

## Briefing Paper

# Housing Stock Transfer in Wales – The Community Housing Mutual Model

July 2008

### Introduction

In the introduction to the Welsh Assembly Government's Housing Transfer Guidelines, Edwina Hart AM MBE, then Welsh Minister for Finance, Local Government and Communities, said that:

*“The Welsh Assembly’s policy is to encourage local authorities to improve their housing stock by whatever means they consider appropriate. The transfer of stock to a registered social landlord is one option.*

*“The transfer of housing stock cannot take place without the support of tenants and consent of the Welsh Assembly. It is for local authorities, with their tenants, to consider the form of any such transfer. I have put forward one option – the Community Mutual, which is consistent with other priorities of the Assembly such as Tenant Empowerment and Community Regeneration.*

*“I am keen that the process of stock transfer should be undertaken with openness, honesty and a spirit of co-operation. To this end, I want to encourage the development of procedures, which maximise open and accountable practices by all parties.”*

The publication of the Housing Transfer Guidelines followed the publication of the Welsh National Housing Strategy.

### The National Housing Strategy

The National Housing Strategy stated that if the Welsh Assembly Government was to realise their vision of all social housing being of good quality within the next ten years, it would be necessary for some local authorities to consider transferring their houses to landlords who are able to obtain private sector investment to meet the costs of repair and improvement. They wanted to maximise the benefits that they believe this can bring in empowering tenants and ensuring that the communities concerned receive the economic benefits that derive from large-scale investment. They set out a model which they believe can achieve both of these aims as well as improving the housing condition.

The Welsh Assembly Government considered that although the fundamental purpose behind stock transfer is the generation of additional monies through private sector borrowing for reinvestment, such transfers should also place the control of that new spending within a locally accountable body. They consider that this offers great potential to create local employment opportunities. The investment would be primarily construction based and, therefore, can be focused to provide jobs specifically within the communities where the investment occurs. Training programmes to re-skill people to undertake the work could also be timed to coincide with the availability of jobs. They could provide skills that would be marketable more generally. The investment could also provide a house that is cheaper to run and maintain, giving occupants more disposable income, therefore increasing economic activity in other sectors.

The Welsh Assembly Government also considers that improving the housing provides a platform for tackling other social problems, including opportunities for local economic activity such as local shops and small-scale local entrepreneurial activities.

There are a number of potential stock transfer models. The one that has traditionally received most attention in Wales is 'Community Ownership'. The Welsh Assembly Government considered that whilst it must be a matter for local authorities and their tenants to decide on the structure of any new organisation, a new model that gives far greater responsibility and ownership to tenants was then being developed. This model, promoted by the Co-operative movement, developed the concept of mutuality. In the opinion of the Welsh Assembly Government it offers a real opportunity to create a structure for Wales that reflects the many communities that comprise every local authority area.

### **The Community Mutual Model**

Community based models are of particular interest to the Welsh Assembly Government as they believe they create direct involvement of the community in the ownership and management, which increases the potential for empowerment and provides a powerful vehicle for building community capacity.

New community based landlords are regulated by the National Assembly and, as such, their roles and operating standards are supervised and directed. Surpluses generated from social housing are recycled for the benefit of the whole community through a range of regeneration projects, typically into such areas as private sector refurbishment, mortgage rescue or equity release providing a total 'housing package' tailored to community needs.

The basis of the 'Community Mutual' model is that the ownership of the local authority stock transfers, following ballot, to the tenants of the new organisation. Board composition of the new body largely follows the traditional 'third/third/third' structure, but potentially provides greater opportunity for tenants to select the composition of each 'third'. The only shareholders in the transferred organisation are its tenants.

Unlike existing models, however, not only is the business conducted for the benefit of the community, but the organisation is also owned by the community. This is achieved by having as members of the community mutual organisation those members of the community in receipt of the services being provided, namely the tenants. By this mechanism, there is a real sense of ownership by the local community, and a real sense of participation and involvement by the tenants. It also avoids any sense of some remote or unaccountable organisation owning and running the properties.

The Welsh Assembly Government considers that giving tenants real ownership provides the opportunity to create smaller community management units, under the 'umbrella' of the transferring organisation. These smaller units reflect the particular size and needs of local communities, and are themselves then managed at a local level by the tenants in those communities. By this means, tenants have a real involvement through membership. No one else owns the organisation, either in the sense of deriving a profit from it, or in controlling decision-making to serve some purpose other than the benefit of the community. This keeps the 'unity' in the community. Empowering tenants effectively through the creation of community businesses encourage regeneration of those communities at both an economic and housing level. Such structures potentially have greater access to additional funding sources for wider community initiatives than would otherwise be available to more traditional transfer organisations.

The Welsh Assembly Government considers that the model could potentially have further application to the existing housing associations creating smaller more identifiable units, with increased accountability.

The Community Mutual Model is designed to address two problems that are considered to arise with a conventional large scale voluntary transfer:

- A transfer can only take place with tenant support at a ballot and tenants are increasingly sceptical about the benefits of transferring control of their housing to non-elected and non-statutory bodies
- Housing Strategy for many local authorities is closely linked with regeneration strategy but regeneration and community development are not central to the constitution of the standard transfer vehicle

There are four main differences between a Community Housing Mutual Housing Association and other housing models:

- All tenants are members (unless they choose not to be) which means that the housing assets can be said to belong to the tenants collectively. In the context of a large scale voluntary transfer, this means that the housing assets are being sold to the tenants and not to a third party company or housing association. The tenants hold the housing assets for the benefit of the community.
- Part of the Community Housing Mutual's purpose is to ensure that tenants (and also the wider community where appropriate) are empowered so that they can become closely involved in the regeneration and development of their own communities. This is a constitutional obligation placed upon the board, rather than, as was the case previously, an optional extra.
- The Community Housing Mutual is designed to be a dynamic rather than a static model. It is designed to evolve and adapt to meet the changing needs of the community that it serves so that the people in a particular neighbourhood can deal in a structured way with issues that affect them.

- The democratic principles found elsewhere in the mutual sector (including the co-operative movement) are imported into the housing context where, largely, they have been notable by their absence.

The purpose of the Community Housing Mutual is not only to provide and manage housing but also to enable some or all of the communities in the area to manage it themselves. The objects of a Community Housing Mutual include not only the usual housing body objects but also make specific provision for partnership with the local authority in promoting the well being of the community through community development, training and involvement. The Community Housing Mutual has specific powers to establish a community fund for investment in community businesses, projects and activities to achieve the Community Housing Mutual's purposes.

The Board of a Community Housing Mutual includes three groups:

- Tenant members elected on the basis of one member, one vote.
- Local authority members nominated by the sponsoring local authority. The option exists, though, for these Board Members to be elected by the membership from a list of candidates supplied by the local authority if the local authority agrees to this approach.
- Local community and business representatives selected by the tenants in accordance with a Board membership policy document. This document establishes the required skills necessary to discharge the responsibilities of the Board to supplement those skills available from the tenant and local authority board members.

Tenants therefore have an important influence on the choice of Board Members. The Welsh Assembly Government considers that this addresses the ownership and democratic deficits inherent in the standard housing association and local housing company models.

The daily running of the Community Housing Mutual is placed in the hands of executives who are appointed and directed by the Board. The Board, in consultation with the executives, establishes the overall vision, strategy and business plan for the Community Housing Mutual. The Board also monitors the executives' performance against the objectives and targets that they have set.

The Welsh Assembly Government considers that, while making all tenants members of the Community Housing Mutual is significant, it would not achieve a great deal on its own. They consider that it is also important to engage and empower tenants. The tenants' role under the constitution of a Community Housing Mutual is to ensure that the association's commitments are delivered. The Board is required each year to report to the Members' meeting the strategy for, and the progress in, the development of the membership, identification of local housing needs and the devolution of management control to local communities as well as the financial performance of the Community Housing Mutual. The Members hold the Board members to account for their performance through the electoral process.

The purpose and strategy of the Community Housing Mutual are intended to mesh closely with the strategy of the local authority for regeneration and community development. The local authority is represented on the Board and has a veto over changes to key rules that affect the purpose, objects and fundamental working of the Community Housing Mutual.

In a stock transfer, the membership at the date of transfer will most likely be confined to tenants. The rules provide, however, for membership to be open to other members of the local community. Membership must be offered to every person who is sixteen years of age or more who is a tenant of the Community Housing Mutual. It must also be offered to those who live or work in a neighbourhood served by the Community Housing Mutual and who qualify for membership in accordance with a membership policy document. This is to be formulated by the Board and approved by the members of the Community Housing Mutual in the general meeting. Thus local community members can become involved and play an active part. This will be particularly important in the context of community regeneration. However, the tenants determine the level of community involvement.

The Industrial & Provident Society appears to be the most appropriate legal framework for a Community Housing Mutual as it exists under statute as the home for organisations trading for the benefit of the community and mutual organisations. However, a Community Housing Mutual can also be a Company Limited by Guarantee.

### **Initial Analysis**

Authorities that are considering a stock transfer should involve all the affected parties including tenants, local authority staff and the National Assembly as early as possible. Authorities have to consider the effect of a stock transfer, not only on their housing stock, but also on its other services, and especially in the case of a whole stock transfer, the effect on their corporate structure. Transfers are only permitted to a body that is a registered social landlord and cannot take place without the consent of a majority of the tenants expressed in a ballot.

Rational rent structures should be in place and rents must not exceed the benchmark level set for registered social landlords. Transferred properties should be brought up to the Welsh Housing Quality Standard by 2012.

Authorities should detail public expenditure costs as part of their initial appraisal. They should obtain the views of funders at an early stage. They should avoid conflicts of interest.

The price of the transferred stock is based on Tenanted Market Value (see below).

### **Transfer Process**

Transfers generally take around two years to complete. Authorities must obtain provisional approval to transfer before pre-ballot consultation with tenants. Applications can be made at any time but will be expected to cover the range of factors to be taken into account in deciding whether to grant provisional approval.

Transfer landlords must undertake to bring transferred stock up to the Welsh Housing Quality Standard within a reasonable timescale and no later than 2012. Authorities are strongly recommended to appoint professional surveyors who understand the transfer process to carry out the stock condition survey. The work needs to be divided into two broad classes:

- Repairs and Improvements necessary to bring all the tenanted stock up to target standard.
- Environmental works and estate improvements necessary for improving the overall living quality for residents in line with the creation of sustainable communities.

The stock survey should identify when works will need to be carried out and calculate the likely cost. It is particularly important to estimate the cost of more expensive works accurately, as this will have a major effect on any assessment of the feasibility of transfer. The stock condition survey information should be detailed and transparent with all assumptions and adjustments recorded.

Transfer cannot take place unless a majority of tenants who vote are in favour. Tenants should be involved in all stages of the transfer process. A Tenants' Advisor should be appointed to provide advice to tenants on all the issues surrounding a transfer. Special attention must be paid to meeting the information and advice needs of vulnerable groups of tenants. Consultation with tenants is usually in two stages: Informal and Formal. Formal tenant consultation material must be agreed by the Assembly before it is issued. Views of long leaseholders are to be taken into account and a ballot held if appropriate. Authorities are legally required to have a formal consultation, but should only proceed to this stage with the agreement of the Assembly.

Formal application to transfer should be made at least six weeks before the date when consent is required. When deciding whether to grant consent, the Assembly will apply the following criteria:

- The Council's consultation exercise has been properly carried out
- The majority of secure tenants affected by the proposed disposal are not opposed to it
- The acquiring landlord is registered with the assembly
- The acquiring landlord is independent of the Council
- There is a long term demand for the properties being transferred
- The stock valuation has taken into account the standards defined by the Assembly and the estimated Exchequer and public expenditure costs represent value for money
- The terms of the disposal are acceptable
- The local authority is able to fulfil its statutory obligations under the Housing Act 1996 as amended by the Allocation of Housing (Reasonable and additional preference) Regulations 1997 and has adequate nomination and allocation rights

Transferring tenants must be offered a new tenancy agreement that delivers an assured tenancy in accordance with the Housing Act 1988; is compatible with the Assembly's regulatory requirements and fulfils undertakings made during the consultation period. After transfer, existing tenants will have a statutory preserved right to buy.

Authorities should clearly identify the need for social housing in their areas and ensure that there is access to sufficient social housing to meet the need. After transfer, authorities remain responsible for maintaining a housing register and an allocation scheme. They also retain responsibilities under the homelessness legislation. Subject to demand, the Assembly will require transfer landlords to make at least 50% of their new tenancies available to local authority nominees.

Transfer landlords must comply with the 'Relationships to Tenants' requirements of the Assembly's regulatory requirements. Tenant consultation and participation, including tenant involvement in management, must feature strongly in future management arrangements for transferred properties. Tenants should be consulted and fully involved in decisions about future plans for management of their homes. The transfer contract can include a contractual 'right to manage' for tenants. Where a Tenant Management Organisation already exists or is in the process of being set up, the acquiring landlord would be expected to allow the Tenant Management Organisation to continue after transfer wherever possible. The Assembly will consider the provision of funding to tenants to enable them to examine the scope for becoming involved in the management of their estates where moves have started prior to the transfer ballot.

Where stock is to be transferred to a new landlord, consent to transfer will not be given until the landlord has been registered with the Assembly as a registered social landlord. Registered social landlords are permanently subject to monitoring and regulation. Registration is only granted if the Assembly is satisfied that the formal registration criteria are met. The Assembly expects that new landlord bodies serve a defined local area. 'Community Ownership' gives local authority and tenant representatives joint control of the new landlord. The 'Community Mutual' model promotes tenant empowerment and greater involvement in strategic and operational control of the new organisation that is owned by the transferring tenants. Landlords must be sufficiently independent from the local authority to ensure that their borrowing is not classified as public expenditure. The Assembly must be informed of any contracts that the authority proposes to enter into with the new landlord.

### **Partial Transfers**

The criteria for partial transfer applications must be demonstrated. The impact on the remaining stock needs to be considered. The effect on the Housing Revenue Account needs to be assessed. The effect on a Council's other services needs to be considered.

### **Financial Matters**

Authorities need to consider whether the transfer would result in a capital receipt. The Welsh Assembly Government has issued guidance on the treatment of housing revenue account debt that existed prior to the transfer. Only costs relating to consultation, including the transfer ballot, can be charged to the housing revenue account. Certain administrative costs may be defrayed from the capital receipt. Any other costs should be met from the Council Fund. Authorities may, with the Assembly's consent, make a loan to the acquiring landlord to help with pre-transfer and transaction costs.

The 'Transfer Contract' governs the sale of the housing stock and the relationship between the local authority and the registered social landlord. The Contract should be a complete record of all agreements entered into between the local authority and the registered social landlord. The authority may be asked to provide warranties covering certain matters affecting the transferred stock. The new landlord should covenant with the authority in relation to commitments made to tenants during the consultation period.

The basis of valuation is the Tenanted Market Value. This shows the present value of rents less the costs necessary to achieve the target standard. The rent of transferring tenants should move to registered social landlord rent structures the later of five years after transfer date or the date of improvement to the Welsh Housing Quality Standard. If the current local authority rent structure results in the transferred body exceeding the registered social landlord benchmark levels then there must be some downward adjustments in the rents of one or more unit types to ensure compliance with the benchmark system.

The local authority must provide a public sector borrowing requirement analysis of the proposed transfer. However, the public sector borrowing requirement appraisal alone will not necessarily determine whether a transfer can or should go ahead. A public sector borrowing requirement appraisal does not reveal whether a particular transfer would be attractive to private sector funders.

The Assembly requires a full financial appraisal of the public expenditure effects. Where there is a whole stock transfer, an authority will generally be expected to close its housing revenue account. The financial analysis is more complex for partial than for whole stock transfers. In a partial transfer, an authority must consider the impact on its retained stock.

### **Tenanted Market Value**

The basis for valuation for a Large Scale Voluntary Transfer is Tenanted Market Value. This values the stock as social housing, assuming affordable rents and good standards of maintenance. It does not, therefore, reflect either the value of the 'bricks and mortar' or the market value, and is usually significantly less than either of these values and can even be negative. Tenanted Market Value is calculated by forecasting income and expenditure on management and maintenance and capital investment over a thirty-year period, and using the forecast surplus for the period as a basis for calculating the capital value. Tenanted Market Value is usually calculated using a discount rate between 6% and 8%.

If the 'Right to buy' is preserved, potential receipts from this are excluded from the calculation of Tenanted Market Value. Receipt sharing arrangements are usually agreed instead, with the Registered Social Landlord receiving enough to compensate him for the property discount, and the balance accruing to the Council.

This method of calculation means that the new landlord can afford to cover his capital financing costs as well as his management and maintenance costs out of the forecast income. The forecast income will take account of any guarantees that have been given about rent levels.

One obstacle faced by some local authorities wishing to transfer their stock is 'overhanging debt'. This situation arises where the capital receipt that a council gains from the transfer of its stock is not large enough to repay all of its housing debt. In other cases the tenanted market value proves to be negative so the authority needs to pay a 'dowry' to the transfer housing association as well as repaying its housing revenue account debt.

Where the capital receipt which a local authority receives for the transfer of its entire housing stock is less than the debt attributed to the stock, the Welsh Assembly Government is prepared to make a one-off payment to assist the authority to repay the outstanding Public Works Loan Board debt principal. Similarly, the Welsh Assembly Government is prepared to fund 'dowries'. In such cases the local authority will be required to repay its attributable housing debt shortly after the transfer is completed.

Another debt-related problem was that authorities wishing to use the capital receipt from a Large Scale Voluntary Transfer to repay debt often faced the need to pay a premium. This was because loans were often taken out at fixed rates of interest when interest rates were higher than they are now. The net cost fell on the Council Fund but the government has recently funded the cost of premiums that are payable with regard to large-scale voluntary transfers.

The cost of carrying out a stock transfer can be considerable. Typical costs can be as follows:

Stock Option Appraisal	£15,000 to £50,000*
Basic Stock Condition Survey	From £5 a dwelling
Full Stock Condition Survey	From £150 a dwelling
Adviser to local authority	£100,000
Independent Tenant Adviser	from £10,000
Overtime and staff costs	Up to £100,000
Transfer legal costs	£90,000 to £150,000
Communications consultant	£20,000 to £50,000
Brochures, newsletters, exhibitions	£20,000
Video production	£10,000 to £20,000
Ballot	70p to £3 a tenant

The Welsh Assembly Government increased the 'improving housing' budget that includes support for stock transfers and community mutual support by 6.2% in 2007/08 to £10.3million.

### **Stock Transfer in Wales: Examples**

The following local authorities in Wales have either transferred their housing stock to a registered social landlord or are in the process of doing so: Bridgend, Monmouthshire, Rhondda-Cynon-Taff and Torfaen. Six other authorities are planning stock transfer ballots.

In June 2007, Andrew Davies AM, Public Service Delivery Minister, was quoted in 'Inside Housing' as follows:

*"There is a huge proportion of housing in Wales that is not of an acceptable standard but the government's Treasury rules are clear... If a local authority does not have its own resources then, at the moment, unless treasury rules are changed, local authorities will have to transfer... Clearly the aim is to reach the Welsh Housing Quality Standard and stock transfer is the only way this can be done. We have to operate within Treasury rules established in the Treasury."*

'Valleys to Coast' is the Housing Association that was established in Bridgend to accept the transfer of the council's stock, but they are reporting difficulties in financing the investment required to meet the environmental standards of the Welsh Housing Quality Standard. The transfer occurred before the Welsh Housing Quality Standard was determined. £70million has been invested of which £45million has been financed by loan and £8million by a grant from the Welsh Assembly Government.

In 2006 the tenants of Rhondda-Cynon-Taff Council voted in favour of a stock transfer by a margin of 58% to 42%. This resulted in the council's 10,000 homes being transferred to Rhondda-Cynon-Taff Homes. It is intended that Rhondda-Cynon-Taff Homes will invest £186million on improvements to meet the Welsh Housing Quality Standard much of which will be spent on renewing kitchens and bathrooms. Two thirds of this investment will be funded from private borrowing. Rhondda-Cynon-Taff Homes is also expected to play a major role in regeneration projects.

Torfaen Council is in the process of transferring its stock to Bron Afon Housing Association. It is intended to invest £187million in the homes with £130million of that being financed from private loans. However, with transfer taking place in March 2008, there are fears that the timetable may be too tight to enable Bron Afon to deliver all the environmental works connected with the Welsh Housing Quality Standard by 2012.

In November 2007 Conwy tenants voted to transfer their homes to Cartrefi Conwy. In a secret ballot, 61% of tenants voted, 51% were in favour and 49% against the transfer proposal. The Council worked closely with tenants to develop proposals that will ensure Council properties can be improved up to the Welsh Housing Quality Standard, set by the Welsh Assembly Government. Tenants can now look forward to a future programme of repairs and improvements that will total £58million in the first five years and £237million over thirty years.

Council Leader Goronwy Edwards said:

*"The ballot result is a vote for better homes for existing tenants and future generations of tenants. Tenants have clearly recognised the very difficult financial position facing the Council. While the Council has always worked hard to provide good homes and services for its tenants, a lack of resources meant we simply could not afford to bring homes up to the Welsh Housing Quality Standard. 'Cartrefi Conwy' will be able to deliver the repairs and improvements that are needed and we are confident they will deliver all the promises to tenants."*

Dilwyn Roberts, Chair of the Board of Cartrefi Conwy said:

*"This is a great result for the future of housing across Conwy. Tenants can rest assured that the Board is committed to delivering all the promises made to tenants during the consultation. We will be working hard to develop a detailed improvement programme over the coming months so that we can deliver the full benefits of transfer to tenants from day one. I would like to thank all those tenants who have put their confidence in us. We are committed to delivering all the promises to our tenants and involving them in the investment and service improvements that transfer will bring."*

However, Ken Finch, Corporate Director for Resources, had earlier told 'Public Finance' that the Council would have preferred stock retention. He said:

*"We have a proud record of dealing with council housing and our tenants, but all the financial equations are stacked up against us."*

Blaenau Gwent Council has identified that it has a shortfall of £66million to meet the Welsh Housing Quality Standard by 2012. A report submitted to the Council in June 2007 detailed that council houses needed approximately £100million worth of improvement works to achieve the standard set down by the Welsh Assembly Government. The report also outlined that the only way the Authority could raise the cash needed would be through transferring its stock and staff to a newly created 'not for profit' registered social landlord.

Stock transfer can only happen if the tenants want it, decided through a ballot process. On the 28th June 2007 a full council meeting gave officers a mandate to commence the pre ballot process - to start consulting with tenants on the future of council housing in Blaenau Gwent. This consultation is currently underway.

### **The Tenants**

A large-scale voluntary transfer cannot proceed without a tenants' ballot. Tenant consultation is addressed by the Local Authority and the new landlord agreeing a formal transfer consultation document that includes legally enforceable commitments on tenancy rights, rent guarantees, investment in the stock, representation on the Board of Management and proposed housing policies.

Levels of investment, based on a stock condition survey are usually guaranteed by the new landlord, including a programme of repairs and renovation to address any backlog, achievement of the 'decent homes standard' and any additional investment that has been identified as desirable either in the stock condition survey or through consultation with tenants.

### **The Local Authority**

After a large-scale voluntary transfer the local authority is no longer a landlord, but it retains significant housing responsibilities. It is still the strategic housing authority and the need for clear leadership on housing issues is still important. They must also monitor and co-ordinate services delivered by many different organisations so that they are seamless to tenants and other service users. It is considered that the more successful post-transfer authorities have used stock transfer as part of a long-term strategy to build and maintain sustainable communities, balancing housing markets and improving housing services.

While many authorities have decided whether or not to proceed with a housing stock transfer as part of their housing stock options appraisals, it is likely that further stock transfers – especially partial stock transfers will occur. Many authorities that have retained their stock are concerned to ensure the provision of more affordable housing or the implementation of regeneration schemes. However, they lack sufficient resources to fund these schemes and may look to partial stock transfers as a solution – either to enable a housing association to make the required investment or to provide the local authority with a capital receipt that could be used to fund the investment.

## **Conclusions**

Large-scale voluntary transfer appears to be the main way in which the Welsh Assembly Government envisages private funding being used to bring social housing up to the Welsh Housing Quality Standard. A considerable number of large-scale voluntary transfers have taken place in England and a few in Wales, and despite some recent high profile rejections of stock transfer by tenants, there continues to be a significant transfer programme. The Community Housing Mutual model is preferred in Wales.

**Adrian Waite**  
**July 2008**