

Questions

&

Answers

**on
Stock Transfer**

September 2003

**The
Royal
Borough of
Kingston
upon
Thames**



Royal Borough of Kingston

These questions and answers have been designed to provide background information on Kingston Council's housing transfer proposal. The aim is to provide Councillors, staff, tenant and leaseholders' representatives, and others, with standard answers to the most commonly asked questions. The content has been agreed by the Independent Advisors, and has been cleared by the Office of the Deputy Prime Minister, the Government department responsible for housing transfers.

September 2003



Contact the Council at: <http://www.kingston.gov.uk>

questions and answers

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questions and answers

A. Background

Q1 What is housing transfer?

Housing transfer is where the ownership and management of a Council's housing transfers to a not-for-profit registered social landlord, such as a housing association or local housing company.

Transfer such as this cannot take place unless tenants show that they support the idea. This is demonstrated by holding an independently run ballot of tenants in which the majority of tenants voting must be in favour of the idea. Also, the Secretary of State at the Office of the Deputy Prime Minister must give his/her approval to the transfer before it can take place.

Q2 Why is the Council looking at this idea?

The Government expects all Councils to look at the most appropriate management, ownership and investment arrangements for their housing stock in order to bring it up to the minimum decent standard by 2010 in line with the Government's guidelines and to improve on that standard.

Kingston Council did this as part of an "options appraisal" after a survey of the condition of the housing showed that more money needed to be spent on the homes than the Council was likely to have available to it. In essence, the survey showed that approximately £100 million needs to be spent over the next 10 years. The Council is likely to have about half of this amount. In future, the Council may have to look at cutting some housing services in order to meet its budget limits. This would not be necessary with the new landlord.

The findings of the stock options appraisal report were that the Council, together with its tenants and leaseholders, should investigate housing transfer. This, of all the options looked at, provided the best answer to the issues that need to be addressed.

Throughout the process, the Council has been asking tenants and leaseholders for their views on the prospect of change, and there is significant support for trying to find the best solution.

Q3 Have any other Councils done a housing transfer?

Yes. Since 1988, over 675,000 homes from 125 Councils across the country have transferred in this way, including those of Richmond upon Thames, Epsom and Ewell, Spelthorne and Elmbridge Councils. Tenants from about 40% of Councils have voted to remain with their local authority.

Q4 Has the Council already decided that the transfer will go ahead?

No. Having looked at the options, the Council thinks that creating a new housing association is the best solution for Kingston residents - BUT the Council cannot and does not want to make this important decision without tenant support in a secret ballot.

Q5 Who is the Council suggesting should be the new landlord?

The new landlord would be a local, not-for-profit registered social landlord (RSL) established just for this purpose. The basis of the new organisation would be the staff who currently provide the housing service with the Council. This would be an independent stand-alone landlord sponsored and supported by the Council.

If transfer goes ahead, the new landlord would take on the ownership and management of the housing. If the transfer does not go ahead, the new landlord would be disbanded.

Q6 What does “not for profit” actually mean?

It means that the new landlord would not be able to distribute any profits to anyone. It would, however, aim to make a surplus, which it could only use to improve the service or pay off its loans early.

Q7 What are the main benefits of transfer?

The main benefits would be that the new landlord would:

- Have the money needed to modernise and improve the homes.
- Have the money needed to maintain and improve the housing service.
- Enable tenants and leaseholders to have a major say in how their homes are run by having places on the board of management.

Q8 What are the downsides of transfer?

Everyone will need to make up their mind about the upsides and downsides of transfer. However, things people should note include:

- If the transfer goes ahead the Council would no longer be the landlord and Councillors would not be responsible for the service.
- Transfer is a “one-way ticket”. In other words, if the transfer goes ahead, it is not possible to return to the Council.
- Tenants would have a new tenancy agreement though this would match, wherever possible, the one they have with the Council.

B. The Process

Q1 What is the process for consultation on transfer?

The process for consultation falls into various stages:

INFORMAL CONSULTATION

This is where the Council and the proposed new landlord put together the proposal in consultation with tenant and leaseholder representatives. During this period, information will continue to be sent out on the transfer.

FORMAL CONSULTATION – STAGE 1

During this stage, the Council must formally consult tenants and leaseholders to give them details of its proposals. This includes information on:

- Who the proposed landlord is.
- What rents the new landlord would charge.
- Its plans for repairing, modernising and improving the homes.
- Its plans for improving the housing service.
- What rights tenants would have.
- The proposed tenancy agreement it would offer.
- What would happen in the event of the transfer not taking place.

This information is included in a booklet called the formal consultation document (also called the offer). Tenants and leaseholders will have five or six weeks to consider the document and make any comments they have to the Council.

FORMAL CONSULTATION – STAGE 2

The Council must consider the comments made by tenants and leaseholders before deciding whether to amend the proposal before starting the ballot.

Any changes to the original proposal and information on the ballots are included in a Stage 2 letter. This will also give details on how tenants and leaseholders can make representations to the Secretary of State within 28 days of receipt of the letter.

Housing transfer ballots usually run for three weeks, ending on the same day as the end of the 28 days for representations.

Q2 When will these stages happen?

The Council has set the following broad timetable:

Summer 2003 to Feb 2004	Informal Consultation
March 2004	Formal Consultation - Stage 1
April/May 2004	Formal Consultation - Stage 2 & Ballot

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C. Financial Issues

Q1 Would the new landlord pay the Council for the housing?

Yes. The amount it would pay is worked out in accordance with guidelines set down by the Government.

The new landlord could not sell the properties on the open market and it would be under an obligation to continue to manage them and keep them available for letting as affordable homes (social housing). The purchase price is therefore based on a "tenanted market value" (TMV) rather than an "open market value with vacant possession" which is the starting point for the Right to Buy valuations.

The transfer valuation is calculated by:

- Establishing the value at today's prices of the next 30 years' income from rents etc.
- Subtracting the value at today's prices of the next 30 years' costs, such as management, repair and renewals etc.

The resulting figure is the price that the new landlord would pay the Council. The cost to the new organisation of borrowing the money required to purchase the properties from the Council would also be taken into account.

Q2 Could a tenant buy their home for the same price?

No. If a tenant buys their home then it would no longer be available for rent to those who need it and the tenant would not be under the same obligations to repair and maintain the home. The lower price paid by the new landlord would allow for the works to be done and the property to remain available for renting at an affordable level.

Q3 Why would the new landlord be able to spend more than the Council?

Government rules currently mean that Councils have to make payments to support social housing nationally. In Kingston's case, this means that about £3 million from rent income is "lost" in this way. The new landlord would not have to do this and would keep all of its income.

Also Local Authorities such as Kingston Council are limited by the Government in how much they can borrow to spend on services. The new landlord would be free of these restrictions and it could borrow money sensibly to pay for works to the homes and pay it back over a long period of time based on what it can afford to repay.

Q4 If the new landlord would have to borrow to buy the housing and to pay for the modernisation works, wouldn't it have to raise rents by a huge amount to pay off the loans?

No. First, the purchase price is based on what it can afford to pay given the promises made in the formal consultation document including the rent levels and programme of repairs and improvements that will be included in the proposal.

Second, it would have more money to use from each £1 in rent because of the way in which the Government's housing subsidy system works in relation to Housing Benefit. With the Council part of the rent paid by tenants is effectively "lost" to the Council. With the new landlord this would not be the case and every penny would be available to spend on the service or repay loans.

Q5 Where would the new housing organisation get the money to fund the transfer?

From banks and building societies usually paid back over 25 or 30 years.

Repayments are taken into account when working out the price it would pay the Council for the housing. This borrowing is usually arranged at preferential rates because of the substantial amount the new landlord will borrow to begin with.

Q6 How much money would the Council get for the housing?

The precise figures are not known yet because it will depend on things such as the cost of the promises made in the formal consultation document and how many houses transfer (some will be bought by tenants between now and a possible transfer). However, the estimate at the moment, based on the Government's formula, is between £35 and £45 million.

The first thing the Council must do with this is to pay a levy to the Government. Then, the Council would pay off its housing debt. This is money the Council has borrowed in the past to build homes. This would leave between £3.5 million and £5.5 million for the Council to spend.

Q7 What would be the impact on the level of Council Tax?

The impact of transfer on the level of Council Tax would be, at worst, none at all, though it might produce savings.

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D. The New Landlord

Q1 What sort of organisation would it be?

It would be a not-for-profit organisation, which means that all of its income would have to be spent on its agreed objectives, including providing the housing service, building new homes or repaying its loans.

It would also have to be a Registered Social Landlord (see below). There are some 2,400 Registered Social Landlords nationally, providing homes for over a million people. Only Registered Social Landlords receive Government grants to help with the cost of building of new homes.

Q2 Is there a controlling body?

Yes, the Housing Corporation. This is a government body that supervises the work of registered social landlords to ensure that proper standards are maintained in line with the Housing Corporation's performance standards and the agreed tenancy agreement.

Q3 Has any Registered Social Landlord gone bankrupt?

No. The Housing Corporation takes steps at the first sign of financial trouble to ensure that this does not happen.

Q4 Who would run the new landlord?

A voluntary Board of Management. This would be made up of:

- 5 Council nominees.
- 7 Tenants and Leaseholders.

- 5 independent people representing the community with the skills and experience needed to run a social housing service of this size.

This Board would have overall control of the new landlord and set the policies. Board Directors currently do not get paid for their time though they are able to claim for reasonable out-of-pocket expenses such as travel to meetings and childcare. However, the Housing Corporation has announced that in future Board Directors may be paid up to a certain limit if this can be justified. The current Shadow Board Directors have agreed that they do not wish to be paid for their work.

Q5 What do the Directors get out of being on the Board?

People join these boards for different reasons, often to do with a wish to carry out a public service and a desire to see the best possible social housing in their area. It is worth noting that there are severe restrictions on Board Directors benefiting from being on the Board. For example, a solicitor on the Board may not work for the organisation, neither can the firm he or she works for.

Q6 Why is it called a 'Shadow Board'?

This Board is currently in "shadow" form because it is not yet up and running.

Q7 How were the Shadow Board Directors selected?

The Council put forward their nominees. The Housing Consultative Committee nominated the tenants and leaseholders. In the future, the Housing Corporation will be looking to see some form of election process for tenant board Directors. A panel of Tenant/Leaseholder and Council nominee Board Directors chose the independent community representatives from those who responded to an advert.

Q8 Who would provide the housing service?

The staff that provide the housing service with the Council would join the new organisation on at least the same terms and conditions as they enjoy with the Council. This means that there would be continuity and people would deal with people they know and trust. Some would remain with the Council to carry out the important housing functions that would stay with the Council, for example to maintain the Kingston housing waiting list and to provide a service to homeless people.

Q9 What policies and procedures would the new organisation have?

It would have to meet the Housing Corporation's Social Housing Standards. It would also be based on the Council's existing policies and procedures as its starting point to ensure that tenants could continue to expect a high level of service. The organisation would also look to improve the services wherever possible.

Q10 How would people be able to complain after a transfer?

The new landlord would have a formal complaints procedure. This would set down how people could complain and how people could expect the organisation to deal with their complaint. There is also an Independent Housing Ombudsman to whom tenants and leaseholders can go if the complaints procedure has been exhausted.

Q11 Would local Councillors be able to make representations to the new organisation on a tenant or leaseholder's behalf?

Yes. In addition to the Council nominees on the Board of Management, Councillors would still be able to act on someone's behalf, but the new landlord would be separate from the Council.

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E. Rights

Q1 Would any tenant have to move home as a result of the transfer?

No, and tenants would still have Security of Tenure entitling them to stay living in their home as long as they abide by the terms of their tenancy. (See Section G Question 4.)

Q2 What sort of tenancy would tenants have?

Tenants are currently either Secure [or Introductory Tenants] with the Council. This means that their rights are set down in various Acts of Parliament. As tenants of the new landlord they would become Assured Tenants.

The basic Assured tenancy is also set down in Acts of Parliament. There are some differences and the basic Assured tenancy gives tenants fewer rights. However, it would be a condition of the transfer that the new landlord's Tenancy Agreement would give tenants additional contractual rights to match, wherever possible, those they have with the Council.

RIGHTS	WITH KINGSTON COUNCIL	WITH THE NEW LANDLORD
The right to buy your home with a discount	Yes	Yes for tenants transferring from the Council (known as the Preserved Right to Buy)
Rent to Mortgage	Yes	No (because it is only for Council tenants)

Right to Acquire	No	Yes (see answer 4)
The Right of Succession (the ability to pass on your home)	Yes	Yes
The Right to Transfer and Exchange	Yes	Yes
The Right to Sub-let or take in lodgers	Yes	Yes
The Right to Repair	Yes	Yes
The Right to Carry Out Improvements	Yes	Yes
The Right to be Consulted	Yes	Yes
The Right to Information	Yes	Yes
The Right to Manage	Yes	Not as a statutory right but the new landlord would consider tenant management proposals
The Right to Not Have the Rights contained in the tenancy agreement changed without your consent	No	Yes

Q3 Would tenants still be able to buy their home?

If they have that right with the Council they will still be able to buy their home, (through what is known as the Preserved Right to Buy), from the new landlord. This would apply even if they later move to another property owned by the new landlord.

As with the Council, the exceptions are sheltered scheme homes and some of those specially adapted for disabled people.

Q4 What is the Right to Acquire?

Some tenants would also have the Right to Acquire which provides a one-off fixed grant rather than the scaled discount available under the Preserved Right to Buy. This grant is usually less generous than the Preserved Right to Buy and cannot be combined with the Right to Buy. It is also not possible to exercise this right in communities of fewer than 3,000 people.

If transfer takes place following a Yes ballot, any new tenants after the date of the transfer will not have the Preserved Right to Buy - only the right to acquire which is less financially attractive.

Q5 What about discounts?

Discounts built up over the years would transfer with tenants and would continue to grow while a tenant of the new landlord, though there is a slightly different way of working out the cost floor (the minimum that they can pay based on certain costs).

Q6 What about the changes to the cost floor rules?

The cost floor, broadly speaking, is the amount of money spent on buying, building or improving a property. Any discount to which a tenant is entitled cannot reduce the sale price to below the cost floor.

Changes to the Preserved Right to Buy in relation to the cost floor have now been implemented by the Government. These are virtually the same as those for the Right to Buy. There are two main differences. First, landlords (other than the Council) are able to take account of costs incurred in the previous 15 years (10 years with the Council). Second, when a tenant has been notified that certain specified works will be carried out to their home after transfer, the cost of these works will be included in the cost floor calculation, even if the work has yet to be done when the Preserved Right to Buy application is made.

Q7 Would tenants still be able to pass on their home?

The same rules governing passing on a tenant's home would apply. However, tenants who have already succeeded to a property would benefit because they would sign a new tenancy agreement that would ignore any previous successions. This would mean that, in effect, they would gain a new automatic right to pass on their home.

Q8 What rights would tenants lose?

The right to "Rents to Mortgage" and the "Right to Manage" which are only available to Council tenants. The Rent to Mortgage Scheme allows certain tenants to pay part rent and part mortgage on their home, but unlike the Right to Buy it does not give a discount. As far as the Right to Manage is concerned, it is likely that the new landlord would consider applications by tenants to manage their service as if offering a Right to Manage Scheme.

Q9 What is to stop the new landlord from changing tenants' rights in the future?

It cannot, by law, change tenants' rights as set down in the tenancy agreement without the individual tenants affected agreeing to it in writing (the only exception is the annual rent and service charge increase).

Q10 What about new tenants?

Future tenants (those who become tenants after the transfer) would not have the Preserved Right to Buy their homes but they would have the Right to Acquire. This is based on a one-off grant rather than a discount system.

Q11 What about leaseholders?

Leaseholders have their own set of rights, which are set out in their leases. The transfer would not affect these rights, as the new landlord would take on the leases on the same terms and conditions. The main difference is that the new landlord would become the freeholder rather than the Council.

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F. Rents and Money Matters

Q1 What is happening with rents?

The Government has set new rules for how rents for tenants of social landlords are to be set. Social landlords include Councils and organisations such as the new landlord.

These new rules, which came into effect in 2002, mean that rents would be broadly the same, whether the transfer goes ahead or not.

The rules say that rents should be set using a calculation that includes average earnings in an area, average property prices and the number of bedrooms in your home. This calculation produces a “target rent” and all social landlords will have to reach this target rent within 10 years.

Q2 What does this mean in pounds and pence?

The impact of the new rent system is quite complicated because some rents need to change more than others. However, there is an upper limit for all increases, which is set at inflation + ½% plus £2 a week. This means that, if inflation is 2½%, no rent would rise by more than 3% plus a maximum of £2, whether the transfer takes place or not.

More precise details will be available at the time of the formal consultation.

Q3 Would tenants pay extra rent for improvements?

No. The Government requires that all social housing including Council housing be improved to a minimum decent standard by 2010. The target rent for all social tenants will reflect these improved property values. So, any improvements identified in the consultation document that would be done by the new landlord will not result in additional rent increases.

Q4 What level would rents start at after the transfer?

The rent level charged by the Council at the time of transfer would carry over until the next April rent rise.

Q5 Would tenants be able to pay rent in the usual ways?

Yes. They would be able to pay their rent in the same way if transfer goes ahead, such as:

- in person at the housing office;
- by standing order from your bank account;
- at a Bank or Post Office.

Q6 What would happen to Housing Benefit?

A tenant's entitlement to claim housing benefit would not be affected by transfer. Applications would continue to be made to the Council and the Council would continue to make the payments. Advice would be available at the Council's offices and informally from the new landlord. Tenants would be asked to consent to having their housing benefit paid direct to the new landlord, in the same way as it is with the Council now.

Q7 What would happen to Service Charges for tenants?

Service Charges would be worked out the same way with both the Council and the new landlord. More details will be given in the formal consultation document.

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G. Repairing, Modernising and Improving the Homes

Q1 What would happen to the repairs service?

All repairs, which are currently carried out by the Council, would become the new landlord's responsibility. Tenants would not have to pay for repairs that they do not pay for with the Council.

Q2 What would happen with modernisations and improvements?

One of the reasons for looking at transfer is that the Council is unable to carry out the necessary programme of repairs and improvements to the stock. A stock condition survey was commissioned by the Council which showed that £100 million needs to be spent on the homes and surrounding areas over the next 10 years. The Council estimates it would have about half of the money needed, whereas the new landlord would have the total amount.

Further information on the works planned as a result of transfer will be given to tenants in the formal consultation document.

Q3 What about long-term maintenance of the housing?

One of the big advantages that the new landlord would have over the Council would be its ability to plan for the long term. Its business plan would include allowances, based on the stock condition survey, for maintaining homes and replacing worn out items over the next 30 years.

Q4 Would any tenants have to move home while work is carried out?

At the moment it does not seem that anyone will have to move home when works are carried out. More details will be available in the formal consultation document.

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H. Services for Older People

Q1 What would happen to the Community Alarm System?

It is proposed that this service would continue to be available, whether it is retained by the Council or transferred to the new landlord.

Q2 What would happen to the Sheltered Scheme Managers?

The intention is that they, like other housing staff, would transfer to the new organisation, so that tenants would still be looked after by people they know and trust.

Q3 What would be done for the existing sheltered housing schemes?

As well as carrying out essential repairs to sheltered housing schemes, the new landlord would want to look at what can be done to improve the position for people in bedsits who at the moment have to share a bathroom. This will be covered in the formal consultation document.

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I. The Ballot Process

Q1 Who gets to vote?

In the ballot, every Secure and Introductory Tenant would have a vote. This means that if people are joint tenants, they will each have a separate ballot paper.

In considering whether to agree to a transfer going ahead, the Secretary of State is only bound to consider the result of the tenant ballot. However, the Council wants to hear the views of leaseholders and will involve leaseholders in the transfer proposal and will consider their views. The precise format of the consultation with leaseholders will be decided by Councillors in the Autumn.

Q2 How would the ballot be run?

The ballot would be conducted by an independent organisation that specialises in running elections. It would be a secret ballot - neither the Council nor the new landlord would know which way individual tenants and leaseholders have voted. The ballot would be conducted by post with everyone being sent a ballot paper and a reply paid envelope in which to return their paper.

Q3 How long would the ballots stay open for?

The ballots usually run for three weeks.

Q4 How would the results be decided?

The result would be decided by a simple majority of those who vote. In other words, tenants who do not vote would not be counted as either for or against the transfer.

For the transfer to proceed, more than half of those tenants who vote must be in favour of the proposal. Both the Council and the Secretary of State would want to satisfy themselves that enough tenants had cast their votes to make the result representative. This is usually taken to mean that at least half of those eligible should use their vote.

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J. Independent Advice

Q1 Can tenants and leaseholders get independent advice on the proposal?

Yes. A firm called Sheila Adamson Associates has just been selected by a panel with a majority of residents to provide independent advice for tenants and for leaseholders. Their role is to make sure that all Council tenants and leaseholders receive impartial, accurate and up-to-date information about the proposals to transfer.

Q2 How can they be contacted?

Tenants and leaseholders can contact their independent advisors on Freephone 0800 027 1920. There will be no charge for making this call.

Q3 How can tenants contact the Council?

They can contact the Council by ringing the Council's Freephone Helpline on 0800 358 5475.

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K. What it Means

There is a lot of jargon used in housing and in relation to transfer. Here, some of the most common examples are explained.

ODPM	Office of the Deputy Prime Minister (formerly the Department of Transport, Local Government and the Regions, and before that the Department of the Environment, Transport and the Regions). This is the Government department responsible for overseeing transfers.
Housing Corporation	The Government funded body that registers, monitors and regulates the work of Registered Social Landlords.
RSL	Registered Social Landlord. These are not-for-profit organisations registered with the Housing Corporation. They primarily exist to own and manage affordable rented social housing.
RTB	The Right to Buy given to tenants of Councils.
PRTB	The Preserved Right to Buy given to tenants transferring from a Council to a new landlord. This replicates the Right to Buy.
TMV	Tenanted Market Valuation. This is the Government set formula that determines the price that is paid by the receiving landlord in a housing transfer.

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