

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Council
AUTHOR/S: Chief Executive / Executive Director

23 April 2009

HOUSING FUTURES – POST BALLOT/PRE TRANSFER ORGANISATIONAL ARRANGEMENTS

Purpose

1. To advise Council of the organisational arrangements necessary in the event of a positive tenant ballot, to agree the principles of those arrangements, and to give the Chief Executive delegated powers to proceed with the appropriate staffing and advisor appointments, with a view to their confirmation at a post ballot meeting of Council.
2. This is a key decision because
 - it is likely to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates.
 - it is likely to be significant in terms of its effects on communities living or working in all wards of the District.

and it was first published in the March 2009 Forward Plan.

Executive Summary

3. The Housing Futures project has to date been delivered by officers of the Council who have served both the Council and the new landlord organisation, South Cambridgeshire Village Homes (SCVH). If tenants support the Council's proposal to transfer its homes to SCVH then it would be necessary formally to separate the two organisations prior to commencement of post ballot negotiations between the Council and SCVH, in order to manage any potential conflicts of interest.
4. In order to ensure that, in the event of a positive tenant ballot, the transfer of homes happens at the earliest opportunity, and recognising the considerable workload in establishing SCVH as a new local organisation, Council is asked to agree the principles of the post ballot organisational arrangements at this stage, so that they can be implemented at the earliest possible opportunity after the ballot. If tenants do not support the Council's transfer proposals in the tenant ballot then these arrangements would not be necessary.
5. At a future meeting of Council the result of the ballot will be considered, and at that meeting detailed arrangements would be agreed.

Background and considerations

Staffing arrangements

6. To date, the Housing Futures project has been managed by the Housing Futures Management Team, comprising the Executive Director (Operational Services), Corporate Manager – Affordable Homes, and Interim Corporate Manager – Customer Services and Communities. A corporate Housing Futures project team has met monthly to oversee the project and a Housing Futures project support team has provided the dedicated staffing resource to ensure that the project has achieved its objectives. In addition specialist lead, legal and communications advisers have been employed by the Council. This 'extended' team has also supported the development of the SCVH Shadow Board.
7. If tenants support the Council's proposal to transfer its homes at the forthcoming ballot and Council decides to apply to the Secretary of State to transfer its homes to SCVH, then it would be necessary to identify those staff who would support the development of SCVH and to separate SCVH's team from the Council in order to avoid any conflicts of interest more formally. At the same time it would be important to ensure that the Council's transfer team is well resourced to ensure that transfer can be achieved, subject to registration with the Tenant Services Authority, around April 2010. This will require further consideration to ensure that the Council's post ballot transfer team is adequately resourced with appropriately skilled staff. It is anticipated that the Executive Director (Corporate Services) will lead this team during the initial months of the post ballot, pre transfer period with dedicated project management staff.
8. As it would take some time for SCVH to recruit its senior management team, it is usual in these circumstances for the Council to second to the new transfer landlord a number of staff so that SCVH can commence its work at the earliest opportunity and have its own dedicated staff pending appointment of its own permanent team.
9. At its meeting on 22 March 2009, the SCVH shadow board considered its post ballot workload, particularly in respect of arranging funding, securing registration with the Tenant Services Authority, and negotiating the terms of the transfer with the Council. The board agreed that the initial level of support that it would seek from the Council by way of seconded staff was for an interim Chief Executive, an interim Director of Business Services, and a support post. This interim team is considered proportionate to the volume and complexity of work required to establish SCVH as a new stand alone organisation. The interim team would be seconded until such time as SCVH appoints its own staff through an external recruitment process that would commence immediately after a positive tenant ballot. The Corporate Manager – Affordable Homes would continue to make a significant contribution to the transfer project but would retain, during the post ballot, pre transfer period, primary responsibility for housing service delivery.

10. The SCVH shadow board has asked the Council to give consideration to the secondment of the Executive Director (Operational services) and interim Corporate Manager (Community and Customer Services) into the roles set out in paragraph 9 above and it is proposed that the Chief Executive (with the HR Manager's and respective legal advisers' advice), is asked to prepare appropriate secondment arrangements for those posts and the support post. In order to ensure that the effect of those secondments on the senior management capacity of the Council is mitigated, it is proposed that the posts of any secondees are temporarily backfilled by way of internal appointments. Any secondments would be for the period until SCVH makes its own permanent appointments to those posts.
11. At its meeting of 11 September 2008, Cabinet resolved a number of issues in relation to the Council's senior management structure in the event of a positive or negative tenant ballot. In the event of a positive ballot it was agreed that a new post of Corporate Manager (Housing and Community Services) be created to manage a new corporate service area comprising existing Community and Customer Services teams and those non landlord housing services that would be retained by the Council in the event of transfer. The establishment of that post was predicated upon the deletion of the Head of Housing Strategic Services post, the substantive postholder of which is presently interim Corporate Manager (Community and Customer services).
12. It was agreed by Cabinet that the Head of Housing Strategic Services post be made redundant on 30 June 2009 on the assumption of an early Spring 2009 tenant ballot. As the ballot is now likely to be late Spring, it is proposed that the date for that redundancy is postponed to 31 October 2009. This would allow time for both the secondment and permanent appointment arrangements for both the Council and SCVH senior management posts to be worked through and ensure management capacity is retained through the critical early stages of the post ballot process.
13. Any provisional arrangements would be subject to the outcome of the ballot and no costs would be incurred in the pre-ballot phase unless it was considered necessary to source an external resource. Any financial resources required for these posts along with other costs would be included in the budget to be agreed post ballot and are, effectively, recovered through the capital receipt. The Chief Executive's actions and proposals in relation to the staffing matters above would be reported to a future Council meeting.

Advisor arrangements

14. In addition to dedicated staff, both the Council and SCVH would require specialist advice during the post ballot/pre transfer period. Up until now the Council's lead and legal advisers have also supported SCVH's shadow board. However, to avoid future conflicts of interest it is necessary for the Council and SCVH to appoint separate advisors for the post ballot/pre transfer period.
15. The Council's Senior Management Team considered the appointment of post ballot advisers at its meetings in March and, having consulted the SCVH shadow board, agreed that the Council should retain the services of its legal adviser, subject to cost benchmarking against a standard post ballot brief, and that SCVH would retain the services of the lead adviser, again subject to satisfactory cost benchmarking. Separate procurement of the Council's post ballot lead adviser and SCVH's post ballot legal adviser has been commenced at risk and appointments would be confirmed by the Chief Executive and SCVH shadow board respectively only in the event of a positive ballot result

Post ballot funding arrangements

16. SCVH is a separate legal entity from the Council and until such time as it has access to funding at the date of transfer, it would rely upon funding from the Council in order to set up its new organisation. The Council would disburse SCVH's costs on its behalf under Section 24 of the Local Government Act 1988, but in order to be able to use these powers the Council must first obtain the approval of the Secretary of State under Section 25 of the same Act.
17. The monies 'loaned' to SCVH in the post ballot, pre transfer period are recovered by way of the capital receipt payable to the Council on the date of transfer. Use of those monies is regulated through the agreement of budgets and authorisation procedures, and the Council would have to indemnify SCVH against repayment of the loan in the event that transfer did not ultimately proceed.
18. More details of these transitional funding arrangements would be reported to Council at a post ballot meeting, at which it would resolve to seek the appropriate approvals from the Secretary of State.

Options

19. All of the above proposals are based upon advice from the Council's specialist advisers and have been applied elsewhere to effect large scale voluntary transfer of local authority housing to a new housing association landlord.
20. The Council could postpone consideration of the above matters until after the tenant ballot result is known. This could have the effect of adding a significant delay to the post ballot process, and would mean it very unlikely that transfer could proceed around April 2010 as currently anticipated in the event of a positive ballot result. The Tenant Services Authority's registration criteria for new stand alone housing associations are particularly demanding, and transfer cannot proceed until these have been met and registration achieved. Further, government guidance suggests that the 'currency' of a tenant ballot result is around 12 months and so it expects transfer to be completed within a year of a positive tenant ballot.
21. SCVH could choose to appoint its own interim staff rather than rely upon secondments from the Council. This would deny the new organisation the benefit of local knowledge and expertise and could contribute to a delay in commencing the post ballot process.
22. There are no practical alternatives to funding SCVH's post ballot activities other than the Section 25 mechanism presented above.

Implications

Financial implications

23. Setting up a Section 25 loan facility for SCVH to provide funding for its set up costs would require appropriate budgets to be constructed and procedures agreed for expenditure. It is proposed that the Housing Futures pre ballot financial outturns and proposed post ballot budgets are reported to Council for approval after the tenant ballot. A £50,000 sum has been included in the 2009/10 precautionary items to cover any pre ballot appointment costs at risk that may be incurred in 2009/10.

24. At its meeting on 29 January 2009, Council was advised of the headline net capital receipt calculation and General Fund impacts of transfer. Subject to Council agreement to a reduced rent increase (see earlier report on this agenda) for 2009/10, the indicative gross valuation is likely to be reduced by around £1.3m. Other changes in headline figures are to be expected in coming months given uncertainty in the financial markets, and these would be reported to Council in detail at the appropriate time. However, at this time the objective of a financially viable Council and new landlord organisation is still achievable.

25.

Legal	Council would be asked to agree the legal requirements to apply to the Secretary of State for Section 25 funding after the tenant ballot
Staffing	Preparations for the secondment of senior staff to SCVH will be progressed by the Chief Executive, along with appropriate backfilling arrangements to ensure that management capacity is maintained in the post ballot period.
Risk Management	The Housing Futures project risk register is reported to the Housing Portfolio Holder and SCVH shadow board on a bi monthly cycle. It is also regularly reported to the Corporate Governance Committee as part of the Council's strategic risk register. A new post ballot Housing Futures project risk register would be constructed in the event of a positive tenant ballot.
Equal Opportunities	Interim staffing arrangements to be implemented within the Council's HR policies.

Consultations

26. Post ballot arrangements have been discussed by the Council's Senior Management Team, Executive Management Team, Housing Futures management team, Housing Futures corporate project team and the SCVH shadow board.

Effect on Strategic Aims

27.

Commitment to being a listening council, providing first class services accessible to all.
The Council's transfer offer to tenants is based upon extensive consultation with them about their experience of current housing services and aspirations for the future.
Commitment to ensuring that South Cambridgeshire continues to be a safe and healthy place for all.
The investment programme proposed by the Council which would be delivered in the event of a positive tenant ballot through SCVH would significantly increase resources available to invest in improving homes and so improve the safety and health of a large number of residents of South Cambridgeshire.
Commitment to making South Cambridgeshire a place in which residents can feel proud to live.

The proposed transfer investment programme would significantly increase resources available locally to improve the environment around the Council's homes and local communities and improve the engagement of local residents in planning those improvements.

Commitment to assisting provision for local jobs for all.

The proposed transfer investment programme would lead to an additional £40m investment in homes in the first five years after transfer, which should help create more local employment opportunities.

Commitment to providing a voice for rural life.

The Council's offer to tenants makes specific reference to the district's rural nature and contains a number of references to how services would be delivered to take account of that rural nature.

Recommendations

28. Council is recommended to note the arrangements necessary in the event of a positive tenant ballot, and to:
- a. Instruct the Chief Executive to prepare the necessary officer secondment arrangements to South Cambridgeshire Village Homes (SCVH) and the Council's post ballot transfer team along with appropriate backfilling measures, in order that these can be approved by Council at a post ballot meeting.
 - b. Postpone the deletion of the Head of Housing Strategic Services post from 30 June 2009 to 31 October 2009.
 - c. Note the arrangements for the appointment of post ballot advisors to the Council
 - d. Note the arrangements that would be necessary to fund SCVH in the post ballot pre transfer period, and that more details would be presented to a post ballot Council meeting.

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

Report to Council 29 January 2009 – 'Housing Futures: The offer to tenants and the formal consultation process'

CLG Housing Transfer Guidance Manual 2006

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