

## Summary: Intervention & Options

<b>Department /Agency:</b> <b>Communities &amp; Local Government</b>	<b>Title:</b> <b>Impact Assessment of Mandatory Tenant Ballots prior to Stock Transfer</b>	
<b>Stage:</b> Final Proposal	<b>Version:</b> 1	<b>Date:</b> 19 October 2007
<b>Related Publications:</b>		

### Available to view or download at:

<http://www.communities.gov.uk>

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### What is the problem under consideration? Why is government intervention necessary?

Before a local authority can transfer its stock to a Registered Social Landlord it has to ensure that the majority of affected tenants do not oppose the transfer. The fact that local authorities are free to determine themselves tenant opinion (including how, when and if any ballot is conducted) and the fact that tenants are able to make representations during the whole process has brought the system into disrepute.

Legislation is necessary to ensure a consistent, independent ballot and focused period in which tenants can (and are aware) they can make representations.

### What are the policy objectives and the intended effects?

The policy objective is to achieve a fairer and more transparent process, which gives tenants greater comfort. The effect should be greater tenant satisfaction.

### What policy options have been considered? Please justify any preferred option.

“Do nothing” would not stop further claims that the current system is flawed and the possibility of challenge in the Courts

Our favoured option is to legislate to make ballots compulsory and to set a fixed period in which tenants can make representations.

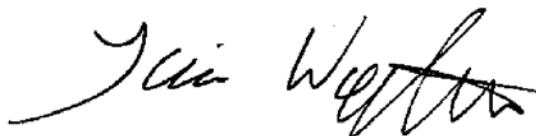
### When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

The policy will be formally reviewed after three years.

**Ministerial Sign-off** For final proposal/implementation stage Impact Assessments:

***I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.***

Signed by the responsible Minister:

A handwritten signature in black ink, appearing to read "Jaci Weyler". The signature is written in a cursive style with a long, sweeping underline.

**Date:** 9 November 2007

## Summary: Analysis & Evidence

<b>Policy Option:</b> Self-financing	<b>Description: Legislate to make ballots compulsory and to set a fixed period in which tenants can make representations.</b>
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<b>COSTS</b>	<b>ANNUAL COSTS</b>		Description and scale of <b>key monetised costs</b> by 'main affected groups' Local housing authorities
	<b>One-off (Transition)</b>	<b>Yrs</b>	
	£180k	1	
	<b>Average Annual Cost (excluding one-off)</b>		
	£32,000		
<b>Total Cost (PV)</b>			<b>£32,000</b>
Other <b>key non-monetised costs</b> by 'main affected groups'			

<b>BENEFITS</b>	<b>ANNUAL BENEFITS</b>		Description and scale of <b>key monetised benefits</b> by 'main affected groups'
	<b>One-off</b>	<b>Yrs</b>	
	£0	0	
	<b>Average Annual Benefit (excluding one-off)</b>		
	£0		
<b>Total Benefit (PV)</b>			<b>£0</b>
Other <b>key non-monetised benefits</b> by 'main affected groups'			

**Key Assumptions/Sensitivities/Risks** The above costs assume approximately 2 failed ballots a year at a cost of £16k: ie  $2 \times £16K = £32k$

<b>Price Base Year</b>	<b>Time Period Years</b>	<b>Net Benefit Range (NPV)</b> £	<b>NET BENEFIT (NPV Best estimate)</b> £
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What is the geographic coverage of the policy/option?	England			
On what date will the policy be implemented?	Summer 2009			
Which organisation(s) will enforce the policy?	the courts			
What is the total annual cost of enforcement for these organisations?	£ cannot calculate			
Does enforcement comply with Hampton principles?	Yes/No			
Will implementation go beyond minimum EU requirements?	Yes			
What is the value of the proposed offsetting measure per year?	£0			
What is the value of changes in greenhouse gas emissions?	£0			
Will the proposal have a significant impact on competition?	No			
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium	Large
Are any of these organisations exempt?	Yes/No	Yes/No	N/A	N/A
<b>Impact on Admin Burdens Baseline</b> (2005 Prices) (Increase – Decrease)				
Increase of £0	Decrease of £0	<b>Net Impact £0</b>		
Key:	<b>Annual costs and benefits: Constant Prices</b>		<b>(Net) Present Value</b>	

## Evidence Base (for summary sheets)

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

1. It is Government policy to encourage local authorities to consider options for the management and ownership of their housing stock. It is further Government policy to encourage, where it is seen to be a viable option and the majority of affected tenants do not oppose, that local authorities transfer ownership of their stock to a Registered Social Landlord.
2. Before transfer can take place the local authority must obtain the consent of the Secretary of State under sections 32-34 and/or section 43 of the Housing Act 1985. The Secretary of State cannot grant consent unless she is satisfied that the affected tenants have been properly consulted and the local authority has demonstrated to her satisfaction that a majority of them are not opposed to the transfer
3. Approximately 830,000 transfers have taken place since 1997. In some cases local authorities have transferred their entire stock, in other cases individual estates or small groups of houses. In the majority of cases the local authority has conducted a ballot of tenants as the only satisfactory means of determining tenant opinion but where there are small disposals of stock of between 10 and 20 homes and it is more cost effective for the authority they will determine tenant support by letter. Although guidance from central Government (the Housing Transfer Manual) recommends holding a ballot, there is no statutory requirement to hold one. Furthermore tenants are able to make their views known (either in support or opposition) throughout the entire transfer process rather than during a fixed consultation period (although there is a statutory period of 28 days for tenants to make representations to the Secretary of State once the authority has served notice of its intention to proceed with the transfer and to determine tenants support for it via a ballot).
4. In early 2007 a secure tenant of the London Borough of Tower Hamlets challenged the Secretary of State's decision to consent to a transfer of housing stock in Parkside Estates from the London Borough of Tower Hamlets to the Old Ford Housing Association. As part of the consultation process, the local authority balloted tenants on the proposal to transfer their stock: the result was a majority of seven tenants in favour of the transfer,

on a low turnout (45.7% of those eligible to vote). Subsequently, through an organised campaign over a long period, tenants and leaseholders wrote individual letters to the Secretary of State and the local authority alleging ballot irregularities, and petitions were received from both tenants and leaseholders objecting to the transfer. By the time of the local authority's application for consent to the transfer, the number of signatures received making representations against the transfer (at least 44% of those eligible to vote) exceeded the number of those who had voted in the ballot in favour of the transfer.

5. The Department was concerned that notwithstanding the endorsement of the transfer through a positive ballot result the large number of representations subsequently made against the transfer would put a decision to consent to the transfer at risk. Specifically, the Department was concerned to verify that a majority of tenants had not made representations opposing the transfer; as, in such circumstances, the Secretary of State would be prohibited by the legislation from consenting to the transfer. Even if a majority of tenants had not expressed their opposition, it was considered that a decision by the Secretary of State not to exercise her discretion to require further consultation might be vulnerable in circumstances in which the ballot result was so close, and had taken place a considerable time before the application for consent to the transfer.
6. Making a ballot mandatory and setting a fixed period in which tenants are able to make representations would avoid this situation (and challenge on these grounds in the courts) occurring again (notwithstanding the fact that the courts found in favour of the Secretary of State).

### **Costs and Benefits**

#### **Sectors and groups affected**

7. The primary groups most affected by the proposal are:
  - unitary and district local authorities responsible for housing services
  - local authority tenants and tenant groups

#### ***Race equality assessment***

8. Our housing policies positively encourage inclusion of every citizen regardless of ethnicity or religious beliefs. Annex E of the Housing Transfer Manual provides good practice guidance to local authorities on meeting the needs of Black and Minority Ethnic communities. This is unaffected by these proposals.

### *Health impact assessment*

9. We do not believe there to be any direct impacts on health.

### *Rural considerations*

10. The proposals would not have any disproportionate affect on people living in rural communities, although stock transfers are more likely to take place in urban areas (where there are greater concentrations of social housing).

### **Breakdown of costs and benefits**

#### *Do nothing*

##### *Economic*

11. There are no economic benefits from the status quo.

##### *Environmental*

12. There are no environmental benefits from keeping the current arrangements nor are there any environmental costs.

##### *Social*

13. There are social costs maintaining the status quo insomuch that there is some dissatisfaction with it.

### ***Our Proposal***

#### *Economic*

14. There are no economic benefits to be gained from our proposal.
15. There will possibly be some very minor administrative time saved in handling representations during a fixed time period rather than continually over the life of the transfer process.
16. There may be some very minor savings to the Court Service as the number of future challenges could be reduced.
17. Making the ballot mandatory will technically represent an additional burden on local government, but the costs of the ballot are always covered in the cost of transfer. An additional burden would therefore fall on the local authority only in those situations where the ballot failed – an additional burden that the local authority would look to central Government to meet. There are approx. 15 ballots a year at an individual cost of approx. £16,000, of which 2 fail. So a cost to central Government of £32,000 a year, although no effect on the overall public purse.

*Environmental*

18. There are no environmental benefits.

*Social*

19. The social benefits of making changes will be an increase in tenant confidence in the process. However it is impossible to quantify this.

**Small Firms' Impact Test (SFIT)**

20. Not applicable

**Competition Assessment**

21. This proposal will have no negative impact on competition.

**Enforcement, Sanctions and Monitoring**

22. Local authorities can be taken to court if they fail to meet their statutory duties. In reality, no local authority would commit resource to a process it knew it could not complete because the Secretary of State would not grant consent to transfer if they had failed to hold a ballot in line with legislation.
23. We will review the benefits three years after introduction.



## Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

**Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.**

Type of testing undertaken	Results in Evidence Base?	Results annexed?
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	No	No
Sustainable Development	No	No
Carbon Assessment	No	No
Other Environment	No	No
Health Impact Assessment	Yes	No
Race Equality	Yes	No
Disability Equality	No	No
Gender Equality	No	No
Human Rights	No	No
Rural Proofing	Yes	No

## Annexes

None.