Agenda Item: **5**

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO:	Cabinet Advisory Group	7 November 2002
AUTHOR/S:	Director of Housing and Community Services	

OPTIONS FOR THE FUTURE OF EQUITY SHARE SCHEMES FOR THE ELDERLY

Purpose

1. To reconsider the current scheme in the light of the legislative changes proposed in the current Local Government Bill and other changes to the financial regime required by Ministers.

Background

2. Since 1988 the Council has operated a scheme which enables elderly owner-occupiers to be allocated a leasehold equity share instead of a usual secure tenancy. The option usually enables the applicant to buy up to 75% of the equity in the dwelling – further staircasing to outright purchase is not allowed – and the Council agrees to buy the property back at the current market value when the occupier or more usually his next of kin surrenders the lease.

3. A description of the scheme is outlined in Appendix I. The key points are:

   (1) The lease is for 125 years.
   (2) When purchasing the maximum share (usually 75%) the occupier pays no rent.
   (3) The Council undertakes to repurchase at current market value.
   (4) The usual conveyancing processes that relate to any property purchase apply.
   (5) The occupier is responsible for the repair and maintenance of the property (except structural defects).

Statistics of the Scheme

4. At 5th August 2002 the Council had 237 leasehold equity share properties excluding those in the process of surrender (13) and those under offer (23). 46 leases were completed in the financial year 2001/02 providing capital receipts of just over £2.5m. So far this year 19 sales have been completed under this scheme netting capital receipts of £1.072m. A further 23 properties are under offer which could provide further capital receipts of around £1.7m making a total for the first half of this financial year of £2.8m. However, surrenders completed and in progress for the same period total around £1.85m contractual expenditure.

5. At an average reimbursement value of £63,000, the Council has liabilities of approximately £15.1m at current prices in this Equity Share Scheme.

6. Based on the 237 properties currently leased under the scheme, the lost annual revenue from rental income (based on the applicable rent for the financial year 2002/03 less rent actually paid) is £643,000 or £12,500 per week.

7. These bare statistics disguise the fact that:

   (a) The HRA incurs repair bills at the cessation of each lease – typically £5,000.

   (b) With house price inflation the Council is contractually bound to pay returns of up to 20% per annum (although of course this return can also fall).

8. Appendix 2 illustrates the financial position in relation to the 17 properties surrendered under this scheme so far this financial year.

The Problems

9. In order to provide Members with a comprehensive overview, I have sub-divided the issues faced into four categories.

   I Housing Revenue Account
   II Housing Management/Waiting List
   III Legal
   IV Financial

.

I Housing Revenue Account

(a) Pool Transfer
From April 2004 the Council may be paying to the Government approximately £28 per week per tenancy for 6,200 tenants (about £9m per annum). This money is called the Pool Transfer and is to all intents and purposes a tax levied on Council tenants which is not applied to any other sector. The impact on the HRA of the new Pool Transfer will, to a large extent, be mitigated because at the same time as it is introduced, the HRA will receive income from Government in relation to rent rebate allowances made to tenants. Essentially the Council must advise Government of how many tenancies it holds and within the subsidy calculation each Equity Share of 75% counts as a quarter of a Council tenancy although Equity Share purchasers pay no rent.

By way of example if all 237 Equity Share tenants were purchasers at 75%, the cost to the rest of the rent paying tenants would be

25% x £28 x 237 x 52 = £86,268 per annum

(b) Cost of Repairs
Equity share leaseholders receive a much reduced repairs service, being responsible for their own repairs. The impact of this is discussed below.

(c) Other Services

Equity Share leaseholds receive the full range of other tenant services. (Housing Management services - e.g. complaints, advice etc. – are discussed below). The cost of services borne in common with all tenants (by virtue of the Council being the landlord) are for 2002/03:

	£
Chief Executive's Department	30,180
Finance and Resources	159,150
Housing and Community Services	833,230
Housing Advisory Service	34,850
Corporate Management	164,140
Recruitment and Retention	151,640
Electronic Service Delivery	117,000
Democratic Representation	67,000
Treasury Management	19,640
TOTAL	1,576,830

(d) Warden Services

Equity Share leaseholders pay £13.00 per week for Warden Services – in common with other sheltered tenants – the balance of the costs of Warden Services being borne from the HRA as shown in the Housing Revenue Account are £892,510. There are 1,450 sheltered tenants and this equates to:

£892,510 ÷ 1450 ÷ 52 = £11.83 per week per tenancy – (from the HRA)

(e) Payments

Equity Share leaseholders pay a ground rent of 50p per week and structural insurance charge of 60p per week. This latter charge is used to meet premiums.

(f) Cost to the HRA tenants

From the above it is shown that Equity Share leaseholders are subsidised by their neighbours

	£ per week
Pool transfer	7.00
Other services	4.89
Warden Services	11.82
Sub total	23.71
Less payments	.50
NET	23.21

II Housing Management/Waiting List

Included in the above are costs of Council housing services available for and used by leaseholders. Other issues, however, need to be scrutinised.

(a) Essential Repairs
The example given at Appendix 2 shows the level of expenditure on an Equity Lease surrender £5,183.63. This sum is not extraordinary for the Council at present, but illustrates two further issues that requires attention.

(1) It is for the leaseholders to undertake their own repairs and they have a contractual duty to do so. (External and structural repairs apart).

The Director has previously brought to Members' attention his fears that where a gas boiler is provided, lack of maintenance could be at the least a hazard and at worse fatal. A major problem (thankfully very rare) could lead to structural damage.

Members agreed to offer leaseholders the same services available to Council tenants and at the base cost. Regrettably very few leaseholders took up the option.

It is also best practice in these instances to therefore:

(i) Require leaseholders to get the work undertaken
(ii) To inspect the dwelling annually.

Neither practice is currently undertaken. The Lease requires the Lessee to have the Central Heating boiler serviced annually. The Council has the right to inspect and carry out repairs (at the Lessee's expense) if the Lessee refuses. At the moment, no checks are made to see that this is done. A visual inspection is made when the property is surrendered, but unless any defects have been disclosed there is no accurate way of knowing whether, for example, the Central Heating system has been serviced property. Of course, this comment does not apply to those cases where the Lessee has signed up to the Council's Maintenance Contract. The Council's Standard Lease could be amended so that in future new Lessees covenant to produce to the Council a Central Heating Service History once every year and when the property is surrendered. In the absence of a satisfactory Service History, the Council could use its right to carry out works and recharge. This could be highlighted in the Council's information leaflets. More steps could be made to encourage Lessees to sign up to the Council's Maintenance Contract.

(2) The cost for repairs currently falls on the Housing Revenue Account. This account derives no income from Equity Share. It would seem reasonable therefore to recharge the cost of the repairs at the end of each Equity Share Lease to the Capital Account.

(b) Waiting list

A summary of the Council's sheltered housing stock is attached as Appendix 3 to this report.

As can be seen from this summary, there is a significant proportion of mainly, but not exclusively, one bedroom properties that can be designated as low demand. In particular owner/occupiers wishing to move into sheltered accommodation will more often want a popular 2 bedroom dwelling as they will be required to purchase an equity stake.

The waiting list statistics provided at Appendix 4 identifies the current tenure of households aged 60 or over currently on the active section of the Housing Register.

Owner-occupiers are, in accordance with Council policy, precluded from ordinary secure tenancies and only able to be considered for sheltered housing if this is available in their chosen villages, unless they can demonstrate their inability to afford at least 30% of the equity when offered a property under the scheme. These circumstances only occur when there is:

- A significant mortgage still outstanding on the property
- Where people are relocating from areas of cheaper housing elsewhere in the country e.g. to be near family for support
- Where insufficient funds are available following a relationship breakdown which has involved the sale of their former home.

Of the 237 current leaseholders, 93 (39%) moved from outside South Cambridgeshire and of these, 27 (29%) purchased a lower percentage of the equity, as compared to 19 (13%) of the 144 who moved from within the District.

The Director asks Members to reconsider the pros and cons of this policy:

(i) With over 80% of this District owner/occupied and around 50% of those currently registered for sheltered housing being owner/occupiers, does it make business sense to restrict choice of housing to the majority of potential customers?

(ii) Would those who would live in Council housing be self-selecting in any event?

(iii) The world-wide fall in share values will impact on the value of occupational and other pensions. Is it sustainable to maintain 995 owner-occupiers receiving Council Tax and other state benefits of whom 723 are over 60 and prevent these people from becoming financially self sufficient?

III Legal Issues

The current process was set up in accordance with advice from the Government. Proposed changes in the law and regulations mean that the whole legal agreement needs to be rewritten to enable:

(i) Safety Issues to be resolved.
(ii) A fair cost/charging regime to be applied.
(iii) Liability for rent when the property is unoccupied i.e. pre and post the lease operation. Rent means profits cannot be charged for periods outside the term of the lease. A licence fee/service charge is collected where occupation is taken up on a licence pending sale of the person's own property and completion of the lease.

IV Other Financial Issues

Capital Programme
The current Capital Programme includes £2m a year for the repurchase of Equity Share leases. However, it is already clear from the number of transactions completed to date and those in the process of being completed, that a virement of at least £500,000 within the capital programme will be required to meet commitments to repurchase equity share properties this year. Given house price inflation, the capital required will soon rise to £3m per annum. Income is also likely to rise to match this figure in the short term.

` As previously highlighted in this report, the total level of liabilities is, at present prices, in the region of £15.1m. The Council has to consider the impact of this liability.

(i) To redeem leases at current prices would require £15 million (on the assumption lessees would not object).

(ii) To continue without change could lead to an entirely unsustainable situation. The Local Government Bill proposes to allow the Secretary of State (in this case the Deputy Prime Minister) to require the Council to pay to Government up to 100% of any capital receipt. It is widely expected that the Government will impose a 75% levy. The Council has lobbied for this to be restricted to RTB sales only.

In the event that the changes are not restricted to Right to Buy sales only, unless the Council adopts a policy of designating properties to be sold under both the Leasehold Equity Share Scheme for the Elderly and Shared Ownership Scheme (in the same way properties are currently designated for the Equity Share for First Time Buyers

Scheme), it will be difficult to continue the Scheme because of the potential financial implications.

Complaints

A series of problems arose during the last period of house price deflation. Many people who were tied to reselling the property to the Council found that the value had decreased and felt the Council had unnecessarily profited from the transaction.

Substantial delay in surrendering a property back to the Council can occur following the death of the Lessee, due to delays with probate. This can lead to arguments over price where months have elapsed since the original valuation. In a rising market, the Council can be accused of making a profit, particularly if the property is then re-sold. A recent case illustrates this problem. The Lessee died in April 2002. The property was valued and the offer accepted in May. Probate was not granted to the executor until September. He then refused to proceed unless the price was increased to take account of the rising market. The dispute was resolved, with the executor agreeing to proceed on the original price and the surrender completing on 28th October.

Options

10. The Council has a number of options to resolve this quite intricate issue.

(1) Abolition of the Scheme
Current leases cannot be determined by the Council prematurely without the Lessee being in breach. The only option would be not to offer new leases after properties have been surrendered, requiring some £3m a year for approximately 5 years at current prices – more if house price inflation continues.

(2) Suspension of the Scheme
The suspension of the scheme would enable other issues to be explored e.g. preparation of a new lease. Some work has been done on the preparation of a new Standard Equity Share Lease that is more in line with the Housing Corporation's Standard Model Lease. Impact on the Waiting Lists.????

(3) Continuation of the Scheme, but only using surrendered properties.
This option would solve the problems created by the Local Government Bill only if no other changes in rules are made

In summary, it will be necessary to find a future scheme that does not penalise HRA tenants, protects the Council's interest in the property, is legally watertight and presents a viable option. A very tall order.

Financial Implications

11. As described.

Staffing Implications

12. Currently 1.5 full time equivalent staff are involved in the administration of the equity share schemes.

Recommendations

13. It is recommended that the Cabinet Advisory Panel consider this report.

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

Contact Officer: David Ellis, Director of Housing and Community Services.
Tel: (01223) 443021

APPENDIX 1

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL
LEASEHOLD EQUITY SHARE SCHEME FOR THE ELDERY

For elderly owner-occupiers in need of sheltered accommodation.
Bungalows are on a lease of 125 years.

The Council sells a 75% share of the property at current market value and retains the remaining 25%. In the event of a lessee wishing to dispose of the property, the lease is surrendered to the Council at 75% of current market value (less valuation fee, cost of repairs, outstanding rents, service charges and legal fees etc. A £250 Non Returnable Reservation Fee is required before the purchase can proceed.

It is possible to purchase less than 75% and pay rent on the balance on a pro rata basis upon application. This is the Financial Director's decision and is based upon the valuation of the purchaser's existing property. The lowest % accepted is 30%. Rents are subject to annual review.

The Service Charge is £15.30 per week and is reviewed on an annual basis. This covers the cost of the scheme manager's services, alarm and external repairs, ground rent is 50 pence per week and structural insurance is 60 pence per week. All charges are subject to annual review.

EXAMPLE

1BB Cottenham		Use & Occupation fee	2 BB Melbourn		Use % Occupation fee
Full valuation	£77,000	£52.58	Full Valuation	£85,000	£58.93
75%	£57,750	Nil	75%	£63,750	Nil
50%	£38,500	£12.41	50%	£42,500	£13.85
30%	£23,100	£22.33	30%	£25,500	£24.93

There will be other outgoings such as electric, water, house contents insurance etc.

Use and Occupation Agreement

At times of adverse market conditions properties can take some months to sell. If you have not sold your property and the Council is ready for the lease agreement to be signed, we will expect the purchaser to enter into a Use and Occupation Agreement and pay the service charge with a sum for occupation. The period of occupation may last up to 18 months or to the time they take to sell their home. Purchasers are required to occupy the Council property. Providing that every effort has been made to sell the existing property, the 18-month period can be extended. This means you must have your property available for immediate sale. You are expected to exchange contracts for both properties simultaneously.

During the period of the Occupation Agreement, Council Tax will be payable on the unsold property, but not also on the sheltered bungalow. This is at the discretion of the Finance Director of South Cambs District Council only and may not apply if the unsold property is outside the area administered by SCDC.

July 2001

APPENDIX 2

CASE HISTORY

A single bedroom sheltered scheme bungalow in Girton.

1996	Sold at 75% value £38,250.
24.7.2001	Leaseholder died.
20.9.2001	Leaseholder's solicitors advised the Council. Purchase price agreed at £58,500.
6.12.2001	Property pre-allocated to purchaser from Suffolk.
8.4.2002	Equity surrender from leaseholder's solicitors agreed.
19.4.2002	Keys returned.
22.4.2002	Keys to Technical Officer.
6.6.2002	Keys returned from Commercial Services. Value of void works £5,183.63. Sale agreed to purchaser from Suffolk at £68,250 (75% of £91,000).
August 2002	Awaiting exchange of Contracts.

At the time of writing this Appendix, over one year has elapsed since the property was last used.

The HRA has spent £5,183 without any compensating income. The General Fund benefits from the interest on the Capital received.

The Capital Receipts total will increase by £9,750 less conveyancing costs.