

Response to Reform of Council Housing Finance Consultation - Discussion Draft

Questions raised in consultation – boxed

Discussion points identified – • *bulleted italics*

Proposed response text – plain text

Introduction and issues not covered in specific questions

- *Rent research informative, but no proposals. In remit of Tenant Service Authority (TSA) but not mentioned in Framework. Separate consultation required for future.*
- *Business Plans (BP) and Tenanted Market Values (TMV) highly dependent on assumptions re future rents; need more certainty over policy since ½% increases funds servicing of debt.*
- *No mention of any funding for the national £5bn cost of Aids & Adaptations, currently funded from LA's own resources (core-plus) inc RTBs. Increasing since moves from communal residential homes to independent living. NCC spends £_____.*
- *Government has ruled out redemption of Housing Revenue Account (HRA) debt and centralising HRA debt.*
- *No "safety net" – risks to viability to be met by landlord authorities through expenditure controls, income generation, disposals.*
- *Shortfall of funding identified in research – would need to be resourced irrespective of Subsidy reform or stock will deteriorate*
- *CLG want new Act to implement, but delay will mean higher landlord authority borrowing as rent increases will raise TMV.*

The council welcomes the government's consultation on proposals arising from the review of council housing finance. These proposals, subject to amendment on the basis of the comments below, will in the council's opinion increase the linkage between tenants' rents and the services that they receive, and increase the ability of the council to respond to local needs and concerns through local decision-making.

For the council, and tenants, to be persuaded that the taking on of additional HRA debt unrelated to its own housing stock requires that the benefits of increased local choice and freedom from central control of resources are both transparent and financially sensible. Key to this will be the amount of debt required to "buy out" current and anticipated levels of negative subsidy. Clearly, the lower the cost of the buy out, the more persuasive the case for the self-financing reforms will be.

The council would urge the government to reconsider the possibility of writing off all or some of total HRA debt, since this would be a fair and equitable subsidy from the taxpayer to those in housing need, who include a disproportionate number of vulnerable citizens. Such an injection of taxpayer support to the social housing sector would enable more to be done to improve the conditions and prospects of one of society's more vulnerable and disadvantaged groups.

The council's response to the consultation is hampered by the regrettable omission from the proposals of clarity over the future of council housing rents. Although the research undertaken is commendably thorough, the impact of future rent levels on the business plans and calculations that underlie these proposals is so large that the uncertainty of assumptions on rents constitutes a significant barrier to the council being assured of the viability of the proposals as a whole. The council would therefore urge that the government, through the TSA, develop and consult upon firm proposals for the long term future of council housing rents as soon as is possible, so that they can be considered alongside further development of the current proposals.

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The council is disappointed by the omission of specific proposals for the future funding of Aids & Adaptations in council housing. Since these are excluded from the calculation of maintenance and major repairs allowances, landlord authorities have been obliged to fund them from their own resources – largely from the unpooled portion of RTB receipts. In the current economic climate, and for the foreseeable future, the level of resource available will fall far short of meeting this investment need. A funding stream at least equal to the Disabled Facility Grant available for non-council housing is desperately needed.

The council would welcome early implementation (subject to further consultation on details as indicated below) of the proposals, since this would minimise levels of debt taken on by landlord authorities and accelerate the delivery of benefits to tenants.

Comments on the individual questions raised in the consultation are set out below.

1. We propose that the HRA ring fence should continue and, if anything, be strengthened. Do you agree with the principles for the operation of the ringfence set out?

2. Are there any particular ambiguities or detailed concerns about the consequences?

- *New definition of core and core-plus to be based on TSA regulation?*
- *Non-core and core-plus costs moved to GF may not be affordable at current levels*
- *Update of Circular 8/95 being drafted, ought to be released for consultation asap. Implemented as Circular or primary/secondary legislation?*

The council welcomes the long-overdue review of the government's guidance on the operation of the ringfence, and supports the continuation of the ringfence so that tenants' rents are fully available to support the management and maintenance of their homes.

Developments in housing services and investment plans since 1995 have limited the usefulness of the existing guidance, and more up-to-date advice would be welcomed by both councils and tenants.

Definitive guidance on “core”, “core plus” and “non core” activities and costs would help councils to demonstrate better to tenants that their rents are being properly managed and invested in council housing, and linkage to the standards and regulation of the TSA would add to this clarity and transparency.

The council considers that the update should be discursive rather than prescriptive in content, so that local decisions can be measured against the standards set out therein rather than constrained by them.

The status of the guidance as being the government's view of the interpretation of statute may have to some extent hampered the consistency with which the principle of the ringfence has been applied across council housing. The council would welcome consideration by the government of bringing the update into the statutory fold, either by Statutory Instrument or through regulations issued under by the Secretary of State under power of a new Act.

The council would particularly welcome an early consultative draft of the government's proposals on the content of updated guidance, since this initiative could be progressed independently of the outcome of the reform of Housing Subsidy.

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3. We propose funding the ongoing maintenance of lifts and common parts in addition to the Decent Homes Standard. Are there any particular issues about committing this additional funding for lifts and common parts, in particular around funding any backlog through capital grant and the ongoing maintenance through the HRA system (as reformed)?

- *The proposals do not suggest any methodology for the distribution of capital grants (the 19% MRA backlog) – could be by need based on Stock Condition Survey data (inconsistent across Landlord authorities?) or a bidding process.*
- *Capital Grants would be in CLG annual budget so vulnerable to spending constraints*
- *Higher debt levels (to fund capital grants) would mean higher LA borrowing, increasing peak debt levels and reducing viability of HRAs.*
- *Landlord authorities spend 5% more than M&M allowances; because of core-plus and non-core costs? Funded from charges and debt subsidy savings?*
- *Proposal for 24% increase in MRA allowance funds newly arising need but omits 19% outstanding backlog. But research shows 60% needed to fully match DH*
- *BUT we have a £200m funding gap based on Stock Conditions Survey (SCS), and should get more through an SCS-based distribution than through formula share.*

The Council welcomes the government's acknowledgement of the shortfall in resources for the maintenance of the housing stock, and particularly the intention inherent in the consultation to begin to address the funding of this deficit.

The proposal that the backlog is funded through capital grants would ensure that councils such as Norwich, with a very sizeable investment need, are supported towards reaching financial viability for their HRA, and are placed on a more even footing with those landlord authorities without such needs. This would increase equality between council tenants nationally.

Distribution of capital grant on the basis of Stock Condition Survey data could be managed through the preparation and submission of data to a consistent and validated standard, based on councils' existing local SCS data.

In addition, the current budget for Supported Capital Expenditure should be reallocated to support investment needs identified through the standardised SCS data.

Although capital grants could be allocated through a bidding process, there would be undesirable time and cost consequences. Additionally, a bidding process might favour those authorities with the capacity to develop and support a dedicated resource for the submission of bids, rather than those authorities with genuine need.

In summary, the council would be supportive of the funding of backlog investment through capital grants allocated on the basis of standardised Stock Condition Surveys.

4. Is this the right direction of travel on standards and do you think the funding mechanisms will work or can you recommend other mechanisms that would be neutral to Government expenditure?

The council welcomes the government's intention to continue to promote improvements in standards of services and maintenance in council housing, and looks forward to further consultation with landlord authorities and their tenants around proposals for the introduction of a range of higher quality thresholds for both existing and new stock.

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In particular, the views of tenants on the nature and extent of “core”, “core plus” and “non-core” services should be further explored, as part of the consultation on updating Circular 8/95 and in partnership with the TSA.

Individual landlords’ ability to resource improvements in these areas would depend on the availability of capacity within their self-financed HRAs, and this capacity will be maximised by fully funding M&M and MRA allowances in the debt settlement.

The council will continue, by itself and through partnerships with other public sector and private bodies, to invest in energy efficiency in the council housing stock. The acceptability to tenants of recovering the investment from tenants’ savings on fuel would need to be more fully consulted upon and tested; the council considers that where the environmental and/or economic benefits of investment accrue to the population at large, the investment should not necessarily be met from tenants’ funds.

5. We propose allowing local authorities to set up sinking funds for works to leaseholders’ stock and amending HRA rules to permit this. Will there be any barriers to local authorities taking this up voluntarily, or would we need to place an obligation on local authority landlords?

- *Leaseholder sinking funds would mean many different funds (block, estate, whole LA) and hamper funding major works from mortgage debt.*
- *Little demand from leaseholders*
- *Debate over whether current powers already allow sinking funds*
- *Section 125 notices and Section 20 consultation adequate for leaseholders’ financial planning?*
- *Local choices – clarity over powers would be welcome. Could be mandatory subject to leaseholder demand (50% threshold?)*

There seems currently to be a lack of clarity over whether leaseholders’ sinking funds are allowable under statutory powers and/or through the terms of individual leases. The council does not currently operate any sinking funds, and is not aware of any demand from its own leaseholders for sinking funds to be operated.

The council’s opinion is that the notices under Section 125 and the statutory consultation under Section 20 provide adequate information on planned investments for leaseholders to be able to consider and make financial arrangements relevant to their own financial circumstances, supported by advice from the council and other parties where appropriate and requested.

The operation of sinking funds would be administratively complex, since each leaseholder might need to participate in separate funds for works to individual blocks, estates, and/or larger stock aggregations – depending on the pool over which the costs of works would need to be recovered. The cost of this additional administration would inevitably fall on leaseholders.

Leaseholders often finance the costs apportioned to them for major works through increased mortgage debt, and funders have in the past accepted that the benefit of capital works provides any additional security that they require for additional borrowing. If the operation of a sinking fund results in this capital cost being spread over annual charges, there is a possibility that funders will be less inclined to provide finance – this measure could therefore constrain the ability of leaseholders to manage their finances.

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Although it would seem equitable that the council would allocate interest to the sinking funds, leaseholders would be being precluded from making their own arrangements to save for major repair bills, and would not therefore be able to make their own decisions on the savings arrangements most advantageous to their individual circumstances.

The council does not have object in principle to the operation of sinking funds for leaseholders, and would welcome clarification of the powers available to do so. However, the council considers that the operation of sinking funds should be at leaseholders' discretion, so that (for example) a sinking fund would only be mandatory if 50%+ of leaseholders in the relevant "pool" expressed the wish for such a fund to operate.

6. We propose calculating opening debt in accordance with the principles set out ... What circumstances could lead to this level of debt not being supportable from the landlord business at the national level?

- *Debt transfer will need to be an allocation of debt requirement, rather than redistribution of existing debt.*
- *Debt allocation needs to be against a base of HRA SCFR not HRA CFR to avoid wiping out savings on debt charges included in revenue budgets.*
- *10% M&M increase & 43% MRA funding produces total TMVs most consistent with level of existing debt, so no capital grants needed/affordable.*
- *10% M&M increase would match RSL M&M spend levels nationally.*
- *TMV needs to be based on "real cashflows" excluding future inflation, as "nominal cashflow" would produce higher values and so higher borrowing.*

The council agrees, in principle, with the allocation of HRA debt in line with the present value of cashflows, i.e., according to the Tenanted Market Value (TMV) over a 30-year term. The calculation of this TMV needs, in the council's view, to take account of the various factors set out below, as well as the view expressed above that the settlement should include some contribution in funding from general taxation.

The council's view is that the calculation should exclude the current level of HRA debt, so that current revenue cashflows from low levels of actual debt are not subsumed into the TMV and that prudential borrowing representing council's local decisions is not funded nationally.

Management & Maintenance allowances in the calculation should be based on an increase of at least 10%, so that landlord services are funded at the level currently afforded by RSLs. This will enable the continuation of many "core-plus" services that might otherwise be at risk. The Major Repairs Allowance in the calculation should be based on an increase of at least 43%, made up of funding for backlogs and newly arising need. The combination of these two increases would be consistent with existing levels of HRA debt.

The TMV calculation should be based on real costs without inflation, since the notional cashflow would significantly increase landlord authorities' opening debt allocations.

In general, the council would support mechanisms and assumptions that would calculate the lowest initial debt levels for landlord authorities, since lower initial debt leads to lower peak debt and stronger HRA business plans. Timing of the settlement is also a critical issue, since an early settlement date also works to reduce debt levels.

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7. Are there particular circumstances that could affect this conclusion about the broad level of debt at the district level?

- *We may not get the full 5% increase in M&M if differential allocation is used to allow for higher current spending in London*

The council's views on the impact of the distribution of increased MRA allowances are given in the response to Q3 above.

The council considers that the updated construction of the allowances should adequately reflect the needs of the different stock profiles held by the varying categories of landlord authorities, and that therefore no further adjustment should be required. If other respondents consider there to be sufficiently particular circumstances to require differential allocation of increases in M&M between landlord authorities, this should be the subject of further consultation.

Reservations about bidding processes expressed in the response to Q3 above would apply equally to the allocation of increases in M&M allowances.

8. We identified premia for repayment and market debt as issues that would need to be potentially adjusted for in opening debt. How would these technical issues need to be reflected in the opening debt? Are there any others? Are there other ways that these issues could be addressed?

- *Debt transfer will involve paying off old loans and taking out new; possibly large premiums payable on early redemptions (though self-financing if all through PWLB debt). If not funded by government (as in LSVTs) then would be additional cost to HRAs – increased debt.*
- *Absence of MRP for HRA debt should continue for Landlord authorities to have choices over repayment/reinvestment of revenue surpluses ... or finance for HRA new build.*

Reallocation of debt will involve both the paying off of old debt and taking out new debt. If the old debt to be redeemed is PWLB debt, then any premiums payable would be self-financing within PWLB and need not therefore be accounted as a cost to council housing.

The council's view is that any transaction costs should be either contained within PWLB or alternatively met from central government funds, as in the case of debt redeemed in Large Scale Voluntary Transfers. If transaction costs are attributed to landlord authorities, they will inevitably add to the debt and therefore both reduce capacity to fund services and investment, and result in higher peak borrowing and hence impaired viability for HRAs.

9. We propose that a mechanism similar to the Item 8 determination that allows interest for service borrowing to be paid from the HRA to the general fund should continue to be the mechanism for supporting interest payments. Are there any technical issues with this?

- *Since the research identifies a 19%+ shortfall in MRA, it will no longer be suitable as a proxy for depreciation – we will need to identify another measure.*

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- *No funding for MRR – SORP changes? So “real” depreciation?*
- *HRA debt could be earmarked (separate debt pools) to produce separate interest rates. Treasury Management issues? SORP issues?*
- *Interest rate risk on borrowing can be managed by existing practices and by basket of debt periods. Should be quantified in Risk Register (linked to prudent reserve).*
- *Mechanism for taking on new debt needs consultation.*

The council agrees that such a mechanism would be an acceptable resolution. However, the government may wish to give further consideration to the earmarking of HRA debt aside from councils' other debt, enabling a de-coupling of General Fund and Housing interest rates. This would alleviate the need for annual determinations. The implications for treasury management policy and processes would, of course, need more in-depth investigation as part of this consideration and the subsequent consultation.

Other technical issues, such as any impact on depreciation charges and the future of the Major Repairs Reserve, may need to be addressed through CIPFA's Statement of Recommended Practice (SORP). The council's view is that these proposals should be tested to avoid any change in SORP that might lead to a reduction in the availability of resources for services and investment

10. Do you agree the principles over debt levels associated with implementing the original business plan and their link to borrowing?

- *Post-settlement, level of borrowings expected to increase in short term (as backlog tackled) then reduce over 30-year period. Can be flexed year-by-year to match Capital investment profile.*
- *Landlord authorities will need to model borrowing/investment/M&M using BP and SCS to analyse and plan.*
- *Government may wish to keep control over overall borrowing to constrain PSBR – but Landlord authorities may need to borrow more short-term. Main concern predictability? Base on SCS/AMP returns?*
- *Need further consultation on methodology to allow modelling for sensitivities and risk analysis.*
- *Delay in implementation will increase LA debt levels*

The council is aware of the government's need to predict future movements in Public Sector Net Cash Requirement, and the risks to the government's current control of PSNCR that self-financing represents. Allocation of increased MRA allowances to provide for backlog investment will inevitably increase borrowing for investment in the short term.

However, the impact of increased MRA allowance will be to reduce initial debt levels, and the revenue savings from these reduced levels will constrain peak borrowing to a level below that which would occur with a larger initial debt settlement. To a large extent these borrowing levels can be modelled and predicted on both local and national scales. In addition, data from LA's Stock Condition Surveys and Asset Management Plans can be aggregated (irrespective of individual irregularities) to provide additional predictability of borrowing needs.

Landlord authorities will, through their normal financial management regimes, seek to avoid or minimise unplanned borrowing, and will have capacity to repay debt considerably faster with a smaller initial debt allocation.

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Initial and peak debt will also be minimised by an early settlement, since this would reduce the net present value of the cashflows and therefore the debt requirement.

The council would welcome further consultation on the detail of the debt allocation calculation at a later stage, so that additional sensitivity and risk analysis can be carried out at both local and national levels.

11. In addition to the spending associated with the original business plan, what uncommitted income might be generated and how might councils want to use this?

Additional (uncommitted) income to the council's HRA would be used in support of delivering on the objectives for council housing set out in the Corporate Plan, informed by tenant consultation.

In particular, such income might be applied to reduce risks to the viability of the HRA (for example, by redeeming debt), to accelerate the delivery of investment in improvements (especially in energy efficiency), to enhance the quality and range of housing management services, and/or to finance the construction of new council housing.

12. We have set out our general approach to capital receipts. The intention is to enable asset management and replacement of stock lost through Right to Buy. Are there any risks in leaving this resource with landlords (rather than pooling some of it as at present)?

13. Should there be any particular policy about the balance of investment brought about by capital receipts between new supply and existing stock?

14. Are there concerns about central Government giving up receipts which it currently pools to allow their allocation to the areas of greatest need?

- *RTB receipt reform done by amending Capital Financing Regulations, so no need to delay, could be done now. But should be brought into new Act so change irreversible since will form critical part of AMPs and BPs*
- *If 75% RTB receipts follow non-RTB, could all be used for non-Housing – local choices. But HRA would become unsustainable if rent loss not matched by debt interest reduction, so some HRA use should be mandated (how?).*

The council welcomes the proposal to end the pooling of RTB receipts, and would urge the government to bring this into effect through the issue of amended Capital Financing Regulations as soon as possible, and independent of the outcome of the proposals on the reform of Housing Subsidy.

The council considers that similar constraints should be put in place to those on the use of non-RTB receipts, i.e., to reserve their use through Capital Allowances for regeneration and affordable housing purposes. This would allow local choices to be made reflecting the balance of local needs. However, an additional constraint should be implemented to require that the gross receipt should be reduced by the amount required to neutralise the effect of rent loss on the HRA (further consultation on the mechanism for this may be necessary) and the use of this proportion for debt redemption (or equivalent) should be made mandatory.

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Since the government's application of the pooled receipts to date is far from transparent, it is difficult to discern the basis or mechanism on which they may have been allocated to "areas of greatest need". Consequently the council does not feel able to comment on how the loss of the use of these receipts would impact on future funding decisions.

The council considers that since the use of RTB receipts will be key to maintaining the viability of the HRA under self-financing, and to the delivery of improvements to the housing stock, the revised arrangements should be brought into primary legislation in the Act implementing self-financing. This would provide additional certainty to councils in planning and delivering their landlord functions.

15. Would any of our proposed changes have a disproportionate effect on particular groups of people in terms of their gender or gender identity, race, disability, age, sexual orientation, religion or (non-political) belief and human rights?

16. What would be the direction (positive or negative) and scale of these effects and what evidence is there to support this assessment?

17. What would be necessary to assemble the evidence required?

The council does not believe that the proposals would have any disproportionate effect, since all tenants and leaseholders (and groups thereof) would be affected to the same extent as other tenants or leaseholders in their position.

Impact on the council

Financial modelling has been undertaken on the impact of the proposals on the council, assisted by CIH and ARCH, though this has been limited by the early state of development of the detail of some of the proposals.

If M&M allowances increase at 5% and MRA by 24%, the council would anticipate taking on some £120m of additional HRA debt. At an interest rate of 6%, this would result in additional debt charges of £7.2m per annum, compared with 2009/10 negative subsidy of £4.6m, an increase of £2.6m. The proceeds of rent increases accruing to the Council would take about 11 years to meet this increase. The council's HRA would be highly unlikely to be viable over the 30-year planning period on this basis, and there would be very limited ability to finance investment needs.

If M&M allowances increase at 10% and MRA by 43%, the council would anticipate taking on some £80m of additional HRA debt. At an interest rate of 6%, this would result in additional debt charges of £4.8m per annum, compared with 2009/10 negative subsidy of £4.6m, an increase of £0.2m. The proceeds of rent increases accruing to the Council would meet this increase after the first year. In subsequent years, these proceeds would be available to support additional borrowing to finance investment needs, and to redeem debt once backlog and future investment needs have been met. The viability of the HRA would be improved, though probably not to being fully debt-free within the planning period.

The council has a very sizeable investment need (based on a current Stock Condition Survey) which indicates that the HRA is not currently viable beyond the short term. If increases in MRA are allocated on the basis of need, through standardised SCS data, then the council would expect to receive smaller debt allocations, and thereby add to the likelihood of being able to maintain a viable HRA.

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Further modelling, on the basis of more detailed proposals for the allocation of allowances and debt, would enable this likelihood to be better quantified.

The council has also a policy objective to build new council housing, and has a pilot development in progress. While current arrangements will allow new stock to be held outside housing subsidy, the council's flexibility to finance construction of new stock could be enhanced by the wholesale reform proposed.