

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Housing Portfolio Holder 8th July 2008
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HOUSING FUTURES: TENANT BALLOT PAPER

Purpose

1. To consider the relevant guidance and best practice on the phrasing of the question to be used on the ballot paper when tenants are asked to vote on a housing transfer proposal.
2. This is not a key decision but is being brought to the Housing Portfolio Holder for consideration because of the commitment made at the Full Council meeting held on 31 January that there would be retention option on the ballot paper.

Executive Summary

3. Whilst not currently a legal requirement, a properly conducted formal ballot, carried out under the auspices of an independent body, is considered to be the most effective way in which a local authority can demonstrate satisfactorily that a majority of tenants are not opposed to a housing transfer proposal.
4. The relevant guidance is set out in the *Housing Transfer Manual 2005* published by the Office of the Deputy Prime Minister (ODPM) now Communities and Local Government (CLG) and this includes the informal and formal consultation requirements as well as a recommendation on the wording of the question that should be included on ballot papers.
5. The material produced as part of the informal consultation process and the formal consultation or 'offer' document itself should have made clear the implications of a 'no' vote as well as what a housing transfer would mean for tenants. Therefore, any alternative wording to the question to be included on the ballot paper to that recommended is unlikely to be necessary or acceptable to the CLG.

Background

6. The Secretary of State cannot grant consent to a housing transfer if it appears that the majority of tenants are opposed to it. Whilst not currently a legal requirement, a properly conducted formal ballot, carried out under the auspices of an independent body, is considered to be the most effective way in which a local authority can demonstrate satisfactorily that a majority of tenants are not opposed to the transfer proposal.
7. The Housing & Regeneration Bill proposes that a tenant ballot should be a legal obligation in respect of any housing transfer proposal. This will formalises the current arrangements and stresses the importance of meeting CLG requirements in this as well as other aspects of the housing transfer process.

8. There is comprehensive and detailed guidance available to local authorities who are looking at a housing transfer option. This guidance is set out in the *Housing Transfer Manual 2005* published by the CLG in March 2004.

Considerations

9. The *Housing Transfer Manual* includes as Annex N *Consultation material good practice guidance* that sets out the key requirements for both the informal and the formal consultation stages of a housing transfer proposal.
10. In terms of the informal consultation it suggests that techniques should be tailored to local circumstances, including the number of properties involved and the geographical spread of tenants. The aim of the exercise should be to give tenants the necessary information to make a well informed and genuine choice. However, the following points should be borne in mind:
 - all material should be accessible, clear and accurate;
 - it should not over simplify the issues at the expense of accuracy and should look at the case for and against transfer;
 - **the information should explain the consequences of staying with the Council and of transferring to a new local housing association**
11. As part of the formal consultation stage of a housing transfer proposal the stage one notice – or ‘offer’ document will set out all the key details of the transfer proposal, including the likely consequences of the transfer for the tenant.
12. Annex N also makes specific reference to the ballot paper and from this it is clear that the CLG believe that it is important that the question posed is as unambiguous and direct as possible and reflects the terms in which the consultation material has been expressed. Like the Electoral Reform Services (ERS) organisation, who conduct the majority of housing transfer ballots, and for the avoidance of doubt, the CLG would wish to see tenants being asked the following question:

Are you in favour of the Council’s proposal to transfer the ownership and management of your home to (proposed new housing association landlord)?
13. An alternative wording to that suggested in the guidance would need to be agreed with the CLG in order to ensure that they are satisfied with the formal consultation process carried out by the Council in connection with its housing transfer proposal and that the test set out in paragraph 3 above has been met.
14. Having been contacted on this issue the CLG have made clear that their expectation that the tenant ballot paper should be worded in line with their guidance.
15. In view of the above, the amended version of the minutes of the Full Council decision of 31 January 2008 that includes the statement ‘there would be a retention option on the ballot paper’ is not likely to be approved by CLG.
16. The Council is required to seek Secretary of State approval for its consultation materials, and in the event that these do not meet their requirements as set out in the *Housing Transfer Manual*, then it is unlikely that consent will be granted for a housing transfer under the Housing Act 1985.
17. When a local authority is considering a housing transfer to a new local housing association landlord ERS as an independent organisation usually administers a

transfer ballot in which all tenants are given the chance to vote for or against the change of ownership and management of their homes.

18. ERS has unparalleled experience of every type of transfer ballot, and can offer housing authorities expert guidance on their individual technicalities. Their advice has been sought on the proposal to include a retention option on the ballot paper. Their response is that the question needs to be very clear. They have also indicated that the use of an introductory paragraph would just confuse tenants. They have provided some sample ballot papers that have been used elsewhere and these are attached as an appendix to this report.
19. The Council's lead advisor Savill's have experience of working on 20 housing transfers prior to being engaged by the Council to support the development of a housing transfer in South Cambridgeshire. Given their considerable experience they have also been consulted and advise that the typical wording of a ballot paper is as set out in the CLG guidance.
20. The Independent Tenants Advisor (ITA) PS Consultants have also been consulted as they have extensive experience of housing transfer and they have advised that in the overwhelming majority of cases the question used was a single one with the wording being consistent to that set out in the CLG guidance.
21. Further, PS Consultants advise that they always considered that it is perfectly clear to people that the implication of a 'no' vote is a vote for retention. They also suggest from feedback they have received from tenants on housing transfer ballots over the years that this confirms this is the case.

Options

22. Option 1: To follow best practice in terms of the wording of the question to be asked on the ballot paper.
23. The advantage of this simple and straightforward approach is that it is a tried and tested as well as compliant with the relevant guidance. Independent advice on this issue suggests that this would make the choice clear to tenants.
24. Option 2: To include a second question on the ballot paper along the lines 'Do you wish to remain a tenant of the Council'. The disadvantages of this approach is that it would not meet CLG requirements and, in the experience of independent sources, is likely to be confusing and could result in some tenants indicating 'yes' to both questions, as they do not realise they are mutually exclusive, thereby invalidating their vote.
25. Option 3: To include an introductory paragraph on the ballot paper that explains the implications of a 'yes' and a 'no' vote. The advantage of this approach is that it avoids a potentially confusing second question around whether they wish to remain a Council tenant. But, in the view of independent sources as well as the CLG, this is considered unnecessary. This is because the 'offer' document as well as the informal consultation material that preceded the formal consultation stage should have made this clear.
26. The recommendation is that option 1 should be preferred as it is the simple and straightforward approach that will provide a clear choice for tenants, avoid confusion and meet CLG requirements. The evidence from elsewhere suggests that tenants are

well aware of the implications of a 'no' vote by the time that they are asked to make their choice for the future of their homes in a ballot.

27. Implications

28. Financial	The cost of the ballot is included within the provision for the Housing Futures within the 2008/09 revenue estimates.
Legal	There is no current legal requirement for a ballot of tenants to determine if a housing transfer can proceed. However, a ballot is the accepted means of demonstrating that a majority of tenants are not opposed to a housing transfer proposal. It should be noted that the Housing & Regeneration Bill includes a provision to make a ballot of tenants a legal requirement in order for a housing transfer to be approved by the Secretary of State.
Staffing	None - a ballot will be conducted by an independent organisation such as Electoral Reform Services (ERS) who have considerable experience of conducting a ballot of tenants on housing transfer proposals.
Risk Management	The ballot paper wording should be as unambiguous and direct as possible in order to comply with CLG guidance. The risk with having a second question on the ballot paper is that it will be confusing and could result in some votes being invalidated if some tenants do not realise they are mutually exclusive options. The CLG will review the formal consultation process as part of its consideration of any application for Secretary of State consent should tenants support a housing transfer through a ballot.
Equal Opportunities	The ballot process and voting mechanisms will need to ensure that all groups can have the opportunity to vote on the housing transfer proposal including hard to reach groups such as older people and rural communities.

Consultations

29. The Housing Transfer team at CLG have been consulted on this issue and their advice has been incorporated in this report.
30. The Electoral Reform Services (ERS) have been consulted on this issue and their advice is incorporated in this report.
31. The Council's lead advisor Savill's have been consulted on this issue and the content of the report and proposed recommendations.
32. The Independent Tenant Advisor (ITA) PS Consultants have been consulted on this issue and their views are reflected in this report.

Effect on Service Priorities and Corporate Objectives for 2008/09

33. Work in partnership to manage growth	A housing transfer proposal would enable the council to make a more effective contribution to delivery of a new Sustainable Community Strategy and the growth agenda including increasing the supply of affordable housing.
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<p>Deliver high quality, value for money and accessible services</p>	<p>The council's housing service carries out many thousands of transactions with tenants, leaseholders and those seeking housing every week and is therefore one of the most significant front line services.</p> <p>Identifying aspirations of tenants and leaseholders for the future of the housing service and delivering them through a housing transfer proposal will help meet the aim to provide excellent services.</p> <p>The formation of a shadow board is a key stage in developing an offer for tenants as part of a housing transfer proposal. The involvement of tenants, staff and council nominees as members of the Shadow Board will help provide a face to the new organisation and demonstrate how it can be locally accountable and what it could offer in the event that tenants support a housing transfer in a ballot.</p>
<p>Enhance quality of life and build a sustainable South Cambridgeshire</p>	<p>The Council owns and manages housing within 94 of its 102 villages in the district and so makes a major contribution to village life.</p> <p>A housing transfer could help ensure the sustainability and affordability of homes and services in the longer term through investment in energy efficiency measures and improvements above the Decent Homes Standard (DHS). Additional services could be delivered in line with tenant aspirations and priorities that could benefit the wider community.</p> <p>The Shadow Board will help translate tenant aspirations into a deliverable offer and show that a any new housing association landlord can and will be local people making local decisions about local services.</p>

Recommendations

34. That there should only be one question asked on any ballot of tenants on a housing transfer proposal and the wording should be in accordance with CLG guidance as follows:
- Are you in favour of the Council's proposal to transfer the ownership and management of your home to (proposed new housing association landlord)?*
35. That the informal consultation material as well as the formal consultation – or 'offer' document will set out the local implications of the retention option in accordance with the CLG guidance so that tenants can make an informed and clear choice on the options for the future ownership and management of their homes when they asked to vote on this matter.

Background Papers: the following background papers were used in the preparation of this report:

Housing Transfer Manual 2005
Housing & Regeneration Bill

CLG October 2004

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