medium Enterprises.</p>	<ul style="list-style-type: none"> <li>• What employment and apprenticeship opportunities will arise from the activity under transfer described above (emphasising why transfer is a necessary condition for the activity).</li> <li>• What will be the benefit to local Small and Medium Enterprises of the activity under transfer described above?</li> </ul>
<p>THE BETTER PUBLIC SERVICES CASE</p>	

<p>4. Innovative forms of <b>governance and public service delivery</b>.</p>	<ul style="list-style-type: none"> <li>• Will your transfer deliver innovation in governance and delivery? <ul style="list-style-type: none"> <li>○ Do any monetary benefits arise from this innovation (and to whom)?</li> </ul> </li> </ul>
<p>5. Delivery of <b>wider government housing and social policy objectives</b>; including providing new supply, welfare and tenancy reform, allocations, generating growth.</p>	<ul style="list-style-type: none"> <li>• Will your transfer help deliver wider government housing and social policy objectives, including welfare and tenancy reform, mobility and choice for new and existing tenants, use of appropriate tenancies and an allocation policy that reflects Government advice? Please explain why these accrue through transfer.</li> </ul>
<p><b>THE BUSINESS SUSTAINABILITY CASE</b></p>	
<p>6. <b>Demand for the stock</b>, in the context of current government policy (e.g. Welfare Reform), is understood and reflected in business planning for the transfer landlord.</p>	<p>Details of:</p> <ul style="list-style-type: none"> <li>• the extent of long-term demand for the housing to be transferred;</li> <li>• any specific demand issues and proposed measures to address them (including issues of under occupancy related to current government policy e.g. Welfare Reform, and strategies to address this, including stock rationalisation);</li> <li>• proposals to refurbish and improve stock for which demand is low. In line with the Written Ministerial Statement of 10 May and George Clarke’s ten point plan we would expect landlords to consider options to upgrade and refurbish existing homes, in consultation with tenants prior to considering demolition.</li> </ul>

**ECONOMIC CASE**

(the macro financial position which monetises the benefits shown in the strategic case to demonstrate the benefit to cost case)

<p>7. The proposal shows a <b>positive cost benefit analysis</b>.</p>	<ul style="list-style-type: none"> <li>• The local authority should provide a Cost Benefit Analysis (see Section 4 of this manual). This should monetise benefits shown in the strategic case e.g. distributional benefits from more affordable housing, new training opportunities, health benefits, reductions in energy use, etc.</li> </ul>
<p>8. <b>Alternative options</b> have been fully considered and shown to offer poorer Value for Money, including retaining stock.</p>	<ul style="list-style-type: none"> <li>• Details of comparative Value for Money analysis. This may be shown as a summary of alternative stock options, including stock retention, which analyses and compares the costs and benefits of each option. This should demonstrate why the transfer option is the preferred option.</li> </ul>

**COMMERCIAL CASE**

(private finance for the transfer, asset management and landlord selection)

<p>9. <b>Set-up costs</b>, including loan arrangement fees, will be minimised, shared appropriately between the transferring local authority and recipient landlord, and will be off-set through lower ongoing operating costs (e.g. a lowering of management and maintenance costs as a result of improved tenant engagement within new governance structures) which enhance the Transfer Value.</p>	<p>Details of:</p> <ul style="list-style-type: none"> <li>• the set-up costs</li> <li>• the loan-arrangement fees;</li> <li>• how costs have been minimised;</li> <li>• how set-up costs will be shared between the local authority and recipient landlord;</li> <li>• any future cost savings included in the Transfer Value (including cross-reference to the Transfer Value Reconciliation).</li> </ul>
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<p>10. The <b>fundability and viability</b> of the transfer landlord over the long term, and forecast <b>private finance terms</b>.</p>	<ul style="list-style-type: none"> <li>• A 30 year cashflow forecast and debt profile for the transferring stock, showing peak debt and when debt is paid off (where new build is proposed, the impacts on cashflow and debt profiles should be shown separately).</li> <li>• Confirmation from potential funders that the transfer is fundable in principle given current conditions.</li> </ul>
<p>11. The <b>condition of the stock</b> to be transferred is understood, and business and asset management planning for the transfer landlord is based on a strong evidence base in relation to stock condition and that in particular any specific challenges to maintain stock (e.g. from non-traditional design, location or social context) are identified and a strategy to address them through the transfer is in place. That this is incorporated as part of the post self-financing position including debt cap constraints.</p>	<p>The local authority has up-to-date and validated information on the condition of its current stock, reflected in its costed asset management strategy. Details should include:</p> <ul style="list-style-type: none"> <li>• The type and condition of housing including levels of decency</li> <li>• Details of exceptional problems related to stock and how these have arisen.</li> <li>• Details of how this is evidenced within post self-financing position and debt cap constraints including any competing priorities</li> </ul>
<p>12. The proposed use of any <b>VAT shelter</b> is appropriate and good value for money, and the estimated level of proceeds reconciles with the VAT information within the Transfer Value Model</p>	<p>Details of VAT shelter:</p> <ul style="list-style-type: none"> <li>• its value</li> <li>• its application</li> </ul>
<p>13. The proposed arrangement for <b>Preserved Right to Buy receipts</b> is appropriate (note that we would expect all PRTB receipts to be retained by the transfer landlord and ring-fenced to fund future development of new supply).</p>	<p>Confirmation that an agreement will be entered into at transfer between DCLG and the transfer landlord for net receipts from Preserved Right to Buy sales to be used for new affordable housing.</p>

<p>14. The <b>prospective new landlord is registered</b>, or is likely to achieve registration with the Regulator and that any group structure complies with policy on operational independence and de-merger.</p>	<ul style="list-style-type: none"> <li>• Confirmation of registration or details of plan to achieve registration.</li> <li>• Confirmation that de-merger provisions will be put in place where relevant.</li> </ul>
<p>15. The <b>prospective new landlord represents the most effective and economic</b> option.</p>	<ul style="list-style-type: none"> <li>• Details of the landlord selection process and comparative delivery and value for money analysis of alternative options (including, where relevant, transfer to a new landlord compared to transfer to an existing landlord).</li> </ul>
<p><b>FINANCIAL CASE</b> (the specific costs of the proposed transfer)</p>	
<p>16. The transfer is affordable, demonstrated through maximisation of the Transfer Valuation for the stock (and hence minimisation of any requirement for debt write-off by central Government,) assessed against the self-financing valuation of the same stock and a positive net present value for the public sector.</p>	<p>.The local authority should provide firm estimates of:</p> <ul style="list-style-type: none"> <li>• the sale price (total and per dwelling)</li> <li>• attributable housing debt at the date of transfer;</li> <li>• the local authority's calculation of any debt write-off required excluding debt redemption premiums or discounts including any contribution from the transferring local authority or recipient landlord;</li> <li>• an estimate of debt redemption premiums or discounts and details of which debts will be redeemed;</li> <li>• additional information to enable the the fiscal impact on and net present value for the public sector to be undertaken (see Annex C)</li> </ul> <p>Where the estimated valuation of the stock is negative, state the financial support to be provided by the council or private registered provider to allow the transfer to go ahead with</p>

	<p>evidence that this will be available when required.</p> <p>The local authority should submit its transfer valuation model, and confirm that it reflects:</p> <ul style="list-style-type: none"> <li>• a rent plan for the transfer landlord which conforms to government policy and is based on reasonable assumptions of income maximisation (where relevant within the constraints of a rent guarantee for existing tenants);</li> <li>• (where applicable) innovative proposals for maximising revenue – for example through offering rent conversions;</li> <li>• a costed investment plan/ asset management strategy for the transfer landlord which reflects the stock condition and demand information and the need to minimize costs;</li> </ul> <p>Where new build is proposed as part of the transfer, the business plan should be submitted in two states, with and without the costs and income associated with new units. Any grant assumptions should be shown as notes to the business plan.</p> <p>The local authority should provide a Transfer Value Reconciliation (see section 4 of this manual) with a full analysis of the drivers of any differences between the Transfer Value and self-financing value showing the amount attributable to each driver. Where costs are shown in addition to self-financing assumptions these should be justified in relation to the benefits set out in the Strategic Case and monetised in the Economic Case.</p>
<p>17. <b>Revenue savings</b> accruing to the transfer landlord through efficiencies (e.g. in management and</p>	<ul style="list-style-type: none"> <li>• Reference to a positive impact on the Transfer Valuation shown in the Transfer Value Reconciliation, and</li> </ul>

maintenance)	how this is achieved.
<b>MANAGEMENT CASE</b> (the timely delivery of the transfer project)	
<p>18. The proposed <b>timescale for completion</b> of the transfer is achievable, given the resources applied; that the local authority has a project plan that allows sufficient time for the various key stages including in particular obtaining funding; and that a credible alternative plan to transfer is being maintained.</p>	<ul style="list-style-type: none"> <li>• Transfer project plan and timetable, including the date on which transfer will take place.</li> <li>• Details of exit strategy and maintenance of an alternative to transfer.</li> </ul>

# Annex B: Transfer Value Reconciliation example

*also available as a spread-sheet*

<b>[Name of local authority]</b>	<b>Total number of tenanted dwellings</b>	
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Add/(Subtract)	Description	Net Present Value £m	Net Present Value p.u. £	Comment
	<b>Self Financing valuation</b>	<b>0.0</b>	<b>0.0</b>	<b>Self Financing settlement as determined by DCLG March 2012</b>
Add	Items increasing valuation compared to self financing eg management efficiencies	0.0	0.0	
Less	Items reducing valuation compared to self financing eg irrecoverable VAT	0.0	0.0	
	<b>Transfer Valuation – Subtotal</b>	<b>0.0</b>	<b>0.0</b>	
Add	Contribution from local authority	0.0	0.0	
Add	Contribution from receiving landlord	0.0	0.0	
	<b>Transfer Valuation</b>	<b>0.0</b>	<b>0.0</b>	

# Annex C: Cost Benefit Analysis

In order to calculate the fiscal impact on and net present value to the public sector of a transfer application, the following information will be required by DCLG economists. Further information may also be required. Local authorities are encouraged to engage, through HCA/GLA, with DCLG economists at an early stage, so they can assist in providing preliminary calculations to the local authority in advance of a formal application.

Inputs for the calculation of public sector benefits should include actual figures or best estimates of:

- the receipt from the transfer landlord;
- current social and (if applicable) affordable rent levels in the local authority's stock and local housing allowance levels;
- additional affordable housing (and at what rent level) from transfer;
- void rates without transfer and if transfer takes place;
- management costs per void unit;
- irrecoverable VAT; and
- management, maintenance and major repairs costs associated with the stock being transferred.

Inputs for the calculation of public sector costs should include actual figures or best estimates of:

- the self-financing valuation of the stock to be transferred;
- early redemption premiums on Public Works Loan Board debt;
- early redemption premiums on non-Public Works Loan Board debt;
- rental income on the stock being transferred; and
- value of non-housing assets to be transferred.

Ongoing costs and benefits should be presented on an annualised basis from the proposed year of transfer.

# Annex D: Dealing with overhanging debt payment and early redemption premiums and discounts

1. The Annex applies only where a local authority seeks financial support from Government for transfer.
2. Where a local authority considers that the capital receipt from the sale of its housing and associated assets will be less than the attributable housing debt on the dwellings sold and associated early redemption premiums, then it may wish to seek Government support to write off this overhanging debt and/or associated early redemption premiums. In order to secure this support it will need approval from DCLG and HM Treasury of its transfer application.
3. Government support for debt write-off and associated early redemption premiums is available in respect of Public Works Loan Board debt only. If a local authority holds debt with private sector funders, we would expect the principal and premiums to be paid from the receipt from the transfer landlord.
4. Where transfer applications are approved, DCLG will agree to write off up to a specific amount of debt and the expectation is that this figure will not rise. Subsequent changes which increase the level of support for debt write-off required will need specific agreement which may not be given.
5. Government recognise that early redemption premiums or discounts payable at the date of transfer are uncertain but will wish to establish as far as possible what these are likely to be and reasonable when considering a transfer application.

## Agreeing which debts will be repaid

6. As part of its transfer application, a local authority should submit details of its portfolio of debts and which it proposes should be paid off by the receipt from the transfer landlord and Government support.
7. Where a local authority is operating a one pool approach to their debt, Government expects that the same proportion of all the local authority's Public Works Loan Board debt would be repaid by the receipt from the transfer landlord and financial support from DCLG. Where local authorities have identified a separate Housing Revenue Account debt pool, Government expect that these debts would be repaid in full, subject to gaining assurance that this will not result in materially higher early redemption premiums than would otherwise be the case.
8. Government is however willing to consider alternative approaches put forward by local authorities that they consider will, for example, lead to a better rationalisation of debt. Authorities are advised to discuss with the HCA/GLA at an early stage any proposed arrangements for which debts will be repaid. These will need to be agreed in advance of any approval of a transfer application.

## Arrangements for repaying debt and early redemption premiums

9. The amount of DCLG financial support for the write-off of Public Works Loan Board debt should be agreed in advance of the local authority's formal application to the Secretary of State for transfer under sections 32-34 and/or section 43 of the Housing Act 1985. Failure to do so may result in the Secretary of State withholding consent.
10. The local authority should discuss with DCLG the date chosen for the debt repayment normally within a week after the transfer. Two working days before this date the local authority should notify the Public Works Loan Board of the debt to be repaid. The Public Works Loan Board will calculate early redemption premiums or discounts and notify the local authority of these. The local authority should in turn notify DCLG.
11. Repayment of debt and associated early redemption premiums will be made by the local authority and DCLG two working days after notification of repayment to the Public Works Loan Board.
12. DCLG will repay debt as previously agreed with the local authority and early redemption premiums on all that debt. The local authority will repay the balance of the debt that it has previously notified to the Public Works Loan Board as being repayable. Once a local authority has notified DCLG of the total amount of debt and early redemption premiums to be repaid, DCLG will e-mail the Public Works Loan Board, copying in the local authority, with details of the breakdown of payments to be made by DCLG and payments to be made by the local authority.

# Annex E: Checklist: Four weeks prior to Consent

*also available as a spread-sheet*

<b>FOUR WEEKS PRIOR TO CONSENT</b>
<b>[Name of local authority]</b>

<b>Consent date:</b>
<b>Transfer completion date:</b>

<b>[Monday]</b>
<b>[Friday]</b>

<b>20 working days prior to target consent date</b>			<b>[Date]</b>
<b>Items to be submitted by the local authority</b>	<b>To DCLG</b>	<b>To HCA/GLA</b>	<b>Date</b>
Formal application for consent under sections 32-34 and/or 43 of the Housing Act 1985	To	Cc	
Formal certification that consultation has been carried out in accordance with Schedule 3A to the Housing Act 1985	To	Cc	
The name, address and telephone number (and email address) of lawyers acting for the local authority, the prospective new landlord and the funders and name of the person with whom to liaise	To	Cc	
Details of any representations made by other parties who have an interest in the transfer, e.g. leaseholders	To	Cc	
Written confirmation of the ballot result		To	
Final versions of consultation material, if not already provided		To	
A copy of proposed tenancy agreement or confirmation that it is as set out in the consultation document		To	
Final confirmation of the transfer valuation, Housing debt and debt write-off requirements.		To	
Details of the funding arrangements, including the amount of any loan, the lender and the length of repayment period and copy of funding agreement or confirmation that the transfer would be funded under existing loan arrangements		To	

10 working days prior to target consent date			[Date]
Items to be submitted by the local authority	To DCLG	To HCA/GLA	Date
council minutes resolving to proceed with the transfer		To	
where a new social landlord is being established, a copy of registration of new landlord with Registrar of Friendly Societies, Companies House or the Charity Commission and the HCA.		To	
council to contact the Public Works Loans Board to discuss arrangements for the payment of overhanging debt if applicable			

3 working days prior to target consent date			[Date]
Items to be submitted by the local authority	To DCLG	To HCA/GLA	Date
1 electronic copy of the final Transfer Agreement.	To		
1 electronic copy of the of the plain English summary and transfer agreement checklist	To		

**SUMMARY OF KEY FACTS****[Name of local authority]**

Confirmation of numbers of dwellings transferring (tenanted, leasehold and total)	
Confirmation of number of non-decent dwellings transferring	
Name of MP(s) for the area	
If a new social landlord, date registered with HCA and the Registration number	
Cost of programmed works planned after transfer (£XXm over XX years) and summary description of works to be carried out	
Summary of tenant consultation activities carried out by the local authority	
Confirmation of the date the Stage 1 notice was issued	
Confirmation whether responses to the Stage 1 notice were received	
A summary of responses received to the Stage 1 notice and the local authority's reason to proceed with transfer	
Confirmation of the date the Stage 2 notice was issued	
Name and e-mail of person in local authority dealing with the Overhanging Debt calculation	

# Annex F: Tenant Consultation

The statutory guidance on tenant consultation

(<https://www.gov.uk/government/publications/consulting-council-tenants-about-selling-their-homes-to-a-private-landlord-statutory-guidance>)

covers requirements for the formal two-stage consultation process. In addition, authorities should follow current good practice for involving and consulting tenants.

This includes:

- drawing up a communication strategy which sets out how it proposes to involve and communicate with tenants and other interested parties;
- ensuring that tenants have access to independent advice and support provided by an Independent Tenants Adviser. The role of the Independent Tenants Adviser should include capacity building and training at all stages of the transfer process, including after completion of the transfer; and
- considering carefully how it will enable and encourage all tenants to participate both before and after transfer, including those from minority and equalities groups and those not normally represented

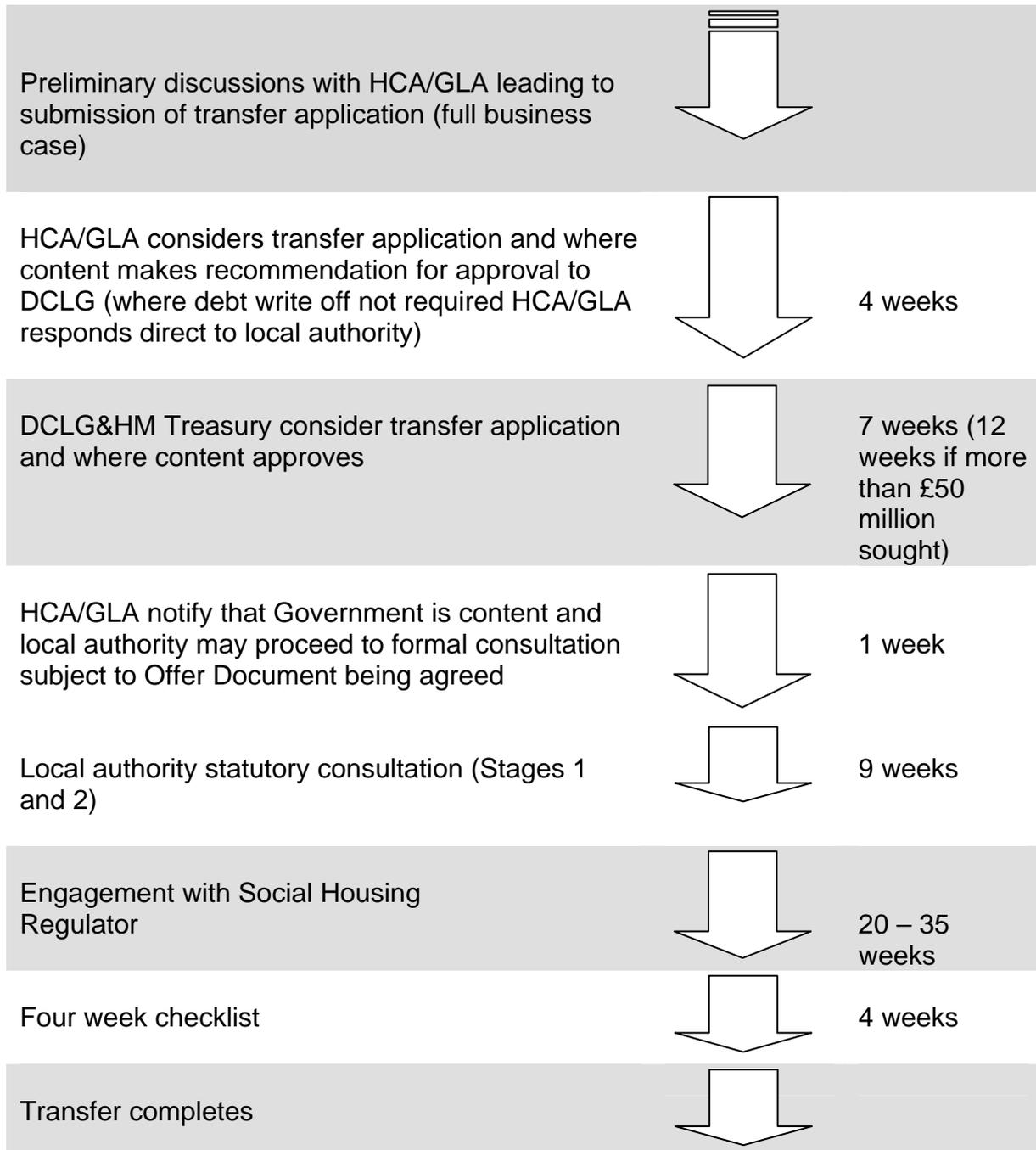
A range of methods should be employed to ensure different sections of the community are aware of the proposals and the issues. Pamphlets, leaflets, posters, press advertisements, newsletters, meetings, door-knocking, exhibition caravans, telephone hot-lines and short DVDs have all been used by authorities in the past.

If a local authority is proposing to transfer homes to an existing private registered provider this landlord should:

- be involved in drafting consultation material; and
- have direct contact with tenants ahead of the ballot. This will allow the tenants to get an understanding of the nature of the organisation, its structure, ethos, objectives and what it has to offer. It is important that the information is consistent with that provided by the local authority and that it is up to date.

# Annex G: Timetable for transfer

The length of time it takes to go through the transfer process will vary depending on a number of factors, including the amount of funding required and the complexity of the case. The timetable below is therefore indicative, but may be of help to local authorities in their planning. Where Government support for debt write-off or associated early redemption premiums is not sought, no DCLG/HMT approval of the Application is required.



# Annex H: Contact details

## HCA

Mick Cowan, [mick.cowan@hca.gsi.gov.uk](mailto:mick.cowan@hca.gsi.gov.uk), 020 78745869

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## GLA

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