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Delivering the Decent Homes Standard: social landlords' options and progress

The Government has adopted a Public Service Agreement (PSA) target to ensure that all social housing meets set standards of decency by 2010. The achievement of this target has become a key driving force behind local authorities' decisions in relation to the future management/ownership of their housing stock.

This paper outlines what standards of decency the target requires and explains the options open to authorities for achieving the necessary investment in their stock. Progress in achieving the target to date is discussed, as is the application of the target to registered social landlords (RSLs) and private sector homes occupied by vulnerable households.

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Summary of main points

The Government adopted a Public Service Agreement target in 2000 to bring all social housing up to a decent standard by 2010. This target applies to council and housing association (registered social landlord) owned properties alike. Meeting the standard means that by 2010 all social housing should:

- meet the statutory minimum standard for housing;
- be in a reasonable state of repair;
- have reasonably modern facilities and services; and
- provide a reasonable degree of thermal comfort.

As part of the Spending Review 2002, John Prescott announced that private sector homes occupied by vulnerable households would be brought within the decent homes target.

A key issue for social landlords, particularly local authorities, is how sufficient investment will be secured in order to carry out the necessary work to their stock. The Government initially (in 2000) identified four investment options available to local authorities for stock refurbishment, namely:

- Using their own resources and those made available through the new Major Repairs Allowance and the single capital pot;
- Transferring their housing stock to one or more housing associations;
- Setting up an Arms Length Management Organisation (ALMO); or
- Pursuing a Private Finance Initiative (PFI) scheme.

In *Sustainable Communities - building for the future*, published in February 2003, the Office of the Deputy Prime Minister (ODPM) said that authorities that do not pursue either a stock transfer, an ALMO, or a PFI scheme cannot expect to receive increased funding to ensure that the decent homes target is met. For many authorities this announcement has effectively reduced the number of options open to them to three.

Housing authorities with stock (i.e. those that have not already transferred their stock) are expected to produce an appraisal of their investment options for Government approval by July 2005. The Government has said it will intervene where authorities fail to act. The achievement of the decent homes standard has therefore become a key driving force behind local authorities' decisions in relation to the future management/ownership of their housing stock.

For some years now stock transfer has been viewed as the main option available to local authorities looking to generate significant capital with which to fund a stock improvement programme. Transfers have become increasingly viable for authorities with low or negative value stock (mainly concentrated in urban areas) but a number of authorities remain resistant to the transfer route on the grounds that they do not wish to dispose of

their housing stock. For some authorities the transfer route is not available because they are not able to obtain the support of a majority of their tenants. ALMOs offer authorities a means of securing additional funding while retaining ownership of their housing stock. However, this option is only open to authorities whose performance has been assessed by the Housing Inspectorate as 'good' (two stars) or 'excellent' (three stars). PFI schemes also involve retention of the authority's stock but are generally not viewed as an option that can deliver the decent homes standard to all of an authority's stock; it is viewed more as a partial stock solution. Of the eight PFI Pathfinder schemes set up in 1999 only two have so far entered into PFI contracts. The Government is increasingly favouring a 'mix and match' approach to achieving the decent homes target which could involve authorities using two or more of the options available across the range of their stock.

There is a widely held view amongst local authorities and their representative bodies that there is simply not enough money available for the decent homes standard to be met. Authorities have long argued that they should be given the same financial freedoms as those enjoyed by registered social landlords. Primarily, authorities would like to be able to borrow prudentially.

The Housing Corporation, the regulatory body of registered social landlords, is responsible for monitoring their progress in meeting the decent homes standard. These landlords are not facing quite the same financial pressures as local authorities in their efforts to achieve the standard but there are still concerns, particularly amongst the smaller and more traditional organisations, about the level of finance available.

In 2002 it became evident that the achievement of the 2010 target was at risk. As a result, a Public Service Agreement-Plus Review was announced in order to assess the extent of the risk by identifying shortcomings in the existing decent homes delivery plan and recommending changes to improve it. The PSA Plus Review 2003 was published in March 2003. The Review made many recommendations in respect of the delivery of the decent homes target. In particular, it identified the need for a 'level playing field' between the investment options available to local authorities. These recommendations were accepted by the ODPM and the intention to act upon them was announced in *Sustainable Communities - building for the future*.

The Minister for Housing, Keith Hill, said in July 2003 that the changes made following the PSA Plus Review meant 'we are now back on track to deliver by 2010.' Although housing professionals agree that the interim target for 2004 will be met (this target requires a reduction in the number of households living in non-decent social housing by a third between 2001 and 2004) they are less bullish about the achievement of the 2010 target.

This paper outlines what standards of decency the target requires and explains the options open to authorities for achieving the necessary investment in their stock. Progress in achieving the target to date is discussed, as is the application of the target to registered social landlords and private sector homes occupied by vulnerable households.

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I Introduction

The April 2000 Housing Green Paper, *Quality and Choice: a Decent Home for All*,¹ set out the Government's commitment to bring all social housing up to a decent standard by 2010. Following the 2000 Spending Review the Government set a Public Service Agreement (PSA) target to:

...ensure that all social housing meets set standards of decency by 2010, by reducing the number of households living in social housing that does not meet these standards by a third between 2001 and 2004, with most of the improvement taking place in the most deprived local authority areas.

This target was adopted at a time when 42% of the social housing stock (1.7 million dwellings) was estimated to be 'non-decent.'² Of the total, around 1.2 million dwellings were estimated to be local authority owned and 500,000 to be owned by housing associations (also known as registered social landlords, RSLs). The Housing Green Paper identified a £19 billion backlog of repairs and modernisation work for council housing alone.

The delivery of the target is dependent on social landlords, i.e. local authorities and RSLs. These landlords are required to quantify the level of non-decent housing within their stock, set targets for its elimination by 2010 and measure progress against these targets.

The achievement of the decent homes standard is a key objective for the Housing Corporation, the regulatory body of registered social landlords. Section V of this paper discusses the position of RSLs in relation to the 2010 target. Sections III and IV of the paper focus on the issues faced by local housing authorities.

The Green Paper (chapter 7) discussed how sufficient investment would be secured by local authorities in order to meet the Government's decent homes target by 2010. It said that public investment would not be enough to bring about the marked improvements in quality and management that meeting the target would demand. It set out four investment options available to local authorities for stock refurbishment; under the first three of these options the housing stock remains in local authority ownership:

- Local authorities use their own resources and those made available through the new Major Repairs Allowance and the single capital pot;
- Local authorities transfer their housing stock to one or more housing associations;
- Local authorities set up an Arms Length Management Organisation;

¹ http://www.odpm.gov.uk/stellent/groups/odpm_housing/documents/page/odpm_house_601701.pdf

² *The Decent Homes Implementation Plan*, ODPM, July 2002 (the figures relate to 1 April 2001)

- Local authorities pursue a Private Finance Initiative scheme.

The Green Paper stated that authorities would be required to consider the relative merits of these options in the context of the Housing Revenue Account business planning process. In *Sustainable Communities: Building for the Future*, a document that sets out the Government's programme of action to tackle pressing problems in English communities (published in February 2003), the ODPM reaffirmed its commitment to the decent homes standard and said that authorities that do not pursue one of the investment options available cannot expect to receive increased funding to ensure that the target is met:

1.5 Local authorities will be able to choose the right approach for additional investment in housing stock which they own from the three existing options: stock transfer; the Private Finance Initiative (PFI); and, for high performing authorities, Arms Length Housing Management Organisations (ALMOs). Authorities that do not use these options cannot expect increased investment in their stock above that from the Housing Investment Programme. Authorities can use different options from this list for different parts of their stock, as part of an overarching strategy.³

Although the option of authorities using their own resources to renovate their housing stock remains a possibility, this announcement has thrown into question the achievability of this approach.

Housing authorities with stock are expected to produce an objective and rigorous appraisal of their investment options for Government approval by July 2005.⁴ The Government has said it will intervene where authorities fail to act.⁵ The achievement of the decent homes standard has therefore become a key driving force behind local authorities' decisions in relation to the future management/ownership of their housing stock.

II What is the decent homes standard?

The final guidance on the definition of a decent home was published in July 2001.⁶ A decent home was defined as one which meets all of the following four criteria:

³ www.odpm.gov.uk/stellent/groups/odpm_communities/documents/page/odpm_comm_022184.hcsp

⁴ The ODPM has published guidance on the option appraisal process, *Delivering Decent Homes – Option Appraisal*, June 2003, is accessible online at:
http://www.odpm.gov.uk/stellent/groups/odpm_housing/documents/page/odpm_house_609804.pdf

⁵ *Sustainable Communities – building for the future*, paragraph 1.11

⁶ Decent Homes Guidance, July 2001, *A Decent Home – the definition and guidance for measurement*

a. *It meets the current statutory minimum standard for housing*

At present this is the fitness standard. Dwellings below the standard are those defined as unfit under current legislation.⁷ The requirements of the fitness standard constitute the minimum deemed necessary for a dwelling house (including a house in multiple occupation) to be fit for human habitation. They are that a dwelling house should:

- be free from serious disrepair;
- be structurally stable;
- be free from dampness prejudicial to the health of the occupants;
- have adequate provision for lighting, heating and ventilation;
- have an adequate piped supply of wholesome water;
- have an effective system for the drainage of foul, waste and surface water;
- have a suitably located WC for exclusive use of the occupants;
- have a bath or shower and wash-hand basin, with hot and cold water; and
- have satisfactory facilities for the preparation and cooking of food including a sink with hot and cold water.

The Government plans to replace the current fitness standard with an evidence based Housing Health and Safety Rating System (HHSRS). This will affect the way in which social landlords assess the standard of their dwellings in relation to decent homes standard. The introduction of the HHSRS will require primary legislation.⁸

b. *It is in a reasonable state of repair*

Dwellings failing on this point will be those where either:

- one or more key building components are old and need replacing (where key means external components, electrics and gas heating source); or
- two or more other building components are old and need replacing.

c. *It has reasonably modern facilities and services*

Dwellings failing on this point are those that lack three or more of the following:

- A reasonably modern kitchen (20 years old or less);
- A kitchen with adequate space and layout;
- A reasonably modern bathroom (30 years old or less);
- An appropriately located bathroom and WC;

⁷ Section 604 of the *1985 Housing Act*

⁸ Measures are contained in the *Draft Housing Bill* published in March 2003, Cm 5793. For more information on the new system see Library Standard Note SN/SP/1917: <http://hcl1.hclibrary.parliament.uk/notes/sps/snsp-01917.pdf>

- Adequate noise insulation (where external noise/neighbourhood noise is a problem);
- Adequate size and layout of common areas for blocks of flats.

d. Provides a reasonable degree of thermal comfort

Dwellings failing the standard are those where the occupants are unable to heat their homes to a reasonable level – defined as those who are fuel poor.⁹

In October 2001 the Department of Transport, Local Government and the Regions (DTLR) issued a consultation paper which proposed a change to the thermal comfort criterion of the definition.¹⁰ Since February 2002 this aspect of the definition has been based on the presence of effective insulation and efficient heating. It was accepted that fuel poverty was the best measure of the thermal comfort criterion but social landlords argued that it would be difficult to measure or monitor. The change in the definition was largely welcomed by housing bodies on the basis that decent homes should be identified by the standard of the property rather than the people within them.¹¹

In March 2002 the DTLR published updated guidance on the decent homes standard alongside guidance on how social landlords can quantify the extent of non-decent housing within their stock.¹² Detailed guidance on the decent homes standard can be found in *A Decent Home – the revised definition and guidance for implementation*.¹³

In April 2002 Sally Keeble stated that the Government had no plans to initiate any process that could lead to changing the definition: ‘It is important at this stage that social landlords have certainty about the definition of the standard so that they can carry through their plans to meet it.’¹⁴

B. Comments on the standard

Social landlords have highlighted ambiguities in the standard and associated guidance which, they claim, makes a consistent approach to its achievement problematic. They object to the use of terms such as “reasonable” and “modern” on the grounds that they introduce an unwelcome degree of subjectivity.¹⁵

⁹ i.e. those residents who spend 10% or more of their disposable income on fuel

¹⁰ *Change to the Decent Home Definition – Consultation*, October 2001:

http://www.odpm.gov.uk/stellent/groups/odpm_housing/documents/page/odpm_house_601663.pdf

¹¹ ‘New decent homes definition welcomed’, *Inside Housing*, 8 February 2002

¹² ODPM, *Decent Homes – capturing the standard at the local level*, 12 March 2002

¹³ ODPM, 12 March 2002

¹⁴ HC Deb 10 April 2002 c80W

¹⁵ ‘Warning over major survey flaws,’ *Inside Housing*, 28 June 2002

The Housing Corporation commissioned consultants to work alongside 24 of the largest RSLs (representing some 370,000 properties) in 2002 to undertake a desk-top analysis of available stock condition information to provide information and aid the process of meeting the decent homes target. The study concluded:

One of the main outcomes of the research has been to highlight the problems facing RSLs in interpreting and applying the standard to their housing stock. Ambiguity, difficulty in gathering information, and the need for subjective judgements, led to wide variations in estimates of the proportion of properties likely to fail the standard from nil to over 60%.¹⁶

The Chartered Institute of Housing's 2001 submission to consultation on the Housing Investment Programme also warned that the definition set too low a standard:

We believe the definition in terms of modern facilities and services is inadequate. This definition allows a property to be classified as a decent home even if both kitchen and bathroom are sub-standard.¹⁷

More fundamentally, some landlords have questioned whether meeting the decency standard would be a major influence on people's choice of home in the private sector. Manchester City Council's assistant director of housing, writing last year for *Roof Magazine*, claimed that tenants were more concerned about their neighbourhoods than the decency standard. Although the standard is seen as an important factor in making sustainable communities work, he was of the view that more sophisticated measures and targets are needed to make it a reality:

Our investment strategy is based on creating sustainable neighbourhoods and areas where people want to live. It is not just about paying for new windows and central heating systems, but demolishing unwanted homes and remodelling estates where crime or fear of crime is a reality.¹⁸

During September-December 2002 the ODPM carried out a 'PSA Plus Review' of the delivery plan for the decent homes target. The report of the Review was published on 3 March 2003;¹⁹ in addition to considering progress against delivery the Review looked at whether the definition of a decent home accorded with landlord and tenant priorities. The findings of the PSA Plus Review are as follows:

¹⁶ Housing Corporation, *Decent homes: assessing housing association properties against the decent homes standard*, Sector Study 19, October 2002

¹⁷ 'Definition of poor standards jeopardises slum eradication,' *Inside Housing*, 27 April 2001

¹⁸ 'Decent is not enough,' *Roof*, March/April 2002, pp8-9

¹⁹ *Decent Home Delivery: Review of the Delivery of the Decent Homes Target for Social Housing*, http://www.odpm.gov.uk/stellent/groups/odpm_housing/documents/page/odpm_house_609034.pdf

- **All stakeholder groups consulted felt the target was a good idea:** though some commented that the standards set for the individual components of the standard were too low;
- **Differences between PSA target and tenant priorities:** tenant priorities focus on wider environmental issues (lighting, crime, safety etc) as well as the fabric of houses. They see decent homes as too narrow an issue;
- **Decent homes must be sustainable:** including wider environmental issues in the delivery of decent homes ensures the outcome is sustainable and property can be let; but it leads to a bigger bill which requires innovative use of existing alternative and additional funding;
- **The decent homes standard is very basic:** the target as drafted does not mean all components need replacing (e.g. old but working components) hence its implementation should not drastically reduce the ability to respond to tenant priorities.

III Raising the finance: the options for local authorities

This section deals with the investment options available to local authorities. The position of registered social landlords is discussed in section V below.

The central issue for local authority landlords in relation to the standard is how they can obtain sufficient resources to finance the refurbishment of their stock to meet the decent homes standard and maintain the dwellings at this level. Each of the four available options is discussed below.

A. Local authorities' own resources

The April 2000 Housing Green Paper set out four possible investment options for local authorities, one of which included using their own resources and those made available through the Major Repairs Allowance and the single capital pot.

Resources for housing investment by local authorities have increased in recent years:

Since 1997, those resources have increased, from £1.5bn in 1997/98 to more than £5bn in 2003/04 (including the Major Repairs Allowance). '*Sustainable communities, building for the future*' makes provision for further increases, so that, by 2005-06 the resources available for housing will total more than £6bn (excluding Housing Revenue Account Subsidy other than the MRA).²⁰

²⁰ *Local Authority Housing Finance: a guide to the new arrangements*, ODPM April 2003: http://www.odpm.gov.uk/stellent/groups/odpm_housing/documents/pdf/odpm_house_pdf_609343.pdf

Since April 2001 the housing capital resources for English authorities have been paid into a “single pot.”²¹ By giving authorities a single capital allocation it is intended that they will gain more flexibility and responsibility for the internal distribution of their resources and be better equipped to address cross-cutting issues such as social exclusion. Under the single pot arrangement resources are allocated partly according to a needs based formula and partly by competitive assessment of councils’ strategies and performance delivery. There is concern that under a system where authorities receive a single capital allocation across their services that housing investment has to compete with other capital projects for funds:

The idea behind single pot funding is that it allows for greater flexibility and encourages strategic planning. However, the shift may have dangers for future housing investment. The danger of merging housing investment into a single pot is that long term housing priorities may be downgraded in attempts to find resources for other projects that bring high local short-run political gains. Because housing is capital intensive it is likely to be a major item in any total local capital spending. This makes it vulnerable to political ‘raids’ when funds are being sought for other purposes.²²

Authorities were hopeful that measures in the *Local Government Bill* to abolish credit approvals and replace them with a new prudential borrowing system would place them on a ‘level playing field’ with registered social landlords in terms of borrowing powers and their ability to raise private finance. The potential impact of this new regime is discussed in Library Research Paper 02/71.²³ Housing commentators such as the Chartered Institute of Housing (CIH) have concluded that the new regime will not lead to more housing investment unless accompanied by substantial increases in subsidy because any additional borrowing would have to be serviced without Government support.

Under the 2000 Comprehensive Spending Review local authorities were to see an increase in their capital resources from £750 million in 1997-98 to £2.5 billion by 2003-4. In the 2002 Review the Chancellor announced an increase in investment in housing of 4.2 per cent each year from 2002-3 to 2005-06. Housing bodies were quick to point out that the figures for the first two years of this period were announced in the 2000 review. The new figures for 2004-05 and 2005-06 show a 3.8 per cent increase for the first year with no increase in the following year.

The joint submission by the Chartered Institute of Housing, Local Government Association and National Housing Federation to the 2002 Review asked for more money in 2003-04 on top of that already allocated, with further significant increases in the following two years:

²¹ Aside from capital grants for disabled facilities.

²² *Housing Finance*, David Garnett, CIH 2000, p197

²³ <http://hcl1.hclibrary.parliament.uk/rp2002/rp02-071.pdf>

Maintaining investment in the existing housing stock to allow the ten year PSA target to be met. This means maintaining 2003/04 levels of spending, pro-rata to the size of local authority housing stock. Savings will be made as the amount of LA stock declines, and this should be reinvested in measures to ensure the stock transfer programme can be achieved. An extra £250m a year will be needed by the end of the Spending Review period. RSL stock needs an asset management fund of £70m a year to combine with their reinvestment programmes to address shortfalls created by changing funding and rent systems.²⁴

The introduction of a new housing revenue framework for local authorities from April 2001 has meant that resources for the capital costs of maintaining council housing now go directly into the Housing Revenue Account (HRA) in the form of the new Major Repairs Allowance (MRA). The MRA provides authorities with the resources (£1.5 billion in 2003/04²⁵) to maintain the condition of their stock over the long term. In *Local Authority Finance: a guide to the new arrangements* the Government explains the role of MRA in achieving the decent homes standard:

Without that [the MRA], the significant additional resources that the Government has provided to tackle the backlog of repairs and to improve the stock could be wasted. The introduction of the MRA gives authorities much greater certainty about a key element of funding when developing their business plans and option appraisals.²⁶

With the publication of *Sustainable Communities: building for the future* the Government said that authorities that do not choose one of the three investment options discussed below cannot expect increased investment in their stock above that provided by their Housing Investment Programmes.²⁷ It is therefore questionable whether many authorities will be able to achieve the decent homes standard by opting to retain their stock and relying simply on their own resources and those from their Housing Investment Programmes. The position of Hammersmith and Fulham Council provides a useful example. Iain Coleman secured an Adjournment Debate in May 2003 in which he explained that Hammersmith and Fulham Council had established a housing commission in October 2002 to investigate how the decent homes standard could best be achieved. The commission recommended the retention of the housing stock under the direct control of the authority:

After six months of consideration, the housing commission was unanimous in all its recommendations. The first, strongly held preference is retention under the direct management and democratic control of the local authority. I shall outline the principal reasons for that decision. First, the local authority provides an

²⁴ The full submission is available online at: <http://www.cih.org/section6/sub4/spendingreview.htm>

²⁵ *Local Authority Housing Finance: a guide to the new arrangements*, ODPM April 2003: http://www.odpm.gov.uk/stellent/groups/odpm_housing/documents/pdf/odpm_house_pdf_609343.pdf

²⁶ *ibid*, p 5

²⁷ www.odpm.gov.uk/stellent/groups/odpm_communities/documents/page/odpm_comm_022184.hcsp

excellent service to tenants, as the independent award of the three stars for the caretaking and housing management service recognised. I repeat that that is the highest possible accolade for the service. Secondly, there is a clear, coherent and agreed plan and policy in place to achieve the decent housing standard, subject only to the availability of the necessary resources. Thirdly, it is the commission's clear view that the uncertainty and disruption of an unpopular and unnecessary change will inevitably undermine current focus on service improvement.²⁸

Representations made by the chair of Hammersmith and Fulham's commission to the Minister for Housing regarding the additional resources required to meet the decent homes target did not, in Mr Coleman's opinion, elicit the desired response:

It appears, and this has been confirmed in a letter from Lord Rooker, the Minister of State for Housing, Planning and Regeneration, dated 8 May to the independent chair of the commission, that the Government have decided that councils keeping their stock without making use of an ALMO, LSVT or private finance initiative option will not receive any additional resources to allow them to meet the Government's own decent housing standards. Indeed, any council that cannot produce a plan showing how it will achieve that standard will be deemed to be failing.

Without those additional resources, it will be necessary to make cuts of 25 per cent in services to provide enough spare revenue to finance borrowing for the investment required. In practice, therefore, the Government are in my view blackmailing the council and the tenants to go down a route of change in the management of their homes that I am convinced they do not wish to undertake.²⁹

B. Stock transfer

1. Background

Large scale voluntary transfers (LSVTs) involve the disposal (sale) of local authority housing stock to an alternative landlord. Provisions enabling the voluntary transfer of council housing stock were included in the *1985 Housing Act*³⁰ but it was not until the *1988 Housing Act* that authorities began to consider LSVT as a means of avoiding the potential break-up of their stock under the Tenants' Choice³¹ and Housing Action Trust initiatives. Chiltern District Council was the first to transfer its stock (comprising 4650 dwellings) under the LSVT programme in 1988.

The *Local Government and Housing Act 1989* provided another incentive for stock transfers by preventing authorities from using 100 per cent of their receipts to finance capitalised

²⁸ HC Deb 16 May 2003 c658

²⁹ HC Deb 16 May 2003 c659

³⁰ sections 32 and 43

³¹ Under which council tenants could opt to have their estates transferred to an alternative landlord.

maintenance. LSVTs became a means of releasing funds to finance catch-up repairs. The total number of completed transfers currently stands at 178, under which 787,182 homes have been transferred to new landlords.³²

The financial principle behind LSVT is that of equity release. The objective is to improve the housing service by reinvesting the capital generated by the sale in new building and in improving and modernising the existing stock. This is possible because in most cases the stock's transfer value is greater than its historic cost value, i.e. because the outstanding debt associated with the stock is often significantly greater than the amount paid by the new landlord (its exchange value), the new landlord is able to borrow on the strength of the difference and invest the funds raised in improving the service.

The registered social landlords that take over ex-council stock following a transfer have a range of "business freedoms" which are not enjoyed by councils. They include:

1. The ability to borrow "prudentially";
2. The ability to borrow outside public sector controls;
3. The ability to borrow directly against the value of (and rental income stream from) the stock;
4. The ability to use their revenue stream more flexibly, notably to allow them to borrow against future rents to enable them to finance current investment;
5. Freedom from the liability for past debts;
6. Command of all the revenues relating to the stock (rents, Housing Benefit payments, etc) with no dependence on government revenue subsidy (except indirectly through Housing Benefit);
7. Project-specific grants for new house building (i.e. Social Housing Grant);
8. Much greater control of their own assets - in particular, the ability to replace stock which is in demand and which is sold to sitting tenants;
9. RSLs previously had more freedom to set rents and therefore to determine their future revenue streams; this difference has largely been nullified by the Government's rent restructuring policy. However, they have greater freedom at the margin than local authorities.³³

Transferring councils were able to obtain additional resources to invest in new social housing by recycling the capital receipt raised from transfer through Local Authority Social Housing Grant (LASHG). Local authorities have been able to recover LASHG

³² ODPM, *Transform*, Issue 4 May 2003 (Newsletter of the Community Housing Task Force). A map of where LSVTs have taken place is available on the ODPM website at: http://www.odpm.gov.uk/stellent/groups/odpm_housing/documents/page/odpm_house_608666.pdf

³³ CIH memorandum submitted to the Transport, Local Government and the Regions Select Committee on the draft Local Government Bill (LGB03) – on the internet at: <http://www.publications.parliament.uk/pa/cm200102/cmselect/cmtlgr/981/981m04.htm>

from the Housing Corporation for reuse but this facility was abolished, somewhat controversially, from April 2003.³⁴

A further advantage of the transfer route is the opportunity for authorities to stem the loss of social housing stock through the right to buy as this is not available to new tenants post transfer.

In the Housing Green Paper of April 2000 the Government stated that it would support the transfer of 200,000 homes in each year for the next five years, and ‘will consider supporting a higher level.’ Commentators were quick to point out that a programme of this size, if carried through, would mean RSLs overtaking local authorities as social landlords within five years. The Government denied reports that its support for stock transfers would mean an end to local authority ownership of housing:

Mr Mullin: ...The recent press reports are inaccurate. It is up to each local authority, in consultation with its tenants – I emphasise that point – to decide on the best way to manage its housing stock. There are some advantages to voluntary transfers that we should expect local authorities to consider, but the process is not compulsory.³⁵

2. The annual stock transfer programme

Since 1993/94 local authorities wishing to dispose of more than 499 properties to a single purchaser over a period of five years have been required to apply for a place on the annual transfer programme.³⁶ Authorities are invited to submit bids for LSVT approval to the ODPM. The aim of the annual disposals programme is to enable the ODPM to ensure that housing transfers are well conceived and meet the Government’s policies, and also to control the long-term public expenditure implications of transfers. The current procedure for gaining a place on the programme (and the procedures thereafter) is set out in the *Housing Transfer Manual 2003 Programme* which can be found on the ODPM’s website at: http://www.odpm.gov.uk/stellent/groups/odpm_housing/documents/page/odpm_house_609120.pdf

A central aspect of the stock transfer process is tenant consultation; a transfer will not be approved unless the Secretary of State is satisfied that a majority of the tenants do not oppose transfer. Although there is no statutory requirement to ballot tenants on a decision to transfer, authorities in this position conduct a ballot in order to establish the views of their tenants.³⁷

³⁴ For more information see Library Standard Note SN/SP/2082.

³⁵ HC Deb 8 February 2000 c104

³⁶ section 135(3) and (4) of the *Leasehold Reform, Housing and Urban Development Act 1993*

³⁷ for more information on the effect of transfer on tenants’ rights see Library standard note SN/SP/1616: <http://hc11.hclibrary.parliament.uk/notes/sps/snsp-01616.pdf>

The *Deregulation (Disposals of Dwelling-houses by Local Authorities) Order 2002*³⁸ amended section 135 of the *1993 Leasehold Reform, Housing and Urban Development Act* to enable large scale transfers of council stock to take place over two rather than one financial year. This change was first proposed in the 1999 DETR consultation paper, *Proposal to Change the Administration of the Housing Transfer Programme*. The stages of the transfer process were believed to put a considerable burden on a wide range of private sector organisations. The Government believed it would be sensible to 'remove the artificial barrier of having to complete transfers before the end of the financial year.' This change has been welcomed by local housing authorities.

As part of the Comprehensive Spending Review 2000 the Government announced the establishment of a new Community Housing Task Force to advise all parties involved in stock transfers. The Task Force has been operational since May 2001 and has seen its remit extended to include Arm's Length Management Organisations (ALMOs) and the Private Finance Initiative (PFI). Most recently the Task Force was given a key role in guiding authorities through the option appraisal process. Information on the work of the Task Force can be found online at: <http://www.housing.odpm.gov.uk/chtf/>

3. Urban transfers: overhanging debt & negative-value transfers

The early LSVTs of council housing were concentrated in shire areas and usually involved quite good quality housing stock with relatively low debt that, in turn, offered good security for private lenders. Factors that have mitigated against stock transfers in urban areas include:

- low and negative valuations of the stock;
- poor asset cover, where the value of the properties is insufficient to provide cover for the borrowing the new landlord would need to take on.

The Estates Renewal Challenge Fund (ERCF) was announced in 1995 with a view to securing improvements in urban council housing stock by aiding the transfer of estates in urban areas to housing associations and other landlords.³⁹ The ERCF was 'intended to facilitate the transfer of as many of these estates as possible by meeting such costs where this would represent value for money'.⁴⁰ Authorities were asked to bid for a share of £40 million in the 1996/97 financial year and a share of £250 million to be allocated in the subsequent two years. From the 17 applications that the Department of the Environment (DoE) received 12 were successful in round one.⁴¹ Round two saw 14 authorities obtain approval for ERCF

³⁸ SI 367/2002, in force since 20 February 2002

³⁹ The power to pay ERCF grant is contained in section 126 of the *1996 Housing Grants, Construction and Regeneration Act*.

⁴⁰ DETR *A Challenge Fund for Estates Renewal: Bidding Guidance 1996/97*, December 1995

⁴¹ DoE, press notice 96/256, 14 June 1996

bids amounting to £142 million⁴² while 15 authorities submitted successful bids under round three; this round involved the allocation of £248 million.⁴³

The ERCF resulted in an increased number of partial stock transfers. Following an interim review of the ERCF the new Labour Government stated that its long-term future would be considered as part of a more fundamental review of housing investment policy. On 22 July 1998 John Prescott announced that there would be no further rounds of the ERCF: the Government wanted local authorities to take a more strategic approach to meeting their investment needs:

We want authorities to take a more strategic look at how to meet the investment needs of all their housing. Where stock has a negative value and transfer is the best option, I would expect authorities to use their capital resources under the Housing Investment Programme to pay for it. Some negative value transfers may also form part of packages under the New Deal for Communities.⁴⁴

In August 1999 the DETR published a consultation paper, *Housing Transfers in England: Dealing with Overhanging Debt and Altering the LSVT Levy* which, *inter alia*, asked for authorities' opinions on:

- options for tackling overhanging debt; and
- how a grant to local authorities to offset overhanging debt might work.

Overhanging debt is a problem for the LSVT programme because once an authority has transferred its housing to a registered social landlord there is no source of income available to the authority, apart from housing revenue account (HRA) subsidy, to meet outstanding debt charges falling on the HRA. This would require an authority to maintain its HRA for a very long time (in excess of 60 years under current arrangements); it could also lead to a substantial increase over that period in the resources that the ODPM would have to find in respect of the 'housing element' of HRA subsidy (HRAS). Most authorities do not currently receive the 'housing element' of HRAS because their assumed rental income is more than enough to cover assessed expenditure, including debt charges.

Until early 2000 there had been no transfers where the capital receipt from the sale of all of an authority's housing and other assets amounted to less than the level of its HRA debt. Authorities had been allowed to transfer a *proportion* of their stock where the attributable debt was more than the receipt from the sale. This was the approach taken for transfers facilitated by way of the Estates Renewal Challenge Fund, on the grounds that the problems on the estates were significant and the impact on an authority's HRA would be

⁴² DoE press notice 97/079, 18 February 1997

⁴³ DETR press notice 98/113, 19 February 1998

⁴⁴ HC Deb 20 October 1998 c1088W

small. The Government has been considering ways of tackling overhanging debt to help make housing transfers a viable option for as wide a range of authorities as possible.

The outcome of the consultation exercise on overhanging debt was announced on 16 December 1999.⁴⁵ The new system was outlined in a Written Answer:

Dr. Lynne Jones: To ask the Secretary of State for the Environment, Transport and the Regions if he will make a statement on his policy regarding applications for local authorities for the writing off of housing revenue account debts and the source of finance for any approvals of such applications.

Mr. Mullin: Where the capital receipt which a local authority receives for the transfer of its entire housing stock is less than the debt attributed to the stock, the Government are prepared to make a one-off payment to assist the authority to repay the outstanding Public Works Loan Board debt principal. In such cases the local authority will be required to repay its attributable housing debt shortly after the transfer is completed. These new arrangements were announced to the House on 16 December 1999, Official Report, column 250W, by my hon. Friend the Minister for Housing and Planning following consultation with local authorities and others last year.

Under these arrangements local authorities are required to meet from the capital receipt or their existing resources any premiums arising from the early repayment of debt. An authority with overhanging debt applying for a place on the housing transfer programme must, in addition to meeting the other published criteria, demonstrate that it can pay the premiums arising from the early repayment of debt before they can be allocated a place on the housing transfer programme.

A copy of a guidance note setting out the detailed arrangements was placed in the Libraries of the House and the Vote Office.⁴⁶

In March 2000 Burnley Borough Council became the first authority to complete a whole-stock transfer that qualified for Exchequer funding of residual housing loans (overhanging debt) of £20.87 million.⁴⁷

The issue of overhanging debt on stock transfers remains a problem for some authorities where the debt repayment penalties are punitively high. Councils still have to find the premiums for early redemption of Public Works Loan Board (PWLB) loans from the transfer receipt. Some authorities face difficulties in generating a sufficiently large receipt to pay the premiums and set-up costs of the transfer; in addition, the precise level of the premium payments are not known until the date of the transfer. In Birmingham City

⁴⁵ HC Deb 16 December 1999 c250W

⁴⁶ HC Deb 2 February 2000 c616W

⁴⁷ 'Burnley transfer gets away on £21 million Exchequer funding for HRA debt write-offs', *Social Housing*, April 2000

Council's case, half a per cent reduction in PWLB rates would have increased the council's payments by almost £50 million. This was viewed as an unacceptable risk.⁴⁸

In *Sustainable Communities: Building for the Future*, published in February 2003, the ODPM gave a commitment to 'remove any unnecessary barriers to stock transfer':

1.6 We will remove any unnecessary barriers to stock transfer, including meeting the cost of early redemption of Public Works Loan Board debt, extending arrangements for repaying overhanging debt to partial stock transfers, and exploring options for gap funding of negative value housing stock.

The term "negative-value housing" refers to stock that has such high repair needs that it has a negative value if continued as social housing. In some cases the cost of the repairs to negative value housing can be so high that it raises the question of whether the site should be fully redeveloped. Authorities with estates in this position have often sought to dispose of land for private development as a way of cross-subsidising the social housing element. This is obviously only possible where there is sufficient land. Local authorities were hopeful after the publication of *Sustainable Communities: Building for the Future* that they would be able to bid for 'gap funding' or 'dowries' to fund negative-value transfers in the wake of the commitment given in paragraph 1.6 (see above); however, these expectations appear to have been dashed. *The Decent Homes Target Implementation Plan* published in June 2003 states only that:

Gap funding could be made available from the regional housing resource allocations if it is seen as a regional priority.⁴⁹

The head of local authority housing finance at the ODPM, Wendy Jarvis, was questioned about the availability of 'dowries' for stock transfers by *Inside Housing Magazine*:

They are off the agenda in the sense of ever having something like the Estates Renewal Challenge Fund again. There's no available pot of money.

But there's a recognition that, as a regional housing board, when considering using resource, dowries would be a legitimate use. Dowry is probably not the term we would use, gap funding is our preferred term, be it a loan or whatever, but actually using some funding to enable something to happen. We recognise in some areas that there is a funding gap. The Communities Plan is saying 'is that a fixed funding gap? Are there other ways of addressing it?' Hence you get into the debate over additional financing models.

⁴⁸ HACAS Consulting Conference 'RSL Agenda 2000,' 3 May 2000

⁴⁹ ODPM, p13

We don't want authorities to be precluded from stock transfer where it is the right solution simply because the stock has a negative value. We need to find solutions.⁵⁰

For those transfers that are reliant on gap funding for their success the need to wait for the establishment of regional housing boards has left their plans "up in their air."⁵¹ David Hall, executive director of consultants HACAS Chapmen Hendy, has commented:

Arrangements for this [regional allocations] have still to be clarified – whether or not each board will set its own rules, for instance – and the funds will probably need to be top-sliced from its existing allocation. Many have argued that there remains a strong need for a centrally resourced fund linked to the transfer programme, especially given that the debt redemption arrangements are centrally controlled.⁵²

C. Arm's-length management organisations (ALMOs)

1. Background

The arm's-length management organisation (ALMO) option involves a local authority setting up an arm's length company (under section 2 of the *Local Government Act 2000*) to which key housing services are delegated.⁵³ The key features of the ALMO option are set out in the 2003 edition of *The Guidance on Arm's Length Management of local authority housing*:

- Ownership of the housing stock remains with the local authority.
- The local authority remains the legal landlord.
- Tenants remain secure tenants of the authority and there is no change in their rights, such as the right to buy, right to repair and right to manage.
- An arms length body may manage all or part of an authority's stock.
- As its name implies, an arms length body has a significant degree of independence from its parent local authority.⁵⁴

There is no statutory requirement for a ballot of tenants when an authority intends to establish an ALMO but tenant consultation is viewed as central to the process.⁵⁵ Beyond the requirements set out above, local authorities have a great deal of discretion over how devise their ALMO arrangements. ALMOs are usually companies that are 100% in the control of local authorities and are usually constituted as companies limited by guarantee.

⁵⁰ 'In the middle,' *Inside Housing*, 13 June 2003

⁵¹ 'ODPM passes buck on gap funding for negative-value transfers,' *Housing Today*, 23 May 2003

⁵² 'Public & Private,' *Housing Today*, 4 April 2003

⁵³ Delegation will require the Secretary of State's consent under section 27 of the *1985 Housing Act*.

⁵⁴ March 2003, ODPM,

http://www.odpm.gov.uk/stellent/groups/odpm_housing/documents/page/odpm_house_609033.pdf

⁵⁵ Section 105 of the *1985 Housing Act* regarding consultation on matters of housing management applies.

The relationship between the local authority and the ALMO is defined in an agreement which sets out the obligations of each party. Management of the ALMO is by a Board of Directors which should include ‘tenants, local authority nominees and independent members with relevant experience of social housing.’⁵⁶

The DETR’s December 2000 consultation document, *Arm’s Length Management of Local Authority Housing*, noted that ‘significant benefits’ could be gained from separating housing authorities’ strategic and management roles, ie:

- a clear focus on the management role as a result of an organisational framework for housing management which is distinct from that required to deliver an authority’s strategic functions;
- the involvement of a more diverse range of people (including tenants) in decision-making, helping to encourage innovative and radical thinking;
- as a result, a more business-like and modern management of the stock, concentrating on delivering high-quality services which represent value for money and meet the aspirations of tenants.

In order to qualify for the additional money that has been made available for ALMOs (see below) authorities have had to set up arrangements to separate out their strategic and management roles. This normally involves the establishment of a company. The second requirement was initially the achievement of an ‘excellent’ (three-star) rating from the Housing Inspectorate relating to services delivered by the arm’s length body obtained no more than one year before the application. Local authorities were concerned that very few would be able to achieve this standard and subsequent guidance issued by the Department in April 2001⁵⁷ conceded that authorities with a ‘good’ (two stars) and ‘likely to improve’ rating that met the criteria would be able to benefit from the subsidy in the scheme’s first year. Improving authorities were able to get half the subsidy with further allocations being made when excellence was achieved. This concession was welcomed by housing bodies as, in their view, it made ALMOs a much more viable option. As part of the 2002 Comprehensive Spending Review John Prescott announced a reduction in the criteria for arm’s-length investment from three to two stars.⁵⁸

⁵⁶ March 2003, ODPM:

http://www.odpm.gov.uk/stellent/groups/odpm_housing/documents/page/odpm_house_609033.pdf

⁵⁷ HC Deb 30 March 2001 cc831-2W

⁵⁸ In March 2003 the Audit Commission published guidance on the Housing Inspectorate’s expectations of organisations delivering an excellent/3 star housing management services and the criteria used to inspect ALMO governance arrangements. This is available online at:

<http://www.audit-commission.gov.uk/reports/AC-REPORT.asp?ProdID=E2CDAF70-7228-4455-835F-CEA1F5A8BD08>

In May 2003 the Audit Commission published, *Learning from the first housing ALMOs*, which concluded that ALMOs 'are generally performing well and could help to improve services in the future'.⁵⁹

2. ALMOs and funding

The Comprehensive Spending Review announcement in July 2000 revealed that £160 million would be made available for ALMOs in 2002/03 and £300 million in 2003/04. The DETR (now the ODPM) estimated that this would allow additional investment in over 90,000 dwellings of around £5,000 per dwelling, representing 3% of the stock of 3.2 million dwellings. The December 2000 consultation document provided further information on the proposed allocation and availability of these additional resources:

The revenue resources mentioned in 5.1 will be made available through the HRA subsidy mechanism. Not all authorities will necessarily receive the same level of extra subsidy, although it is proposed that there should be a minimum applicable to all authorities successful in securing additional resources. The amounts available to individual authorities would be determined taking account of various factors, which may include demand for resources, the mix of dwelling types in the stock under arm's length management, regional cost differences and any other information the Department considers relevant e.g. condition of the stock, the part which improved management could play in wider regeneration initiatives or in meeting government's targets for local authority stock, and improvements already achieved.

Since the revenue resources are expected to be used to finance additional borrowing for investment in the stock, the Department will issue supplementary credit approvals (SCAs) for the appropriate amount at the request of authorities. Those SCAs will not attract further revenue support.

These resources will be in addition to all other sources of finance for HRA housing currently available including the Major Repairs Allowance, credit approvals and others. It will allow improvements to be delivered more quickly than would otherwise be the case. In working up *local business plans* to be taken into account in authorities' overall HRA business plans, arm's length companies will be expected to identify the benefits that additional resources would bring, and the outputs that they could achieve. These will be taken into account in deciding whether or not, and if so what level of, additional resources should be made available.⁶⁰

⁵⁹ This report is accessible online at: http://www.auditcommission.gov.uk/Products/AC-REPORT/6BEC3DC0-85F3-11d7-B2D4-0060085F8572/ALMOs_nationalreport.pdf

⁶⁰ paras 5.12-14

It was acknowledged at this time, by the Government and housing bodies alike, that the additional resources pledged for ALMOs would not make much of a dent in the backlog of investment needed in council stock.

The 2002 Comprehensive Spending Review saw the announcement of a further two bidding rounds for authorities wanting to set up ALMOs. An additional £700 million is available (£380m in 2004/5 and £320m in 2005/6). These figures are to be kept under review in the light of progress by all ALMOs in using their allocations.⁶¹ The 2003 guidance states that these ALMO resources are in addition to all other sources of finance, such as the Major Repairs Allowance, that are available to local authorities for HRA housing. From April 2004 capital resources will be allocated in the light of recommendations from Regional Housing Boards. Authorities will be expected to continue to spend all such funds (or, in the case of partial ALMOs, the appropriate share of such funds) through the ALMO “so that the ALMO delivers major improvements as quickly as possible.”⁶²

In *Local Authority Housing Finance: a guide to the new arrangements* the ODPM has set what will be expected of ALMOs in order for them to continue to benefit from the additional resources available:

Access to the resources made available for future years will depend on authorities demonstrating that they have undertaken a robust option appraisal and that an ALMO is the best route to delivering decent homes. The resources provided to each ALMO in future will be determined in each case on the basis of a detailed assessment of their need for additional investment to achieve the decent homes standard, plus an allowance (5%) to help ensure sustainability of that investment, using a new Building Costs Model developed for ODPM.

The 2001 Local Government White Paper, *Strong Local Leadership – Quality Public Services*, included proposals to allow ALMOs to retain part of their rental income to fund investment. This was welcomed by housing bodies:

The Chartered Institute of Housing has welcomed the government’s decision to allow Arms Length Companies (ALCs) to retain part of their rental income to fund investment. The change gives ALCs more financial autonomy and moves them closer to the status of Housing Associations while remaining in Local Authority ownership.

The White Paper proposes that ALCs will be able to take advantage of a special arrangement within the prudential borrowing regime and use this freedom to

⁶¹ ODPM, *The Guidance on Arm’s Length Management of local authority housing*, 2003:

http://www.odpm.gov.uk/stellent/groups/odpm_housing/documents/page/odpm_house_609033.pdf

⁶² *ibid* para 4.3

finance loans to carry out their business plans to achieve the Decent Homes standard.

Under the arrangements, the current £5000 per house allocation will be replaced by permission to keep sufficient rental income (or subsidy) to finance borrowing to complete the business plans. For example if the ALC needs £20m it would keep £2m income per year to finance that investment. The extra subsidy will be financed from the general uplift due to take place in local authority rents as a result of restructuring.

CIH Director of Policy John Perry said: "This answers one of CIH's key demands that Arms Length Companies be given greater spending potential and also more autonomy. It makes the arms length option much more viable and attractive - with the important proviso that council's still have to meet the Best Value tests. CIH will now be looking to extra funding being made available for the arms length initiative in the Spending Review 2002."⁶³

In *Sustainable Communities: Building for the Future* the ODPM indicated that high performing ALMOs might benefit from additional financial freedoms in the future:

1.9 Following the recent consultation on local authority housing finance, we will set out details of possible further freedoms and flexibilities for high performing (3) ALMOs to borrow prudentially within public expenditure control totals.*

The Government is keen to see more partial ALMOs as part of a 'mix and match' approach to meeting the decent homes standard but the sector is divided about the attractions of this. There is a view that that set-up work could involve at least as much effort as a whole stock ALMO.⁶⁴

D. The Housing Private Finance Initiative (PFI)

1. Background

The other main option for refurbishing council housing is the Private Finance Initiative (PFI). This involves authorities entering into long-term service contracts with private sector providers under the PFI and can be used for stock both inside⁶⁵ and outside the Housing Revenue Account (HRA). The PFI Operator contracts to bring all the properties within the scheme up to the decent homes standard and maintain them at that standard, as well as providing the housing related services to tenants, in return for a performance based unitary charge. Provided an authority can demonstrate an appropriate transfer of

⁶³ Chartered Institute of Housing Press Release, 12 December 2001

⁶⁴ 'Sector divided over partial ALMOs issue,' *Inside Housing*, 7 March 2003

⁶⁵ The Housing Revenue Account is a record of revenue expenditure and income relating to local housing authorities' own stock.

risk to the private sector, the investment made is not subject to public expenditure controls.

As part of the July 2000 Comprehensive Spending Review it was announced that £760 million would be committed to the PFI in housing between 2001/02 – 2003/04. The Government set a target of refurbishing 90,000 council homes under the PFI every year for 10 years. A further £685m new PFI credits were announced as part of the 2002 Spending Review.

The April 2000 Housing Green Paper noted that PFI contracts could encompass early refurbishment works as well as continuing management, maintenance and repairs services. The ODPM has said that projects which benefit most from this method of procurement tend to have a capital intensive element and a service provision element, both of which are paid for by the local authority across a long term contract (typically 25-30 years). It is up to the local authority concerned to define the standard required in the form of outcomes; potential private sector providers compete for the contract and raise the funds to do the work. Payment by the authority is on a performance basis and in the form of annual service fee payments rather than initial capital expenditure. PFI credits are available from central government to support the capital element of projects.

The aims and objectives of housing PFI are:

To provide an affordable and effective way for the public sector to deliver investment in social housing, providing satisfactory outcomes in terms of:

- Significant and sustainable improvement in housing conditions
- High quality housing services
- Giving tenants the opportunity to participate in setting and monitoring performance standards

To maximise the value of public investment by:

- Ensuring that the risks attached to housing investment and services are handled by the party best able to understand and manage them
- Encouraging innovation in investment planning, service delivery and tenant involvement⁶⁶

As with ALMOs, the tenants remain tenants of the local authority and play a role in defining and monitoring the performance standards of the PFI contractor. Eight housing pathfinder schemes (covering 12,000 homes) were selected in 1999 to pilot PFI in housing. Manchester City Council became the first of these to sign a PFI contract in March 2003⁶⁷ while Islington Council followed soon after. A further ten projects in England have been selected for ODPM support in the second round of Housing Revenue

⁶⁶ <http://www.housing.odpm.gov.uk/information/index10.htm>

⁶⁷ ODPM Press Release 051/2003, 25 March 2003

Account PFI (2002/03); these projects will involve the refurbishment of 30,000 council homes.

The purpose of the pathfinder exercise was to find out where PFI works best and to develop good practice and common procurement approaches on which other authorities might build. More information on the PFI pathfinder schemes is available online at: http://www.odpm.gov.uk/stellent/groups/odpm_housing/documents/pdf/odpm_house_pdf_609802.pdf

The housing PFI, in common with other sectors, has experienced legislative and technical difficulties. On 4 November 2002 the Government announced proposals aimed at making it easier for councils to enter into PFI contracts through private sector partnerships:

The Office of the Deputy Prime Minister is working with the Wales Office and the National Assembly for Wales to make changes to section 27 of the Housing Act 1985 through a draft Regulatory Reform Order, now before Parliament.

At present councils cannot appoint a contractor to carry out housing management where the contractor intends sub-contracting some or all of the work. Removing the restriction will provide more options and make legislation more consistent with other Government initiatives such as Best Value.

Fifty-two responses were received following a two-month consultation in August-September 2002. Responses generally supported what were seen as complex issues.⁶⁸

The *Regulatory Reform (Housing Management Agreements) Order 2003* came into force on 28 March 2003.⁶⁹ The new section 27 allows contractors to sub-contract housing management functions, enabling local authorities to enter into PFI and other contracts.

In *Sustainable Communities: Building for the Future* the ODPM committed itself to improving the housing PFI process:

1.8 We will strive to make it easier for local authorities to refurbish homes through the PFI, for instance through resolving outstanding technical and legal issues, standardising documentation and providing more support. We will develop proposals to enable Local Authorities to build new social housing under PFI as part of a refurbishment scheme.

The ODPM has reviewed the delivery of subsidy to local authorities involved in housing PFI schemes. In May 2003 a consultation paper on possible changes to the current regime

⁶⁸ ODPM Press Release 111/2002, 4 November 2002

⁶⁹ <http://www.hms.o.gov.uk/si/si2003/20030940.htm>

for HRA subsidy for PFI schemes was published in response to pathfinder authorities' concerns about affordability, the Consolidated Rate of Interest (CRI) and debt free status:

The unpredictability of the likely level of subsidy which an authority might be entitled to for the capital element of the unitary charge is causing concern and the ODPM considers that changes are necessary to establish greater confidence in PFI both from the public and private sector.⁷⁰

An announcement on the outcome of the consultation exercise was issued in July 2003:

Following public consultation, the Office of the Deputy Prime Minister is about to write to Chief Finance Officers of local housing authorities in England to inform them about changes to the way in which Housing Revenue Account (HRA) subsidy is delivered for Private Finance Initiative (PFI) schemes.

The changes reform the HRA subsidy arrangements and will mean that local housing authorities receive a fixed level of annual subsidy, a 'PFI allowance' for the duration of the scheme. There will be retrospective arrangements for authorities already receiving HRA PFI subsidy.

The letter, guidance on the new arrangements and the consultation paper may be found on the Office of the Deputy Prime Minister's website at www.odpm.gov.uk.⁷¹

The new arrangements will therefore be in place in time for the third PFI bidding round.

In addition, local authorities gained financial freedom to include new build in HRA PFI schemes with effect from 1 April 2003:

This will increase the flexibility of how PFI can be used in social housing and allow local authorities to tackle their worst condition stock by demolition and replacement build. It is hoped that the legislative and technical changes will build market confidence and thus encourage more bidders into the market.⁷²

Guidance for local authorities intending to pursue PFI housing projects and wishing to receive Government support in the form of PFI credits has been issued by ODPM and is available online at:

http://www.odpm.gov.uk/stellent/groups/odpm_housing/documents/downloadable/odpm_house_609054.pdf

⁷⁰ *HRA subsidy delivery for the capital element of HRA PFI schemes*, <http://www.housing.odpm.gov.uk/information/consult/pfihra/07.htm>

⁷¹ HC Deb 17 July 2003 57WS

⁷² *Transform*, Newsletter of the Community Housing Task Force, Issue 4 May 2003 p12

IV An assessment of the options

A. Stock transfer

For some years now stock transfer has been viewed as the main option available to local authorities looking to generate significant capital with which to fund a stock improvement programme. Its attractions have been extended to more urban authorities with moves to tackle issues such as overhanging debt and low/negative valuations.⁷³ However, there remain a number of authorities that are resistant to the transfer route on the grounds that they do not wish to dispose of their housing stock. There is also no guarantee, even after the ‘political’ decision to transfer has been made, that tenants will vote in favour of a stock transfer. A prime example of this is Birmingham City Council: Birmingham had planned what would have been England’s largest stock transfer but tenants rejected the proposal in April 2002, leaving the council in the position of having to find other ways to raise finance in order to meet the decent homes target.

The ‘value for money’ aspect of stock transfer has also been put under the spotlight recently after the publication of a National Audit Office (NAO) report, *Improving Social Housing Through Transfer*, in March 2003.⁷⁴ The NAO found that, based on ODPM figures, transferring one million homes over five years would cost the taxpayer £1.3 billion more than the cost of fully funded local authority retention and renovation of the same stock:

The Office calculated the Public Sector Borrowing Requirement impacts of individual transfers and the programme as a whole, but not the actual cost to the taxpayer of the transfer of the 738,000 homes covered by LSVT and ERCF transfers up to February 2003. However, at various times the Office has estimated the cost of future transfers. For example, in 2001 the Office estimated that continuation of the LSVT programme would cost the taxpayer £4,200 a home, spread over 30 years, which is £1,300 a home more than the equivalent renovation under local authority ownership if that were feasible. In terms of the potential total costs, in 2001 the Office estimated that the transfer of a million homes over 5 years would cost the taxpayer £4.2 billion spread over 30 years.⁷⁵

The report also noted that new Treasury Guidance requiring authorities to apply a lower discount rate⁷⁶ of 3.5%⁷⁷ to their policy appraisals would increase the relative cost of the

⁷³ See section **B.3** above

⁷⁴ HC 496 Session 2002-03: http://www.nao.gov.uk/publications/nao_reports/02-03/0203496.pdf

⁷⁵ *ibid*, summary, para xii

⁷⁶ The model used to value stock as part of the transfer process involves the application of a ‘discount rate’ to bring an RSL’s future income and expenditure into present value terms. In accordance with HM Treasury’s Green Book, it is intended that the discount rate should reflect RSLs’ cost of capital.

⁷⁷ Authorities on the 2000/01, 2001/02 and 2002/03 transfer programmes were able to choose a discount rate of 6, 7 or 8%.

same transfer programme across a 30 year period 'because the long term financial benefits of retention become more valuable with a low discount rate.'⁷⁸

Dr Norman Perry, chief executive of the Housing Corporation, emphasised that the £1.3 billion figure was hypothetical when giving evidence to the Public Accounts Committee (PAC) on 31 March 2003:

The point that Mr Steinberg is making, if I may say so, is whether there is a level playing field and the £1.3 billion has arisen from a hypothetical exercise which assumed that the costs would be the same in both sectors. I think what Ms McDonald has been saying beforehand is that we do not necessarily know if local authorities could do it as cheaply or as quickly as housing associations. It is not to say they could not, it is just we do not know that they could.⁷⁹

The criteria used by the NAO in reaching the conclusion that stock transfer may be more expensive for the taxpayer than stock retention and renovation has been questioned in the housing press:

The NAO's criteria for establishing the poor value for money of the LSVT programme are restricted to the cost to the taxpayer of the transfer, notably the cost of higher Housing Benefit outgoings.

Excluded from the NAO's calculation are central government subsidies of local authority housing which cease after transfer and local authorities' use of capital receipts to improve local services thereby reducing the cost to the taxpayer.⁸⁰

The PAC asked Mavis McDonald, then Accounting Officer at the ODPM, about the reasons for the (estimated) increased cost of transfer over local authority retention and renovation; she identified the transaction costs involved in setting up stock transfers and the additional costs of borrowing incurred by RSLs as the main reasons for the figure of £1.3 billion.⁸¹ The NAO report noted that stock transfer offered additional 'non quantifiable' benefits:

The Office considers that the additional financial cost of transfer over local authority renovation has delivered non quantifiable benefits such as earlier improvement of poor condition social housing, community regeneration and increased tenant participation, and achieved risk transfer, including risks relating to income and cost, maintenance and risks arising from shortfalls in demand. It

⁷⁸ HC 496 Session 2002-03 para 3.38

⁷⁹ Select Committee on Public Accounts, Minutes of Evidence 31 March 2003, para 159: <http://pubs1.tso.parliament.uk/pa/cm200203/cmselect/cmpubacc/590-i/3033102.htm>

⁸⁰ 'National Audit Office confirms added-value benefits of stock transfer,' *Social Housing*, April 2003

⁸¹ Select Committee on Public Accounts, *Improving Social Housing Through Transfer*, Minutes of Evidence 31 March 2003, para 19: <http://pubs1.tso.parliament.uk/pa/cm200203/cmselect/cmpubacc/590-i/3033102.htm>

also considers the additional financial cost to be small in the context of over £15 billion allocated to housing expenditure in the same 5-year period 2001-02 to 2005-06. As our report shows, the programme has been largely successful in delivering improvements in services to tenants and in transferring the financial risks in holding properties for letting.⁸²

John Perry, then director of policy with the Chartered Institute of Housing (CIH), argued that adopting a lower interest rate as the test for investment options open to local authorities (proposed in the Treasury's new *Green Book*⁸³) would reduce the financial attractiveness of stock transfer as measuring its value for money on a resource-cost basis, instead of its impact on public borrowing, would make 'direct investment look better value than selling the stock and bringing in private investment funds.'⁸⁴

The Public Accounts Committee published its report on *Improving Social Housing Through Transfer* in July 2003; its conclusions and recommendations on the cost and financial effects of transfer are reproduced below:

1. The Office has calculated, on a hypothetical basis, the additional costs of transfer over local authority retention, but has not calculated the additional costs based on real transfers. The Office should evaluate whether the benefits claimed to justify the additional costs of transfer are realised in practice by evaluation of the costs and benefits in actual transfer cases.
2. The Office should calculate the impact of the revised HM Treasury guidance on discount rates on the additional cost of transfer, and make transparent its adjustments to the standard discount rate of 3.5%. It should review whether the recalculated additional costs of transfer represent value for money in the context of its findings from the work recommended at (1) above.
3. The Office should confirm whether individual local authorities looking to transfer properties offer tenants real choice about the future of their housing, for example through evaluation of alternatives such as raising funds directly through Private Finance or the establishment of Arm's Length Management Organisations.⁸⁵

Local authorities have long argued for a 'level playing field' with RSLs and for the ability to borrow outside public sector controls.⁸⁶ Some housing commentators welcomed the NAO's findings on the grounds that they legitimised local authorities' claims for stock

⁸² HC 496 Session 2002-03 para 3.37

⁸³ see footnote 76 above

⁸⁴ 'Hot property,' *Public Finance Magazine*, November 2002:

http://www.publicfinance.co.uk/features_details.ihtml?news_id=14688

⁸⁵ Select Committee on Public Accounts, 40th Report, HC 590 Session 2002-03, *Improving Social Housing Through Transfer*:

<http://pubs1.tso.parliament.uk/pa/cm200203/cmselect/cmpubacc/590/59002.htm>

⁸⁶ The 'business freedoms' of RSLs are set out on page 16 above.

retention and increased borrowing powers. The arguments surrounding this debate were raised during the PAC's evidence session on 31 March 2003:

150. (*Gerry Steinberg*) What is the quickest way and cheapest option to achieve the Decent Homes Standard?

(*Ms McDonald*) You cannot generalise on that. That is why we are asking local authorities to look across the range of options that are available to them, including using their own resources to achieve—

151. You say you cannot generalise. I am not asking you to generalise but surely you should have these figures? It is ridiculous going down a road which is much more expensive if it is cheaper to do it another way.

(*Ms McDonald*) As we were saying earlier, for a long period of time it was either using money that you had and having a much, much slower timetable of improvements for your tenants or choosing the transfer option.

152. The point I am trying to make is if you had exactly the same sort of level playing field for local authorities and RSLs, which would be the cheapest and quickest way to achieve the aims of the Decent Homes Standard by the year 2010?

(*Ms McDonald*) As Mr Williams said, it depends what amount of money is available where and what speed you want to go for.

153. You really will not answer the questions, will you?

(*Ms McDonald*) I am not trying to say that it is not cheaper to borrow money as a local authority than it is to raise it in the private sector market, if that is what you want me to say.

154. I am not wanting you to say anything. I want you to answer the question and tell me what you think would be the cheapest and quickest option to do it if you had a level playing field.

(*Ms McDonald*) If you have a level playing field, it is always cheaper to borrow money through the public sector than the private sector but the whole point about the programme is that the level playing field has not necessarily been there.

155. If that is the case, why can we not allow local authorities to use private finance?

(*Ms McDonald*) Any local authority expenditure, subject to the definitions of the ONS, counts as public expenditure, as Mr Williams said, and is rationed.

156. It does not have to be rationed if you use private finance. Dr Perry is not rationed, he uses what he likes. Why should local authorities be rationed? Dr Perry can go to the private sector and work out deals with the private sector and he is not rationed. Why should local authorities not be able to do exactly the same?

(*Ms McDonald*) The amount of grant he gets from the government to put into a programme is rationed.

(*Dr Perry*) There could be a misunderstanding. The Housing Corporation itself does not borrow money.⁸⁷

⁸⁷ Select Committee on Public Accounts, Minutes of Evidence 31 March 2003, paras 150-158: <http://pubs1.tso.parliament.uk/pa/cm200203/cmselect/cmpubacc/590-i/3033102.htm>

B. ALMOs

While the debate over the lack of a ‘level playing field’ with RSLs has continued more local authorities have seen the option of stock retention and increased investment move within reach via the establishment of arm’s-length management organisations (ALMOs). Within two years of first being established ALMOs were managing around half the number of properties covered by post transfer RSLs, despite the fact that stock transfers have been ongoing since the late 1980s. John Perry, writing for *Public Finance Magazine*, noted:

They [ALMOs] are also largely found in London and the north, two parts of the country with some of the greatest concentrations of poor council housing and where transfer has often received, at best, grudging acceptance.⁸⁸

A survey of over 100 housing authorities conducted on behalf of *Inside Housing Magazine* in early 2003 found that one quarter (compared with 9% in the previous year) had chosen to pursue the ALMO route or saw it as their preferred option, making it marginally the most popular choice.⁸⁹

The obvious attraction of ALMOs to local authorities is that they combine continued public ownership with increased resources. The reduction of the qualifying criteria from 3 to 2 ‘stars’ (awarded by the Housing Inspectorate) has brought it within the reach of most authorities, however a ‘sticking point’ that has been identified for ALMOs and other stock retention options is the inability to build new homes, particularly in areas of high housing demand.⁹⁰ The Government’s commitment to ‘set out details of possible further freedoms and flexibilities for high performing (3*) ALMOs to borrow prudentially within public expenditure control totals’⁹¹ raises the possibility of changes to council housing finance in the longer term.

Commenting on possible future developments in the light of the consultation document, *The Way Forward for Housing Capital Finance*,⁹² John Perry, then policy director with the Chartered Institute of Housing, wrote:

The proposals to restructure councils' housing debt so that they no longer need a subsidy would start to disentangle those apron strings between councils and the Treasury that have enabled the latter to exert such tight control – and have given councils so little power over their own finances. If followed through, the changes could mean simple things such as enabling councils to increase rents by a pound

⁸⁸ ‘Hot property,’ *Public Finance Magazine*, November 2002:

http://www.publicfinance.co.uk/features_details.ihtml?news_id=14688

⁸⁹ ‘Which way now,’ *Inside Housing*, 21 February 2003

⁹⁰ ‘Considerable choice,’ *Inside Housing*, 2 August 2002

⁹¹ *Sustainable Communities: Building for the Future*, para 1.9

⁹² http://www.odpm.gov.uk/stellent/groups/odpm_housing/documents/page/odpm_house_601719.pdf
ODPM, August 2002

and get a pound of extra income as a result – something associations have always taken for granted. It could also mean having the same freedom from past debt (and the subsidy needed to repay it) enjoyed by stock transfer landlords. It could enable councils to borrow prudentially – again, as associations have done since 1988 – and have the resources to do so.

But the changes go only so far. The really interesting issue is whether they can be pushed any further. Borrowing will still be within overall Treasury limits. There will still not be the facility of raising a large amount of investment (which stock transfers rely on) against a future rental stream. And control of the asset base – freedom to buy and sell property and reuse the proceeds – will still be limited.

Raising these issues shifts the debate back to one about the future of Almos. If they could own the housing stock, not just manage it, the case for these further freedoms would be much stronger and easier to implement. At present, this may be a step too far both for councils with Almos and their tenants. But if Almos prove as successful as they promise to be (and, unlike transfer, only high-performing councils can go down the Almo route), the case for more sweeping changes might be persuasive. Councillors and tenants will know within a short time if their local Almo can deliver better homes and a better service. Confidence in the new set-up may grow and fears about change may be allayed. Transfer of ownership to an Almo – with the safeguard that its sole shareholder is the council – may seem a logical and desirable move.

...By 2010, housing associations could own at least half the social housing in England, with half of these properties having been originally owned by councils. Housing associations will have continued to grow, both through new building and from further transfers. The other half of social housing – reduced in size by transfers, the right to buy and demolition – might be owned by bodies that look like housing associations, and have the same business freedoms and independence from local authority finances, but are in fact council-owned.⁹³

For the time being the financial flexibilities offered to ALMOs are more limited than those gained by stock transfer RSLs; the talk of further freedoms and flexibilities for high performing (3*) authorities has been welcomed but disappointment has been expressed that only ‘excellent’ authorities will benefit.⁹⁴ The head of local authority finance at the ODPM, Wendy Jarvis, was recently questioned on whether ALMOs should be allowed to operate like housing associations and get loans from lenders; her response is reproduced below:

In principle there’s no reason why not, but they have to have something against which to secure a loan. [ALMOs] don’t own their stock at the moment.

⁹³ ‘Hot property,’ *Public Finance Magazine*, November 2002:

http://www.publicfinance.co.uk/features_details.ihtml?news_id=14688

⁹⁴ ‘Which way now,’ *Inside Housing*, 21 February 2003

We have to look at their structure again, having now set them up and seen that the programme is a success and that it really is making a difference to performance. The housing association model is an obvious one to look at and we are looking at it. It would be far too early to talk to the City about it. If you go to the City too soon, they won't be interested, they need something tangible. It would be foolish for us also to ask them 'how do you do it?' because that is our decision.⁹⁵

The Audit Commission's report on the first round of ALMOs, *Learning from the first Housing ALMOs*,⁹⁶ concluded that they had improved the delivery of repairs programmes and configured services to meet tenants' needs but warned that they should be established as a long term option and not just as a vehicle to deliver the decent homes standard.

C. PFI

The other option for local authorities, the Private Finance Initiative, is generally not viewed as one that can deliver the decent homes standard to all of a local authority's stock. Wendy Jarvis has commented:

I can't imagine it [PFI] being a whole stock solution. I would like to see it being the vehicle that plugs the gaps. This is where options appraisal is important. Where there is no whole stock transfer solution, and arm's-length management isn't right, PFI can be one [option]. I think it will start to gain momentum.

We do hear people saying increasingly that where there are demand issues PFI is perhaps a better option because of the incentives. It's the energies that are put into it. PFI is very resource intensive and authorities simply don't have the people sitting waiting to devote two years of their lives to PFI.⁹⁷

Inside Housing Magazine's survey of housing authorities revealed that the PFI option found 'little favour' amongst the sample authorities; only four per cent of the authorities surveyed were looking at PFI schemes to help them meet the decent homes target, although this was a rise on the previous year when none were considering it.⁹⁸ More than two-fifths of the authorities surveyed reportedly said they would be prepared to look again at PFI if it were made simpler and widened in scope to cover new build.⁹⁹ Writing for *Public Finance Magazine* in January 2003 Mark Smulian described the PFI in housing as 'cumbersome, slow and peripheral.'¹⁰⁰

⁹⁵ 'In the middle,' *Inside Housing*, 13 June 2003

⁹⁶ May 2003: http://www.audit-commission.gov.uk/Products/AC-REPORT/6BEC3DC0-85F3-11d7-B2D4-0060085F8572/ALMOs_nationalreport.pdf

⁹⁷ 'In the middle,' *Inside Housing*, 13 June 2003

⁹⁸ 'Which way now,' *Inside Housing*, 21 February 2003

⁹⁹ *ibid*

¹⁰⁰ http://www.cipfa.org.uk/publicfinance/features_details.ihtml?news_id=15180

The local authority PFI advisory body, The 4Ps, had been pushing the Government to change the way it calculates the money it pays to councils under PFI housing schemes since summer 2002 with a view to making the scheme more affordable. Under the current system the Government pays a proportion of the total capital investment needed in a council's stock; this is known as a PFI Credit, councils have to make up any shortfall which can amount to several millions of pounds. Although a consultation paper has been issued on the actual payment of PFI Credits it appears that the Government has, to date, rejected any alternative approaches to calculating PFI Credits.¹⁰¹

Research has been carried out by PA Consulting on behalf of the ODPM into the early lessons from the PFI housing pathfinders. Briefly, the researchers found that authorities without previous PFI/PPP¹⁰² experience had found the learning curve 'steep.' Bidders had been put off by the lengthy procurement process; some thought that authorities had not scoped their schemes clearly. It was noted that the PFI procurement process had cost the pathfinder authorities a great deal and constituted a 'significant overhead,' in addition:

Many assumed that it would be easy to translate the PFI concept to housing and that schemes would be easier to complete than has been the case. The difficulties in managing the bids on all sides have been thrown into sharp relief by the belated discovery of the scale of many of the risks.¹⁰³

Efforts have been made to improve the PFI procurement process based on PA Consulting's findings; these are outlined in section **D.1** above.

D. Conclusion

Despite the fact that ALMOs are increasing in popularity amongst local authorities it seems unlikely (without further developments) that supply will meet demand. It is expected that the remaining two ALMO bidding rounds will be oversubscribed.¹⁰⁴ Although the Government is keen to see more partial ALMOs, as previously noted, housing bodies are yet to embrace this option. A further limiting factor is that the ALMO option is only open to 2* (or better) performers. Gwyneth Taylor, programme manager with the Local Government Association, is reportedly of the opinion that stock transfer remains the main option for those authorities with a lot of work still to do to meet the decent homes standard,¹⁰⁵ similarly, Steve Partridge of the Housing Quality Network has commented that 'on the key financial issues, transfer remains the best long-term deal.'¹⁰⁶

¹⁰¹ 'ODPM delivers blow to hopes for PFI funding switch,' *Housing Today*, 6 June 2003

¹⁰² Private/Public Sector Partnerships

¹⁰³ ODPM, *Private Finance Initiative for Housing Revenue Account – early lessons from the pathfinder programme*, Research Summary 193, 2003; available online at:

http://www.odpm.gov.uk/stellent/groups/odpm_housing/documents/page/odpm_house_609810.pdf

¹⁰⁴ 'This year's model,' *Housing Today*, 4 April 2003

¹⁰⁵ 'Whitehall moves to bolster stock transfer backed by NAO report,' *Housing Today*, 21 March 2003

¹⁰⁶ 'Considerable choice,' *Inside Housing*, 23 August 2002

It seems reasonable to expect that the Government's commitment to 'remove any unnecessary barriers to stock transfer' will provide a further boost to the stock transfer programme.

The survey conducted by *Inside Housing Magazine* earlier this year found that one complaint was echoed by many of the 100 plus councils in the sample:

Councils should not have to jump through hoops to get extra money. There is still not enough money around to meet the decent homes target no matter which option councils go for.¹⁰⁷

The sample authorities were asked how the Government could make it easier for them to meet the decent homes standard; a selection of responses is reproduced below:

- I think the Government is unnaturally fixated on splitting the management and strategic housing role.
- We need greater certainty of resources both in the long term and the short term from the ODPM.
- The capital finance scheme needs to be completely shaken up.
- They should allow increased rents to cover prudential borrowings without clawback through HRA subsidy.
- We spend a fortune on transferring our stock. We would have preferred to have been able to prudentially borrow. There should be a level playing field for councils and RSLs.

V Registered social landlords (RSLs) and the decent homes standard

The achievement of the decent homes standard applies to RSLs in the same way as it does to local authorities. The Housing Corporation, the regulatory body for RSLs, established meeting the decent homes standard as a key objective in its 2001-2004 Corporate Strategy. A new performance indicator has been introduced for RSLs that requires the provision of information on the percentage of homes in ownership that do not meet the standard for decent homes. In 2002 this information was requested on a voluntary basis in the Regulatory and Statistical returns submitted by RSLs. It is now mandatory for RSLs to report progress against the decent homes target.¹⁰⁸ Ahead of the publication of the new Regulatory Code in January 2002 the Corporation expected RSLs to ensure that

¹⁰⁷ 'Which way now,' *Inside Housing*, 21 February 2003

¹⁰⁸ The Housing Corporation, *The Way Forward: Our Approach to Regulation*, January 2002

their governing bodies were aware of the decent homes guidance and target and the Corporation's commitment to achieving the target in the RSL sector; specifically, it required RSLs to:

- Co-operate fully in working towards the targets set;
- Identify the incidence of homes that fail to meet the decent homes standard within their owned stock;
- Ensure that targets for reducing the number of homes that fail to meet the standard for decent homes are established within asset management strategies, or similar.¹⁰⁹

The Corporation commissioned consultants to work alongside 24 of the largest RSLs, representing some 370,000 properties, to undertake a desk-top analysis of available stock condition information to provide further information and aid the process of meeting the decent homes target. This research suggested that at January 2002 around one in three RSL properties failed the decent homes standard. Although few of the RSLs involved had developed specific strategies for achieving the standard, most were optimistic that they would achieve it by 2010.¹¹⁰ The consultants recommended that future house condition surveys by RSLs should include a requirement to assess properties against the decent homes criteria.

The current Housing Corporation guidance on the achievement of the decent homes standard, *Decent Homes Standard: Guidance*, is accessible online at:

[http://www.housingcorplibrary.org.uk/housingcorp.nsf/AllDocuments/58C18158975404AF80256D6C0036DAC4/\\$FILE/decenthomesstandard.pdf](http://www.housingcorplibrary.org.uk/housingcorp.nsf/AllDocuments/58C18158975404AF80256D6C0036DAC4/$FILE/decenthomesstandard.pdf)¹¹¹

RSLs are not facing quite the same financial pressures as local authorities in their efforts to achieve the decent homes standard but there are still concerns, particularly amongst the smaller and more traditional organisations. A smaller percentage of RSL stock falls below the standard and the majority of stock transfer RSLs (i.e. those RSLs to which local authority stock has been transferred) will have planned for the renovation and refurbishment of poor stock as part of the transfer process. For many RSLs meeting the standard forms part of their routine programme of works and, as previously noted,¹¹² RSLs have many 'business freedoms' at their disposal which are not available to local authorities. That said, the National Housing Federation is critical of the fact that *Sustainable Communities - building for the future* focused on the decent homes standard 'only in the context of council housing' and has concerns about the level of capital repairs

¹⁰⁹ Housing Corporation Circular R3 – 26/01 Decent Homes Guidance, 8 October 2001

¹¹⁰ The Housing Corporation, *Decent Homes: assessing housing association properties against the decent homes standard*, Sector Study 19, October 2002

¹¹¹ Published in July 2003 this guidance updated and replaced the Decent Homes Guidance Circular R3-26/01

¹¹² See page 16

funding given to RSLs with older stock and street properties.¹¹³ Jeff Baker, group director of the Guinness Trust has reportedly said that the Trust will meet the target but that the Government will have to allow rents to increase in order to fund the required improvements:

Whereas the government has made funding available to local authorities through the major repairs allowance, single pot for capital funding and obviously through right to buy receipts...we do not have sale receipts, we do not have any special government or Housing Corporation funding. We basically have to find the money from rental income.¹¹⁴

RSLs are currently restricted in the amount by which they can increase their rents as a result of the Government's rent restructuring policy for social housing.¹¹⁵

VI Delivering the standard in social housing: progress so far

Lord Rooker, then Housing Minister, gave evidence to the ODPM Select Committee's inquiry into the provision of affordable housing in 2002. During questions he was asked about the likelihood of the decent homes target being achieved:

We expect on current evidence certainly to meet our interim target of making sure we get a third of the dwellings up to decent standard by 2004. On the current trends and the current work as I sit here in 2002 we estimate—as I say I am estimating eight years forward—we will fall short by about ten per cent. We have got about 1.6 million dwellings and currently, looking at it, we could miss out by about 150,000 across a range of authorities. Now, knowing that eight years ahead, I am fairly confident that if we make the entry target of 2004, certainly we can take the necessary steps to do that.¹¹⁶

The Chartered Institute of Housing (CIH), after studying figures compiled from local authorities' HRA business plans for 2001, concluded last year that almost two-thirds of authorities were at risk of missing the 2010 deadline:

Just 17 metropolitan councils, nine London boroughs and 12 unitary authorities with urban housing stock had a decent homes target they believed was achievable in place. Of the non-unitary authorities, just 49 out of 152 had a target they anticipated they would meet by the government's deadline.¹¹⁷

¹¹³ 'Sector voices decency fears,' *Inside Housing*, 18 April 2003

¹¹⁴ *ibid*

¹¹⁵ More information on this policy can be found in Library Standard note, *Social Housing: rent reform*, SN/SP/1090: <http://hcl1.hclibrary.parliament.uk/notes/sps/snsp-01090.pdf>

¹¹⁶ ODPM Select Committee Minutes of Evidence 30 October 2002, para 514: <http://pubs1.tso.parliament.uk/pa/cm200102/cmselect/cmmodpm/1206-iii/2103001.htm>

¹¹⁷ 'Decency target rapidly receding,' *Inside Housing*, 30 August 2002: <http://www.insidehousing.co.uk/news/article.asp?id=2575>

The ODPM reportedly responded to the CIH's conclusions by pointing out that the 2001 plans were at different stages of development; of those authorities that were clear that the standard could not be delivered with current resources 'most still had to assess the options available for bringing in the additional resources they needed.'¹¹⁸ There was still enough evidence after the Spending Review 2002 to suggest that the achievement of the 2010 target was at risk. As a result, the establishment of a Public Service Agreement-Plus Review was announced to assess the extent of the risk by identifying shortcomings in the existing decent homes delivery plan and recommending changes to improve it.

In December 2002 the ODPM's quarterly progress report revealed that fewer councils than previously thought were at risk of missing the 2010 target. One hundred authorities were identified as at risk of non-delivery from their 2002 business plans, 20 fewer than the estimate gleaned from the 2001 plans.¹¹⁹ One of the reasons identified for the predicted shortfall was the failure of certain authorities to achieve a majority vote in favour of transfer from their tenants.

The PSA Plus Review 2003, *Review of the Delivery of the Decent Homes Target for Social Housing*, was published on 3 March 2003. The main findings of the Review had already been set out in *Sustainable Communities - building for the future* in February 2003. The PSA Plus Review 2003 set out what had been achieved so far:

Between 1 April 2001 and 31 March 2002 local authorities reduced the number of non decent homes in their stock by 8% and 146 of the 246 stock owning authorities say they will meet the 2010 target. Of these 11 currently plan to do so through transfer and 20 through ALMO. A further 12 authorities hope to sign PFI contracts.

Not all housing associations are yet able to set a baseline for the number of non decent homes in their stock. All will be able to do so in 2003.

Results from the 2002 English House Condition Survey, available in October 2003, will provide independent figures for both housing associations and local authorities on the reduction in non-decent homes 2001-02.¹²⁰

Risks associated with the delivery of the target were identified:

Government Offices reported in November 2002 that there were 100 local authorities (out of 246 that still own stock and not had positive transfer ballot) at risk of not delivering the 2010 target. Of those at risk:

¹¹⁸ *ibid*

¹¹⁹ 'Community plan to include new decency target,' *Inside Housing*, 4 December 2002: <http://www.insidehousing.co.uk/news/article.asp?id=3133>

¹²⁰ http://www.odpm.gov.uk/stellent/groups/odpm_housing/documents/page/odpm_house_609034.pdf

- 25 are in this position as they had yet to produce a coherent business plan so it was unclear what they could achieve;
- 75 are at risk as, on current levels of resources, they say they are unable to meet the target.

These authorities currently predict that on their present plans they will still own 193,000 non-decent homes in 2010.

However of the authorities at risk 41 are already considering alternative strategies for delivery but the rest do not have plans that will deliver in place. Of these some local authorities have not been able to take forward alternative strategies as they did not have the support of their tenants. To ensure all authorities deliver the target ODPM will have to take a proactive approach to delivery over the next eight years.

The Housing Corporation is confident that all housing associations will meet the 2010 target. Research by the Corporation into some of the largest housing associations showed that few had strategies in place for tackling decent homes but most were confident they would deliver. This is supported by housing association investment plans which show, over a 5 year period, they would be well advanced in reducing the backlog of repairs which is a significant component of non-decent homes. Much of their non-decent stock has been transferred from local authorities.

Structural Risks

In addition to the risks above there were also concerns about some of the processes and structures that were being relied on to deliver the decent homes target:

- the stock transfer programme is the subject of a report by the National Audit Office;
- a number of local authorities had received 0* for the delivery of their repairs and maintenance service.

The Audit Commission had produced a 'Learning from Inspection' report that highlighted failings in repairs and maintenance.¹²¹

The Review made many recommendations in respect of the delivery of the decent homes target. In particular it identified the need for a 'level playing field' between the investment options available to local authorities:

Local authorities need to be able to choose the right approach for additional investment in their own stock from the three existing options of stock transfer, the Private Finance Initiative (PFI) and, for high performing authorities, Arms

¹²¹ *ibid*

Length Management Organisations (ALMO). Local authorities need to be able to apply different options in different areas to suit local circumstances and tenants' priorities as part of an overarching strategy for all council owned stock. To make this possible the Review recommends the removal of barriers identified as unnecessary. These include meeting the cost of early redemption of debt, extending overhanging debt treatment to partial stock transfer, and exploring options for gap funding of negative value housing stock.¹²²

These recommendations were accepted by the ODPM and the intention to act upon them was announced in *Sustainable Communities - building for the future*.¹²³

The *2001 English House Condition Survey* (EHCS) was published by the ODPM on 15 July 2003. The new Housing Minister, Keith Hill, welcomed the survey's findings and noted that between 1996 and 2001 the number of non-decent homes in the social sector had fallen from 2.3 million to 1.6 million. Local authorities owned 1.2 million of these homes (43% of local authority stock) while 380,000 were owned by RSLs (28% of RSL stock). Falling short on the thermal comfort aspect was the major reason for the standard not being reached. The Minister conceded that had improvement continued at the same rate, the 2010 target would not have been met. However, he went on to say that the changes made following the PSA Plus Review meant 'we are now back on track to deliver by 2010.'¹²⁴ The EHCS is now a continuous survey which is being used to monitor the achievement of the Government's decent homes target on an annual basis.

Housing professionals are less bullish on the subject of whether the target will be met. Jeff Zitron of consultants HACAS Chapman Hendy has reportedly stated that there are still question marks over how the target will be achieved given that there are only 125,000 properties on the current stock transfer programme and 180,000 involved in bids for ALMO status.¹²⁵ Gwyneth Taylor of the LGA agrees that the ODPM's interim targets will be met but believes that this is largely because properties that are easier to repair are being tackled first:

The real difficulty is the high density, high-rise properties. Those kinds of properties require long-term contracts to get the work done.¹²⁶

In June 2003 the ODPM published a revised implementation plan taking into account the recommendations of the PSA Plus Review, *The Decent Homes Target Implementation Plan* is available online at:

http://www.odpm.gov.uk/stellent/groups/odpm_housing/documents/page/odpm_house_022985.pdf.

¹²² *ibid*

¹²³ See section **III.B.3** above.

¹²⁴ ODPM press release, 2003/131, 15 July 2003

¹²⁵ 'Fears over reaching decency,' *Inside Housing*, 18 July 2003

¹²⁶ 'Getting in condition,' *Inside Housing*, 25 July 2003

The Treasury has launched a website dedicated to Public Service Agreements. It sets out performance against the high level PSA targets; information on the delivery of the decent homes standard can be accessed at: http://performance.treasury.gov.uk/T033_I0102.pdf

VII The private sector and the decent homes standard

As part of the Spending Review 2002 John Prescott announced that private sector homes occupied by vulnerable households would be brought within the decent homes target. The English House Condition Survey (EHCS) in 2001 identified almost 1.2 million vulnerable households who were living in non-decent private sector homes. The Government will regard this strand of the decent homes target as delivered if:

- There is a year on year increase in the proportion of vulnerable private sector households in decent homes;
- If the 2006-07 EHCS, reporting in October 2007, shows the proportion of vulnerable households in decent private sector homes to be more than 65%;
- If the 2001-11 EHCS, reporting in October 2011, shows the proportion of vulnerable households in decent private sector homes to be more than 70%;
- If the 2020-21 EHCS reporting in October 2021, shows the proportion of vulnerable households in decent private sector homes to be more than 75%.¹²⁷

In *Sustainable Communities: building for the future* the Government said it would assist 80,000 vulnerable households in the private sector to make their homes decent by 2005 and a further 130,000 by 2010. These figures are based on estimated local authority expenditure on private sector renewal from the single capital pot and use of additional funds that have been made available for 2004/05 and 2005/06 (£30 million in both years).

The Regulatory Reform (Housing Assistance)(England and Wales) Order 2002), which came into force in July 2002, has given local authorities a general power to provide assistance for private sector housing renewal and has 'placed private housing renewal firmly within the context of local authorities' strategic housing role.'¹²⁸ Other initiatives that are expected to contribute to the achievement of this target include:

- Improved funding for Home Improvement Agencies (HIAs). HIAs are to become part of the wider Supporting People Programme that is intended to draw together a range of programmes to ensure vulnerable people are helped to live as independently as possible.
- DEFRA's Warm Front Programme under which grants are provided to vulnerable households for packages of heating, insulation and energy efficiency measures.

¹²⁷ ODPM, *The Decent Homes Target Implementation Plan*, June 2003

¹²⁸ 'Working towards decent standards,' *Inside Housing*, 20 September 2002 (for more information on the Regulatory Reform Order see Library Standard Note, *The Reform of Private Sector Housing Renewal*: <http://hcll.hclibrary.parliament.uk/notes/sps/snsp-01617.pdf>

- The Housing Market Renewal Fund and other regeneration initiatives. Nine Pathfinder areas will produce plans to renew the housing markets in their areas up to 2005/06; £500 million has been allocated for this purpose. Precise activities have yet to be established but substantial elements of clearance and renovation of non-decent private sector stock is expected. Other regeneration projects that will include private sector renewal include New Deal for Communities and Neighbourhood Renewal.
- The introduction of a mandatory licensing scheme for houses in multiple occupation. Provisions are contained the *draft Housing Bill*.¹²⁹
- The Quality Mark Programme under which householders are given assistance to find reputable builders. The DTI expects to have rolled this programme out across England and Wales by 2006.
- Home Information Packs which will make households aware of the condition and energy efficiency of any home they consider purchasing and what action is needed to improve it. Provisions are contained in the *draft Housing Bill*.¹³⁰

Housing bodies welcomed the recognition that the standard of private sector housing is a matter for public concern and investment but a need for more specific guidance on how local housing strategies should dove-tail with private sector renewal policies has been identified:

The root of the problem is the dislocated nature of the housing profession along tenure lines. Private and public housing professionals have different preoccupations, professional bodies and specialist publications. These divisions are, at best, unhelpful when considering, for example, how spending on different tenures can help or hinder the drive for more racially-cohesive communities. Many senior managers are only too aware of the lack of professionals who are able to think and act in a manner which is tenure blind – precisely those skills that are required to deliver effective regeneration that meets the aspiration to ‘improve economic, social and environmental well being.’¹³¹

Although the single capital pot¹³² is intended to enable authorities to act more strategically, in some areas there has reportedly been a failure to consider the needs of the different tenures together, resulting in increased competition for local resources.¹³³ Local authorities have emphasised the need for adequate resources if the decency standard is to be met in the private sector.

¹²⁹ Cm 5793, March 2003

¹³⁰ Cm 5793, March 2003

¹³¹ ‘Working towards decent standards,’ *Inside Housing*, 20 September 2002

¹³² See section III.A page 13

¹³³ *ibid*

VIII Scotland, Northern Ireland and Wales

In April 2002 Sally Keeble was asked whether there was an intention to initiate discussions with the devolved administrations in Wales, Scotland and Northern Ireland in order to achieve a UK definition of a decent home; she gave the following response:

It is a matter for the devolved administrations whether they wish to use the decent home definition. The Northern Ireland Housing Executive are planning to assess their stock against the decent homes standard when the results of their 2001 House Condition Survey are available. The Welsh Assembly Government have developed the 'Welsh Housing Quality Standard' for housing in Wales, starting with the social housing sector. In the medium term the Scottish Executive are likely to develop an index of housing quality for assessing the quality of the Scottish stock.¹³⁴

The Scottish Executive subsequently issued a consultation paper on a proposed quality standard for social housing;¹³⁵ the main elements suggested by the Executive include:

- Properties to comply with the tolerable standard;¹³⁶
- Be free from serious disrepair;
- Be energy efficient;
- Have modern facilities and services; and
- Be healthy, safe and secure.

Consultation on the quality standard closed on 30 June 2003. Different dates are being mooted for the achievement of the Scottish target; there is a broad consensus that it should be around 10 years after a final definition is agreed.

The Welsh Housing Quality Standard has been developed to provide a common target standard for the physical condition of all housing in Wales; all social landlords in Wales are expected to adopt the standard and to devise realistic programmes for bringing all their properties up to it by the end of 2012. The standard requires that homes should be:

- In a good state of repair;
- Safe and secure;
- Adequately heated, fuel efficient and well insulated;
- Contain up to date bathrooms and kitchens;
- Well managed (for rented housing);
- Located in attractive and safe environments; and

¹³⁴ HC Deb 10 April 2002 c80W

¹³⁵ *Modernising Scotland's Social Housing: a consultation paper*, March 2003: <http://www.scotland.gov.uk/consultations/housing/mssh.pdf>

¹³⁶ Scotland's equivalent to the housing fitness standard.

- As far as possible suit the specific requirements of the household (e.g. specific disabilities).¹³⁷

While there are differences between the national benchmarks the main contrast is in the potential sanctions that can/will be brought to bear against landlords that are likely to fall short of achieving the standard. In England the Government is requiring councils to submit option appraisals for sign-off and has said it will intervene where authorities fail to act: the Housing Corporation is responsible for monitoring the progress of RSLs. No similar measures are in operation in Wales; in Scotland the consultation paper did not propose sanctions or even milestones on the way to achieving the target.

The Department for Social Development in Northern Ireland is also considering the feasibility of introducing a decent homes standard. Speaking at the Northern Ireland Housing Executive's annual conference the Minister for Social Development, Des Browne, said that the Department was looking at following the example set by England in regard to the decent homes standard.¹³⁸

¹³⁷ More information on the standard is available online at: <http://www.housing.wales.gov.uk/index.asp?task=content&a=e26>

¹³⁸ 'Browne eyes up decent homes target,' *Inside Housing*, 23 May 2003