

# **SJR(2)-16-06(p1)Annex 3**

## **The Transfer of Council Housing to newly formed Housing Associations or Community Housing Mutuals.**

The Welsh Assembly Government has set an objective for all social housing in Wales to be brought up to the Welsh Housing Quality Standard by 2012. This is a standard that the Assembly Government believes is the minimum that tenants should expect in the 21<sup>st</sup> Century. The cost of the improvements is beyond the financial means of many councils. The only alternative is to offer to tenants the option of transfer to a not-for-profit registered housing association or Community Housing Mutual.

There has been misunderstanding of what this means to tenants so the following list of frequently asked questions has been produced to clarify the position.

### **Frequently Asked Questions**

#### **What does transfer mean?**

It is the transfer of the ownership and management of the Council's homes to a new, not-for-profit housing association, or Community Housing Mutual, registered and regulated by the Welsh Assembly Government. The decision to transfer is made by the tenants in a secret ballot.

#### **Why transfer?**

Every Welsh Council is required to bring their homes up to the 'Welsh Housing Quality Standard' by 2012. Councils can do this either by using the resources available to them if they can afford the investment needed, or consult tenants on transfer.

#### **Who sets the standards?**

The Welsh Assembly Government has said it wants all local authorities to bring their homes up to its 'Welsh Housing Quality Standard' by 2012.

#### **The Welsh Housing Quality Standard means that:**

- All homes to be in a good state of repair
- All homes to be safe and secure
- All homes to be adequately heated, fuel efficient and well insulated

- All homes to have modern and up to date kitchens and bathrooms
- All homes to be located in safe and attractive environments
- All homes to be well managed
- All homes to meet the specific needs of the household.

### **Why can't the Council find the money?**

Councils are governed by the public sector expenditure rules set by the UK Government. This means that they can only borrow what they can afford to repay from the income received from rents. Many could only achieve this by considerably increasing rents and potentially making them unaffordable. If the houses are transferred to a new registered housing association or Community Housing Mutual the borrowing rules do not apply and it would be able to borrow the money to carry out the works required to meet the Welsh Housing Quality Standard.

### **Would Council homes be privatised?**

No. The new housing association or Community Housing Mutual will be run on a not-for-profit basis with any surpluses being reinvested into repairs and improvements and delivering the service. It would also be highly regulated by the Assembly Government and is not privatisation in the sense of companies like Tesco. There would be no dividends paid out.

### **What sort of organisation would this new body be?**

These are officially known as Registered Social Landlords but most people know them better as Housing Associations. This means it would be registered with and monitored by the Welsh Assembly Government which is the regulator of Registered Social Landlords in Wales. The Assembly Government favours the Community Housing Mutual, which transfers the ownership to tenants collectively (a type of co-operative).

### **Where would the transfer organisation get the money from?**

The new landlord is able to borrow the money from high street banks or building societies. The money would be used to improve the homes and would be paid back from tenants' rents.

### **How do we know the loans could be paid back?**

The housing association or Community Housing Mutual would be a Registered Social Landlord and would have to be properly and carefully managed. The organisation's Board of Management has to ensure it has a robust business plan which it could deliver. The business plan projects how the money it borrows would be paid back. The existing landlord (the Council), the lenders and the Assembly Government would expect to see that the organisation's rental income was sufficient to maintain the

business plan – in the same way that a mortgage company would want to check you were getting paid enough in order to pay back the money when buying a home. The business plan has to be independently validated.

### **How do we know the organisation won't go bust?**

The organisation would be a Registered Social Landlord and no Registered Social Landlord has ever gone bankrupt. No tenant has lost his or her home because of a performance failure or financial failure of a Registered Social Landlord. The Assembly Government has a responsibility to monitor the financial situation of all Registered Social Landlords and will take action if it considered that any one of them was getting into difficulties.

### **How can the new organisation not be run for profit?**

The law relating to Registered Social Landlords is very specific and it would not be allowed to distribute any surpluses. Any surplus cash made, after management costs, repairs and the repayment of loans, would be ploughed back into the organisation – into improving homes and services – for the benefit of tenants.

### **What would happen to Council housing staff?**

If the transfer goes ahead, the housing staff would transfer to the new housing organisation with the same terms and conditions.

### **Would any other Council services I receive be transferred?**

Only the housing services you currently receive would transfer. Other services, such as refuse collection or street cleaning, would not. The Council would continue to provide these services.

### **Would I have to move home if homes transfer?**

No, you would not have to move home as a result of transfer. It is only the ownership and management of the Council's homes that would be transferred from the Council to the new housing organisation.

### **What sort of work would be done to tenants' homes?**

The exact works to each home would depend on its condition. Once homes are brought up to the Welsh Housing Quality Standard, they would be kept that way in the future.

### **I live alone in a three bedroom house. If transfer goes ahead would I be forced to move to a smaller house?**

No. You would continue to have the right to live in your home, just as you do now with the Council.

## **Would we get any choices, where and when work is being carried out?**

Yes – tenants would be fully consulted about the work.

## **What would transfer mean for my estate?**

If transfer goes ahead, money would be available to invest in estates and the environment.

## **Who would make sure the organisation keeps its promises?**

The Welsh Assembly Government is the social housing regulator in Wales and would monitor the housing organisation's performance and delivery to ensure it kept all its promises. In addition, the Council would have a contract with the organisation and would monitor its performance against the promises made on transfer. The organisation's Board of Management (which also includes tenants) would ensure that promises were kept too.

## **Could the housing organisation sell tenants' homes at a later date to a profit making landlord?**

No, the new landlord would be set up as a not-for-profit organisation with the purpose of providing a quality housing service which meets the needs of local people. The law does not allow it to sell your homes to a profit-making landlord.

## **If I wasn't happy with the new housing organisation what could I do?**

As a Registered Social Landlord, the new organisation would be required by the Welsh Assembly Government, to have a proper complaints procedure. It would investigate any complaints you have about the service. If you are unhappy with the response you could complain to the Public Services Ombudsman for Wales. You could also complain to the Council which would have a legally binding contract with the organisation which could be used to make sure the organisation keeps its promises.

## **What would happen to tenants' rents?**

You would pay no more than you would if you stayed with the Council. The difference is that the new organisation is not constrained by the public expenditure rules and could afford to bring the homes up to the new standards and keep them that way in the long term. Rents are set in line with Welsh Assembly Government rules which determine the maximum increase for all social landlords. In addition the new organisation will set out its proposals for future rents in the information given to tenants before the ballot. This must be honoured if there is a resulting transfer.

## **But won't all this spending on improvements mean rents would have to go up to pay for them?**

No. You would pay no more than you would if you stayed with the Council. Rents would cover the

costs of the repairs and improvements that would be carried out, if transfer goes ahead. Rents would stay affordable; the Assembly Government would insist on this.

### **Would we still get Housing Benefit?**

Yes. Your entitlement to claim Housing Benefit would not be affected by transfer.

### **Would rent arrears be written off at transfer?**

No. Tenants would still be required to pay any arrears.

### **Would the transfer affect my Council Tax?**

No, it would not. You would continue to pay it just as you do now.

### **Would I still have to pay for a garage, if transfer goes ahead?**

Tenants would still have to pay a fee for garages. This payment would be collected with the rent for your home.

### **What would happen to my rights?**

Tenants' key rights and entitlements would be protected – tenants who have the Right to Buy with the Council would still be able to buy their home, pass on their home or exchange their home for example.

### **Would I have a new tenancy agreement?**

Yes. You would get a new tenancy agreement from the transfer organisation if transfer goes ahead.

### **Would I still have the Right to Buy?**

Yes, if you have the Right to Buy with the Council you would have the Preserved Right to Buy with the new organisation. Any discount entitlement would be transferred over and would continue to grow up to the maximum allowed – just as with the Council now.

### **Would it be easier to get evicted?**

No. The transfer organisation would still have to get a court order like the Council does now. Tenants' security of tenure is not affected.

### **Would my tenancy agreement change, if transfer goes ahead?**

If transfer goes ahead, you would get a new Assured Tenancy from the new organisation. Currently

you are a Secure Tenant of the Council and the rights you have are set down in law by an Act of Parliament. If transfer goes ahead you would become an Assured Periodic Tenant. Your rights would be covered partly by law and partly by a contract, the tenancy agreement, between you and the new landlord. The new tenancy agreement would contain as far as possible, all the key legal rights which you have with the Council. Except for the annual variations to rents and service charges the transfer organisation could not change the new tenancy agreement in the future unless you agreed to the change in writing.

### **Who will decide if transfer goes ahead?**

Tenants will decide by an independent ballot. Transfer can only happen if a majority of tenants who vote, do so in favour of the transfer.

### **Who will run the ballot?**

The ballot will be run by an organisation independent of the Council and the transfer housing organisation. Usually this is an organisation called Electoral Reform Ballot Services.

### **I know I want to vote in the ballot, but I don't want anyone knowing how I voted. Is it secret?**

The vote would be a confidential ballot, so no one else would know how you voted.

### **Can we trust what the Council is saying to us?**

The Council is required by the Assembly Government to provide its tenants with the full facts about transfer. Every piece of information issued to tenants is checked by the Assembly Government, the Independent Tenants' Advisor and lawyers.

### **What about literature put out by groups opposed to transfer?**

Everyone has the right to their own opinion. However, literature put out by these groups does not go through any checks to ensure the contents are accurate.

### **Additional Faqs for Staff**

#### **Will I lose my job if transfer goes ahead?**

Staff who are employed for the majority of their time in the social housing service would transfer to the new organisation under Tupe.

#### **What is Tupe?**

The Transfer of Undertakings (protection of employment) Regulations protects employees when the

work they do is transferred to another organisation. The transfer would be under the same (or better) terms and conditions as those applying to the existing contract of employment. There is no time limit to TUPE.

### **What happens to pensions on transfer?**

The arrangements will be set out in detail as part of the process. The usual situation is that existing arrangements continue.

### **Would I still be able to be a member of a Trade Union?**

Yes, The Assembly Government expects all newly formed housing organisations to recognise trade unions and staff to maintain their membership if they wish.

### **Would my job description change?**

If there are changes to individual jobs these will be reviewed in full consultation with the staff concerned.

### **Is transfer privatisation?**

No. The houses would be transferred to a newly-formed not-for-profit housing organisation regulated by the Welsh Assembly Government. It is able to borrow money from banks and building societies to pay for the repairs and improvements.

### **Who would run the new organisation?**

These bodies are governed by a Board of Management usually made up in equal numbers of tenants, council nominees and independent people who have specific skills and experience.