



Department for
Communities and
Local Government

Giving Tenants Control: Right to Transfer and Right to Manage Regulations

Summary of Responses to Consultation

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Introduction

In line with the wider principle of localism, Government is keen to see more social tenants having more say about who owns their housing stock.

To help deliver more tenant control, a public consultation exercise was carried out by the Department for Communities and Local Government on *Giving Tenants Control: Right to Transfer and Right to Manage Regulations*, published on 15 March 2012.

The consultation sought views on proposals to make it easier for tenants to take the lead locally – either by taking over responsibility for managing housing services, or by exploring options for transfer from their local authority.

The consultation posed seven questions related to the proposed changes set out in the consultation document:

Question 1: Do the Regulations (together with the guidance) meet the objective of being robust, but workable?

Question 2: Do the Regulations (together with the guidance) meet the objective of ensuring that the local authority has a route to halt the process if it has a detrimental impact?

Question 3: Do you agree that we should remove unnecessary requirements for local authorities to notify the Secretary of State of the results of the ballot and to send copies of Tenant Management Organisation agreements to the Secretary of State?

Question 4: Do you agree with our proposal to remove the requirement to prepare a feasibility study whilst retaining the 'offer' upon which tenants will vote?

Question 5: Do you agree with plans to work with the sector to streamline the guidance to help tenants exercise their Right to Manage?

Question 6: Are there other ways in which Government could encourage voluntary or alternative routes to housing management?

Question 7: Could these Regulations lead to any unintended discriminatory impacts?

This summary focuses on the responses received to questions 1 and 2, which specifically covered Right to Transfer as well as question 7 in relation to the Right to Transfer Regulations. Our summary of responses on [Right to Manage regulations](#), published 13 July 2012, covers questions 3-6 and the Right to Manage aspects of question 7.

About the Responses

The closing date for receipt of responses was 23 May 2012.

A total of 56 responses were received within the closing date from a variety of organisations, falling into categories as follows:

	Number of respondents
Local Authorities	32
Tenant Groups	5
Private Registered Providers and Arms Length Management Organisations	7
Representative Bodies	10
Other	2
Total	56

Not all respondents commented on, or responded to, every question raised as part of the consultation exercise.

Additionally, 4 responses were received after the closing date. We have not included them in the number of respondents above. We have, however, read and taken account of these submissions as part of our work in deciding how to respond to the consultation.

Summary of responses to the Right to Transfer consultation

A summary of responses to each question regarding the Right to Transfer proposals and the Government's response are outlined below:

Question 1: Do the Regulations (together with the guidance) meet the objective of being robust, but workable?

There were a wide variety of responses, including helpful suggestions where the regulations could be streamlined, clarified or made more robust.

Some respondents mentioned that there does not need to be an assessment of the competency of the tenant group, as before any transfer takes place the new landlord will need to be assessed by the Homes and Communities Agency in its role as social housing regulator. The Department agreed with this and has removed the assessment of competency.

There were competing views on the minimum number of properties to be transferred, with some respondents arguing that 25 was too high and others that it was low. After consideration, the Government has decided to increase the minimum threshold to at least 100. This seems to us a reasonable compromise which will stop local authorities being inundated with large numbers of small transfer proposals, which are more likely to be non-viable and take up significant amounts of local authority time and resource to support, whilst ensuring that relatively small local communities are able to use these Regulations to explore transfer.

To streamline the start of the process we are also removing any requirement to involve an arbitrator if the proposal notice is rejected by the local authority. We are replacing this with a regulation which will allow tenants groups to seek a determination from the Secretary of State for the process to continue.

We have also made changes to make clear that, when balloting, it is only a majority of the secure and introductory tenants that need to be in favour, not the majority of all tenants. This is consistent with Schedule 3A to the Housing Act 1985.

A number of respondents commented on the need for an agreed valuation on the stock the tenant group wishes to transfer. The Government would expect that the starting point would be the self-financing valuation. There are more details on valuation and where Government might provide support for debt write-off included in the Transfer Manual that Government is currently consulting on.

Question 2: Do the Regulations (together with the guidance) meet the objective of ensuring that the local authority has a route to halt the process if it has a detrimental impact?

Again there were a variety of responses on the determination process. However there was a common view that we needed to clarify whether a determination to halt the process can be sought from the Secretary of State if it impacts on the wider regeneration of the area. We are altering the regulations to make it clear that a determination can be sought on grounds of the impact on regeneration of the area.

There were also comments that we needed to be more specific on what level of evidence would be required and, within the wider definition of detrimental effect, what would be the specific criteria the Secretary of State would use to make his decision. We have amended the guidance to give some further advice, but not in such a way as could fetter the Secretary of State's discretion.

Question 7: Could these Regulations lead to any unintended discriminatory impacts?

There was widespread support for ensuring that in delivering their responsibilities under these regulations all parties would need to make sure that people from vulnerable or under-represented groups would not be unintentionally discriminated against.

Next Steps

When we initially published Giving Tenants Control we referred to bringing forward a programme of transfer in April 2012¹. Following publication of this consultation the Department decided that a more root and branch look at how stock transfer would operate would be needed than was originally envisaged. We have taken this forward through the development of a new 'Transfer Manual'.

We needed to look at Right to Transfer in the context of the Government's wider policy on stock transfer, and we are now taking forward both together. Tenant groups considering transfer using the Right to Transfer Regulations should also refer to the draft Transfer Manual published alongside this document in order to understand the full process for taking a transfer forward.

We intend to lay the Regulations before Parliament in the Autumn when we publish the final version of Transfer Manual following consultation. We intend to publish the final statutory guidance on Right to Transfer at the same time.

¹ "DCLG will bring forward proposals in April for a programme of transfer, clarifying the level of financial support (through writing off housing debt) and the criteria to be applied in prioritising such support." (Giving Tenants Control, paragraph 3, page 5)

2013 No. XXXX

HOUSING, ENGLAND

The Housing (Right to Transfer from a Local Authority Landlord) (England) Regulations 2013

Made - - - - - ***
Laid before Parliament ***
Coming into force - - - ***

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The Secretary of State, in exercise of the powers conferred by section 34A of the Housing Act 1985⁽¹⁾, makes the following Regulations:

PART 1

General Provisions

Citation, commencement and application

1.—a) These Regulations may be cited as the Housing (Right to Transfer from a Local Authority Landlord)(England) Regulations 2013.

(1) These Regulations shall come into force on XXXX and apply in relation to England only.

⁽¹⁾ 1985 c.68.

Interpretation

2. In these Regulations—

“authority” means the local housing authority on which a proposal notice is served;

“house”⁽²⁾ includes—

- (a) part of a house;
- (b) land let together with a house; and
- (c) land held for a purpose related to a house;

“interested parties” means—

- (d) any organisation which has entered into a management agreement with the authority under section 27 of the Housing Act 1985⁽³⁾ which relates to the houses specified in a proposal notice; and
- (e) in a case in which the houses specified in the proposal are not located in the area of the authority, the local authority in whose area the houses are located;

“introductory tenant” means a tenant with an introductory tenancy granted under section 124 of the Housing Act 1996⁽⁴⁾;

“PRP” means a private registered provider of social housing⁽⁵⁾;

“tenant” means a person who holds a secure tenancy (within the meaning of section 79 of the Housing Act 1985), or other tenancy of a house from an authority; and

“tenant group” means a group of persons which meets the conditions contained in regulation 4.

Guidance

3. Authorities must, when complying with the requirements of these Regulations, have regard to any guidance given by the Secretary of State relating to these Regulations.

Tenant Group

4. To be eligible to serve a proposal notice under these Regulations, a tenant group must satisfy the following conditions—

- (a) it has a constitution, available in written form;
- (b) its constitution specifies an area in relation to which the proposal notice will apply;
- (c) its constitution provides that any tenant of a house in that area may become a member of the tenant group;
- (d) at least 20% of the tenants of houses in that area are members of the tenant group;
- (e) at least 20% of the secure tenants of houses in that area are members of the tenant group; and
- (f) the majority of the members of the tenant group must be secure tenants.

Proposal Notice

5.—b) For the purposes of these Regulations, a proposal notice is a notice—

- (a) stating that the tenant group serving the notice wishes the authority on which the notice is served to consider disposing of the houses to which the notice relates to a PRP; and

⁽²⁾ See section 56 of the Housing Act 1985.

⁽³⁾ Section 27 was substituted by the Regulatory Reform (Housing Management Agreements) Order 2003 (S.I. 2003/940).

⁽⁴⁾ 1996 c.52. Section 124 was amended by Schedule 2 to the Housing and Regeneration Act 2008 (Consequential Provisions) Order 2010 (S.I. 2010/866).

⁽⁵⁾ See section 34A(9) of the Housing Act 1985. Section 34A(9) was amended by the Housing and Regeneration Act 2008 (Registration of Local Authorities) Order 2010 (S.I. 2010/844).

(b) complying with paragraphs (2) and (3) of this regulation.

(2) A proposal notice must also—

- (a) state that it is a proposal notice served pursuant to these Regulations;
- (b) contain or be accompanied by evidence that the tenant group meets the conditions set out in regulation 4;
- (c) specify the houses and the area to which it relates;
- (d) provide or be accompanied by evidence that the houses and the area so specified meet the conditions contained in paragraph (3);
- (e) contain evidence that the majority of the members of the tenant group attending a meeting satisfying the conditions set out in paragraph (4), voted to serve the proposal notice;
- (f) state that members of the tenant group are willing to work together with the authority; and
- (g) contain evidence to show that the tenant group has used reasonable endeavours to notify tenants of the houses identified of the following—
 - (i) the intention to serve the proposal notice; and
 - (ii) the effect of the notice.

(3) The houses and area identified in the proposal notice must satisfy the following conditions—

- (a) the houses must be owned by the same authority;
- (b) at least 100 of the houses must be let under secure tenancies; and
- (c) the houses must form a geographically coherent area.

(4) Where a tenant group convenes a meeting for the purpose of deciding upon whether to serve a proposal notice, that meeting must satisfy the following conditions—

- (a) reasonable notice must be given to all members of the tenant group of the time and place of the meeting;
- (b) the notice of the meeting must explain that a vote upon whether to serve a proposal notice will take place; and
- (c) all members of the tenant group must be entitled to vote.

Agreement for extension of time

6. Where any person is required or authorised to exercise any function under Parts 2 to 4 of these Regulations within a specified period, the authority and the tenant group may by agreement before the expiry of that period, extend the period by a further specified period.

Written communications

7. Any requirement under these Regulations to make, prepare, provide or send a notice, proposal, report, request or other communication, is a requirement to do so in writing.

Appointment of an arbitrator

8.—c) Where the authority or tenant group may refer a matter to an arbitrator under any provision of these Regulations, the appointment of the arbitrator is to be agreed between them or, in default of agreement, appointed by the Secretary of State; and

(1) The authority and the tenant group must comply with the decision of an arbitrator appointed under these Regulations.

Determination by the Secretary of State

9. Where the authority or tenant group apply to the Secretary of State for a determination, the procedure to be followed is contained in Part 5 of these Regulations.

PART 2

Initial Stage

Service of proposal notice

10. Where the tenant group serve a proposal notice on the authority, the authority must, within 28 days of receipt of the notice—

- (a) reply to the tenant group acknowledging receipt of the notice and stating—
 - (i) that the proposal notice is accepted;
 - (ii) that the proposal notice is rejected and, if so, set out the grounds for rejection; or
 - (iii) that a request for a determination will be lodged with the Secretary of State within 21 days; and
- (b) send a copy of the reply sent to the tenant group under paragraph (1)(a) to any interested parties.

(2) Where the authority does not acknowledge receipt of the proposal notice in accordance with paragraph (1)(a), the authority is deemed to have accepted the proposal notice.

Acceptance of the proposal notice

11. Where the proposal notice is accepted, the authority must proceed to the feasibility study stage for which provision is made by Part 3 of these Regulations.

Rejection of the proposal notice

12.—d) The authority may reject the proposal notice on either of the following grounds—

- (a) at least half of the houses specified in the notice were the subject of a previous proposal notice served within the two years preceding the date on which the current notice was received; or
- (b) the notice does not meet one or more of the conditions contained in regulation 5.

(2) Where a proposal is rejected, the tenant group may apply to the Secretary of State, within 21 days of receipt of the authority's acknowledgement of receipt of the proposal notice, to determine whether the proposal notice should be accepted by the authority.

Authority's request to the Secretary of State for a determination

13. At any time after the service of the proposal notice, the authority may request the Secretary of State to determine whether the proposed transfer of houses to a PRP set out in the proposal notice will have a significant detrimental effect on the provision of housing services in the area of the authority or the regeneration of the area.

PART 3

Feasibility Study Stage

Feasibility study

14.—e) Where—

- (a) the authority has accepted a proposal notice under regulation 10;
- (b) the Secretary of State has determined that the proposal notice should be accepted under regulation 12(2) or regulation 13; or
- (c) the authority has not lodged an application with the Secretary of State for a determination under regulation 13 within 21 days of receipt of the acknowledgement of service by the tenant group

the tenant group may proceed to prepare a feasibility study.

(2) The feasibility study must set out—

- (a) confirmation that the houses and area to which the feasibility study relates are those specified in the proposal notice;
- (b) the possible options for the disposal of the houses and area specified in the proposal notice to a PRP (in particular whether to an existing PRP or a new PRP); and
- (c) the feasibility of each option.

Duties of the authority – feasibility study stage

15.—f) The authority must—

- (a) agree a timetable and reasonable changes to any agreed timetable for the completion of the feasibility study with the tenant group;
- (b) provide reasonable facilities to enable the tenant group to carry out the feasibility study; and
- (c) provide sufficient information to enable the tenant group to complete the feasibility study.

(2) Where, in the view of the tenant group, the authority—

- (a) does not agree a timetable or changes to an agreed timetable in a reasonable period;
- (b) provides insufficient facilities or refuses to provide reasonable facilities; or
- (c) provides insufficient information or fails to provide sufficient information

contrary to paragraph (1), the tenant group may refer the matter to an arbitrator.

(3) Where the matter is referred to an arbitrator, the timetable is suspended until the decision of the arbitrator is notified to the authority and the tenant group.

Feasibility study statement

16.—g) On the completion of the feasibility study, the tenant group must send a statement of that fact (“a feasibility study statement”) to the authority.

(1) The notice under paragraph (1) must also be accompanied by—

- (a) confirmation that it is a statement given under this regulation;
- (b) a copy of the feasibility study;
- (c) a record of the tenant group’s decision regarding the disposal of the houses;
- (d) evidence that the majority of the members of the tenant group attending a meeting, satisfying the conditions set out in paragraph (3) voted in favour of the decision;
- (e) a statement that the tenant group are of the view that the majority of tenants of the houses identified in the feasibility study do not oppose the decision to dispose of the houses to a PRP, where this is the decision of the tenant group; and
- (f) the evidence on which the view of the tenant group referred to in sub-paragraph (e) is based.

(2) Any meeting of the tenant group convened to make the decision regarding the disposal of the houses must meet the following conditions—

- (a) reasonable notice must be given to all members of the tenant group of the time and place of the meeting;
- (b) the notice of the meeting must explain that a vote will be taken upon whether to proceed with the disposal of the houses set out in the proposal notice; and
- (c) all members of the tenant group must be entitled to vote.

(3) Within 28 days of receipt of the feasibility study statement, the authority must acknowledge receipt and state whether—

- (a) the feasibility study statement is accepted;
- (b) the feasibility study statement is rejected and set out the grounds for rejection; or
- (c) a request for a determination will be lodged with the Secretary of State within 21 days.

(4) Where the authority does not acknowledge receipt of the feasibility study statement in accordance with paragraph (4), the authority is deemed to have accepted the statement.

Rejection of the feasibility study statement

17.—h) The authority may reject the feasibility study statement on the grounds that it does not meet one or more of the conditions in regulation 16(2).

(1) Where the feasibility study is rejected, the tenant group may, within 21 days of receipt of the authority's acknowledgement of receipt of the feasibility study statement, refer the matter to an arbitrator.

PART 4

Development Stage

Duties of the authority – development stage

18.—i) The authority must carry out the functions set out in paragraph (2) in any of the following cases, namely where—

- (a) the authority has accepted the feasibility study notice and the decision of the tenant group is to proceed with an option or options for the disposal to a PRP of the houses identified in the feasibility study notice;
- (b) the arbitrator has decided that there are no grounds for the authority to reject the feasibility study statement;
- (c) there has been a determination by the Secretary of State that the disposal of the houses specified in the proposal notice to a PRP will not have a significant detrimental effect on the provision of housing services in the area of the authority or the regeneration of an area; or
- (d) the authority has not applied to the Secretary of State for a determination under regulation 13 within 21 days of the authority's acknowledgement of receipt of the feasibility study notice.

(2) The authority must—

- (a) agree a timetable with the tenant group providing for the matters set out in regulation 19; and
- (b) continue to provide reasonable facilities and sufficient information to enable the tenant group to develop the option or options for the disposal of the houses to a PRP.

Content of the timetable

19. The timetable agreed in paragraph (2)(a) of regulation 18 must provide for—

- (a) the development of the option or options for the disposal of the houses to a PRP contained in the feasibility study with a view to the tenant group deciding which option to take forward as a proposal; and
- (b) where the tenant group wish to take forward a proposal for the disposal of the houses to a PRP, the time by which the authority must seek the Secretary of State's consent under section 32 or 43 of the Housing Act 1985 (general requirement for consent for disposal of houses or land held for housing purposes).

Failure to agree a timetable

20. The tenant group may refer the matter to an arbitrator where the authority—

- (a) fails to agree a timetable or unreasonably delays agreeing a timetable pursuant to paragraph (2)(a) of regulation 18; or
- (b) fails to or unreasonably refuses to provide facilities and information to the tenant group pursuant to paragraph (2)(b) of regulation 18.

Consultation with tenants

21. The authority must serve a notice upon all the tenants of houses contained in the feasibility study notice informing them of the following—

- (a) the proposal selected by the tenant group including the identity of the PRP to whom the disposal is to be made;

- (b) the likely consequences of a disposal for the tenant;
- (c) the effect of the provisions of this regulation, regulation 22 and Schedule 3A to the Housing Act 1985;
- (d) in the case of a secure tenant, the effect of sections 171A to 171H of the Housing Act 1985⁽⁶⁾ (preservation of right to buy on disposal to private sector landlord); and
- (e) details of such reasonable period as is specified in the notice during which a tenant may make representations about the proposed disposal to the authority.

(2) The authority must also serve a copy of the notice served under paragraph (1) on any interested parties.

(3) Subject to paragraph (4), the authority must—

- (a) consider with the tenant group any representations made by tenants and interested parties within the period stated in the notice; and
- (b) where the tenant group agrees, serve a further written notice on the tenants containing—
 - (i) details of any significant changes to the proposal;
 - (ii) a statement that the tenant may within such period as is specified in the notice (which must not be less than 28 days) communicate any objection to the proposal to the Secretary of State; and
 - (iii) information about the effect of regulation 22 (seeking consent of the Secretary of State) and paragraph 5 of Schedule 3A to the Housing Act 1985 (consent to be withheld if the majority of secure tenants and introductory tenants are opposed).

(4) Where the tenant group notifies the authority within 14 days of the end of the period specified in the notice served under paragraph (1) that it does not want to proceed with the proposal, the authority is not required to serve a further written notice under paragraph (3).

(5) Where—

- (a) the tenant group wishes to proceed with the proposal; and
- (b) the authority consider it appropriate to proceed with the proposal;

the authority must arrange a ballot of secure tenants and introductory tenants to establish whether or not the secure and introductory tenants wish for the disposal of the houses and land to the specified PRP to proceed.

(6) After the ballot has been held, the authority must notify each tenant (whether or not the tenant voted) and any interested party of—

- (a) the outcome of the ballot;
- (b) whether the consent of the Secretary of State to the disposal of the houses and land pursuant to regulation 22 will be sought by the authority; and
- (c) where the consent of the Secretary of State is to be sought, the fact that the tenant may within such period as is specified in the notice (which must not be less than 28 days) communicate any objection to the proposal to the Secretary of State .

(7) The tenant group may refer the matter to an arbitrator where—

- (a) the authority and the tenant group fail to agree to serve a further notice under paragraph (3)(b); or
- (b) the authority does not consider it appropriate to arrange a ballot under paragraph (5)(b).

⁽⁶⁾ Sections 171A to 171H were inserted by the Housing and Planning Act 1986 (c.63) section 8(1) and (3) and modified by S.I. 1993/2240 article 3 Schedule paragraph 55, S.I. 1993/2241 regulation 2, Schedule 1 and other statutory instruments not relevant to this instrument. Section 171B was also amended by the Anti-social Behaviour Act 2003 (c. 38) section 14(5) Schedule 1 paragraph 2(1) and (3); the Housing Act 1988 (c.50) section 127(1); the Housing Act 1996 (c.52) section 222, Schedule 18 paragraph 26(1); the Family Law Act 1996 (c. 27) section 66(1), Schedule 8 paragraphs 34 and 56 and the Civil Partnership Act 2004 (c. 33) section 81, Schedule 8 paragraph 31. Sections 171C and 171H were also amended by the Housing Act 1988 section 127(2) and (3) and the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28) section 187(2) Schedule 22. Section 171H was also amended by the Housing Act 1988 section 140 Schedule 17 Part 1 paragraph 42.

Seeking consent of the Secretary of State

22.— Where the result of the ballot held pursuant to paragraph (5) of regulation 21 indicates—

- (a) the majority of secure tenants and introductory tenants wish the proposal to proceed; and
- (b) the tenant group wishes to proceed,

the authority must seek the consent of the Secretary of State under sections 32 or 43 of the Housing Act 1985 for the disposal of the houses and land to the PRP set out in the proposal.

(2) Where the authority must seek consent under paragraph (1), the authority may make representations to the Secretary of State as to whether consent should be granted.

Transfer of the Housing and Land

23. Where the Secretary of State grants consent under sections 32 or 43 of the Housing Act 1985 to the disposal of the houses and land to the PRP set out in the proposal, the authority must enter into an agreement to dispose of the houses and land to the PRP.

PART 5

Determination by the Secretary of State

Interpretation

24. In this part—

“applicant means—

- (a) the authority, where the authority applies for the determination; or
- (b) the tenant group, where the tenant group applies for the determination; and

“respondent” means—

- (a) the authority, where the tenant group is the applicant; or
- (b) the tenant group, where the authority is the applicant.

Procedure

25.— The applicant must send to the Secretary of State—

- (a) a notice (“a determination notice”) stating that the applicant is seeking a determination under these Regulations;
- (b) any evidence relating to the determination that the applicant wishes the Secretary of State to take into consideration; and
- (c) a copy of the proposal notice and feasibility study notice (where applicable).

(2) The authority must send copies of the documents set out in paragraph (1) to the respondent and any interested parties.

(3) The respondent and interested parties—

- (a) must indicate to the Secretary of State and the applicant, within 7 days of receipt of the determination notice, whether they wish to respond to the determination notice; and
- (b) where they have indicated that they wish to respond, must submit their response within 28 days of the receipt by them of a copy of the determination notice, to the Secretary of State, the applicant and any interested parties.

(4) Where the respondent or an interested party has submitted a response to the determination notice pursuant to paragraph (3), the applicant and any other interested party—

- (a) must indicate to the Secretary of State, the respondent and any interested party, within 7 days of receipt of the response, whether it wishes to submit further evidence; and

- (b) if it does so indicate, must submit that further evidence within 28 days of receipt of the response, to the Secretary of State, the respondent and any interested parties.

(5) Notification of the determination of the Secretary of State must be sent to the authority, tenant group and interested parties.

Signed by authority of the Secretary of State for Communities and Local Government

name

Minister of State

Date

Department for Communities and Local Government

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which are made under section 34A of the Housing Act 1985, set out the procedure to be followed here a tenant group wishes to serve a notice on an authority proposing that the authority should dispose of particular land used for housing purposes under Part 2 of the Housing Act 1985 to a registered provider of social housing. The Regulations impose requirements on the authority to co-operate where a notice is served pursuant to these Regulations.

The Regulations apply to England only.

The Regulations are divided into 6 parts.

Part 1 provides general provisions for:

- (a) Secretary of State guidance relating to these Regulations (regulation 3);
- (b) conditions that the tenant group must satisfy (regulation 4) ;
- (c) content of the proposal notice (regulation 5);
- (d) extension of time (regulation 6);
- (e) written communications (regulation 7);
- (f) appointment of an arbitrator (regulation 8); and
- (g) determination by the Secretary of State (regulation 9).

Part 2 is the initiating the process stage and provides for:

- (a) service of the proposal notice (regulation 10);
- (b) acceptance of the proposal notice (regulation 11);
- (c) rejection of the proposal notice (regulation 12); and
- (d) request for a determination by the Secretary of State (regulation 13).

Part 3 is the feasibility study stage and provides for:

- (a) a feasibility study (regulation 14);
- (b) the duties of the authority (regulation 15);
- (c) the content of the feasibility study statement (regulation 16); and
- (d) the grounds on which an authority may reject a feasibility study statement (regulation 17).

Part 4 is the development stage and provides for:

- (a) the duties of the authority (regulation 18);
- (b) the timetable to take forward an proposal (regulation 19);
- (c) procedure on the failure to agree a timetable (regulation 20);
- (d) consultation with tenants (regulation 21); and
- (e) Secretary of State consent (regulation 22).

Part 5 provides for the procedure to be followed on an application to the Secretary of State for a determination.

STATUTORY GUIDANCE

THE HOUSING (RIGHT TO TRANSFER FROM A LOCAL AUTHORITY LANDLORD) (ENGLAND) REGULATIONS 2013

Statutory guidance to English local authorities and groups of their tenants on exercising their powers under, and meeting the requirements of, the Housing (Right to Transfer from a Local Authority Landlord) (England) Regulations 2013

Introduction

1. These Regulations compel local authorities to co-operate with a group of its tenants who wish to explore the benefits of a change of landlord. Where a transfer proves to be the favoured and viable option the Regulations compel the local authority to commence the process of transferring ownership of those homes to a private registered provider of social housing.
2. Any such transfer proposal is still subject to existing legislation on stock transfers: that is, the transfer cannot go ahead unless a majority of secure and introductory tenants of the homes in question vote in favour in a ballot organised by the local authority and the Secretary of State has granted consent. The Regulations also allow the authority to, at any time, request the Secretary of State to halt the proposal if it would have a significant detrimental effect on the authority's ability to deliver its housing services or regeneration within the local area.
3. Section 34A of the Housing Act 1985 provides powers to the appropriate person (which in England is the Secretary of State) to make Regulations for imposing requirements on a local housing authority in any case where a tenant group serves written notice on the authority proposing that the authority should dispose of particular land held by them for the purposes of Part II of the Housing Act 1985, or a particular description of such land, to a relevant housing provider (which, again in England, is a private registered provider).
4. The Secretary of State has made the Housing (Right to Transfer from a Local Authority Landlord) (England) Regulations 2013 ("the Regulations"). The Regulations include a requirement that any person exercising functions under the Regulations must act in accordance with any guidance or directions given by the Secretary of State. This is such guidance (see regulation 3).
5. Except where specified, when referring in this guidance to "tenants", the term includes secure and introductory tenancies where the landlord is a local authority. It does not include long leaseholders of flats, where the local authority owns the freehold of the block of flats (usually where the tenant has exercised the right to buy a flat). The term "house" refers to all accommodation including flats and bedsits.

The Regulations

Regulation 4 - The tenant group

6. The tenant group must meet certain criteria before it can serve notice on its local authority: i.e. before it can use these Regulations to compel its local authority landlord to co-operate.
7. These Regulations are primarily concerned with empowering local authority tenants who hold secure tenancies. It is a condition therefore that such tenants form the majority of the group. Even though they will not have a formal role other residents or property owners (most notably leaseholders) will often want to be involved and be members of the group. Whilst their participation is important, the group must be clearly led by secure tenants.
8. It is also important the tenant group can demonstrate that it has a level of local support. The legislation therefore makes clear that both 20% of the secure and 20% of all tenants (including, in this case, leaseholders) of the houses situated in the area affected by the proposal are members of the tenant group. To prevent the proposals failing at later stages due to lack of support from affected tenants it is in the best interests of all that as many tenants as possible are members and involved in the discussions.

Regulation 5 - The proposal notice

9. The proposal notice must include certain details and evidence, otherwise the local authority can refuse to accept it.
10. The group will have to provide evidence that it meets the criteria in Regulation 4 around membership of the tenant group. This need be simply a copy of the group's constitution plus a list of members and their tenancy status. The constitution should also make clear that all members of the group are able to vote. It is important to note that the vote will be by whoever is the tenant, not others who live in the same home (unless the tenancy is a joint tenancy).
11. The group need to provide evidence that reasonable notice was given of the time and place of the meeting at which the attending members supported the serving of the notice – three weeks would normally be adequate notice. This notice will also have needed to be clear that the meeting was to discuss the serving of the proposal notice on the local authority to begin the process of exploring the potential transfer of the housing from local authority ownership. The notice to attend should have also made clear that the proposal notice was going to be voted on at the meeting.
12. In providing evidence to the local authority that the group has met the requirements around the meeting, the group should provide a copy of the notice of the meeting (with the date it was sent out and a confirmation it was sent to all members of the group), a record of the meeting at which the vote to serve was taken, a list of those attending and a confirmation that the meeting was quorate under the group's constitution and a record of the vote. In addition they will need to show that the tenants of all affected

homes have been notified of the meeting. It must have been made clear that the meeting is to discuss transferring from local authority control and the outcome of the process may be a change of landlord.

13. The tenant group can serve notice only if it wishes to explore the benefits of a change of ownership and this should be clear in the proposal notice. The group cannot compel its local authority to co-operate if it wishes to explore changes of management that do not require a change of ownership. Where this is the case, the tenant group may wish to consider powers available to it under the Housing (Right to Manage) (England) Regulations 2012.
14. The tenant group and local authority must be mindful at all times that the proposal could affect tenants who are not members of the group. They should pay particular attention to those tenants for whom English is not their first language and other groups, such as disabled people who may have problems accessing meetings and information (for example information displayed on local notice boards). The group will want to provide evidence that they have kept such people informed of its plans and they have not been unintentionally discriminated against by finding it difficult to attend or participate in meetings of the tenant group.
15. The Regulations require that the homes in question form a “geographically coherent” area. That is, the homes in question must represent as a whole something clearly recognisable as a single locality; for example, a block of flats or a single street. We wish to avoid proposals coming forward that include properties spread out over a wide area or are physically separate from one another. At least 100 of the houses must be let under secure tenancies.

Regulation 6 - Agreement for extension of time

16. It is important that the Regulations allow a flexible common-sense approach. Where it is reasonable that a deadline be postponed then the Regulations permit this where both parties agree.

Regulation 8 - Appointment of an arbitrator

17. The Regulations make provision for the appointment of an arbitrator but we would expect parties only to go to arbitration as a last resort and in cases where failure to agree will have substantial implications for either side. Before going to arbitration we would expect both sides to have taken reasonable steps to come to an agreement.
18. All decisions by the arbitrator will be final.
19. The Government will not provide additional funding for arbitration, which will need to be met from existing resources.

Regulation 9 – Determination by the Secretary of State

20. Both the local authority and the tenant group can apply to the Secretary of State for a determination to halt or continue the process. Regulation 13 covers on what grounds the local authority may seek a determination to halt the process and regulation 25

covers the procedure to be followed by local authorities or tenants if they seek a determination.

Regulation 10 - Service of proposal notice

21. The local authority must acknowledge receipt of the notice within at the maximum 28 days, advising the group whether it accepts the notice (see Regulation 11), rejects it (see Regulation 12) or intends seeking a determination by the Secretary of State (see Regulations 13 and 24-25). If the local authority does nothing, it will be regarded as having accepted the notice.

At this, and other points in the process, the local authority needs to inform “interested parties” of the proposal and its progress. Such parties must include:

- the Greater London Authority for authorities within London or the Homes and Communities Agency for authorities outside London;
- any organisation that has entered into an agreement with the local authority to manage any of the homes subject to the proposal (this could be another social landlord, an Arms Length Management Organisation, or a private company); and
- the local authority where the homes are located if this is not the landlord authority (some local authorities own homes outside their administrative boundaries).

Regulation 11 - Acceptance of a proposal notice

22. Acceptance of the proposal notice by the local authority is a requirement before the process moves to the feasibility stage. The default position is that a local authority will accept the proposal notice, unless there is a specific reason under the Regulations which allows them to reject it (see Regulation 12). Acceptance of the proposal notice does not mean that the local authority supports the process of transfer.

Regulation 12 - Rejection of the proposal notice

23. The local authority may reject the proposal notice if it does not meet the requirements of Regulation 5 or if at least half the houses in the proposal were included in a similar proposal within the previous two years. The local authority must make it clear which aspects of Regulation 5 the notice does not meet and Government would encourage the local authority to be helpful in suggesting to the group how the notice might be re-presented to make it acceptable.

24. Where the group believes that the notice meets the requirements and has been wrongly rejected by the authority it can seek, if this cannot be resolved through informal processes, a determination from the Secretary of State for the process to continue.

Regulation 13 - Authority's request to the Secretary of State for a determination

25. Once the proposal has been accepted the local authority can apply at any time for a determination on the grounds that the proposed transfer will have a significant

detrimental effect on the provision of housing services in the area of the authority or regeneration of the area.

Regulation 14 – Feasibility study

26. The process moves to the feasibility study stage where-
- a. the local authority does not acknowledge receipt of the proposal notice setting out that the notice is rejected and reasons for rejection; or
 - b. the authority has not asked the Secretary of State to make a determination that the process be halted within 21 days of receipt of the proposal notice; or
 - c. after the authority has requested a determination, the Secretary of State has decided the process should continue; or
 - d. after the tenants have requested a determination, the Secretary of State has decided that the proposal notice was wrongly rejected by the authority and the process should continue to the feasibility stage; or,
 - e. the local authority accepts the proposal notice.
27. It is the responsibility of the tenant group to prepare the feasibility study. The feasibility study must confirm the houses to be transferred and that these are the same as identified in the proposal notice. They should also make clear what the options are and this should specifically include the option of no change (ie the houses stay with the local authority).
28. The tenant group should then address the feasibility of each option, including the no change option. It is in the best interests of the tenant group at this stage to provide a detailed feasibility case, detailing both the pros and cons. If at this stage the case does not show advantages to tenants or appears to be unviable, it will save time and effort being wasted in later stages and allow tenants to look into other options, which will give them greater control over the properties, short of transfer.
29. There is no specific format for a feasibility study, though it is likely that the main areas to be covered will be the benefits to tenants, affordability and the viability of the transfer (taking into account issues such as the condition of the stock, including future maintenance and repair costs, the level of rental income, leaseholder service charges etc). In order to establish this, tenant groups will need to obtain an estimate of the value of the stock to be transferred from the local authority and consider who the transfer landlord might be.
30. Tenants groups are advised to refer to the Transfer Manual at an early stage to help ensure a successful transfer.

Regulation 15 - Duties of the authority - feasibility study stage

31. The local authority has a duty to provide necessary facilities e.g. meeting rooms, reasonable photocopying / print facilities. The feasibility study stage should work to a timetable agreed with the tenant group.

32. The provision of information must be enough for the tenant group to fully explore the feasibility of transfer. Local authorities will need to ensure they meet the regulatory requirements around providing sufficient information. The information is likely to include the tenancy status of the homes that may be transferred, plus details relating to them such as rent and service level charges for leaseholders and annual maintenance costs. The authority should provide relevant information from stock condition surveys and any future plans it has for redevelopment or use of the land for new housing stock. In addition the local authority should provide data on the amount of housing debt attributed to the properties and the amount that it would need to receive to sell the property without there being a detrimental impact on its wider Housing Revenue Account.
33. In providing information, the local authority must be mindful of the privacy of individual tenants. It should not supply information that is house or occupant specific unless the tenant agrees to them doing so. However, in cases where they cannot provide individualised information they should look at other ways of doing so, eg by removing data which would identify individuals or households or providing it in a format which anonymises the information.
34. The authority should also be mindful of commercial confidentiality, which unlike personal data may be difficult to anonymise. It is likely that this data may be required by tenants (eg details of contract costs with outside maintenance companies) and any consultants they hire. The local authority should ensure that in providing it to the tenants, and the tenants in receiving it, that reasonable steps are taken to prevent disclosure. Deliberate misuse or negligent disclosure by the tenants or their consultants would be regarded as a salient point in any Determination.

Regulation 16 - Feasibility study statement

35. At the conclusion of the study the tenant group must present its decision to the local authority. This decision will be either be:
- a. a statement that the group wishes to take forward the transfer of their homes to an identified new landlord; or,
 - b. a statement that the group wishes to take forward the transfer of their homes to an as yet unidentified new landlord (though they should be clear whether this will be to a newly created landlord or existing PRP); or,
 - c. a statement that a majority of members of the group wish to remain tenants of the local authority.
36. Where a majority of members of the group wish to remain local authority tenants, then the process ends along with any further obligations under these Regulations on either the local authority or the group.
37. Where transfer of ownership remains the favoured option, the group must provide evidence that a majority of all tenants of the homes in question (i.e. not just those who are members of the group) do not oppose the transfer of their homes to another social landlord. This does not need to be evidence that tenants are in favour of transfer; simply evidence that the majority do not object in principle to a change. The tenant group should agree with the local authority at the start of the feasibility study process

how they should evidence that the majority of tenants are not opposed to transfer

38. The tenant group must be very clear in communicating to their neighbours in any properties that would be transferred, that this is the group's proposal and that at this stage it is simply seeking informal views without commitment. The group should invite tenants to express whether they support or oppose transfer, or have no firm views. Most importantly, the group must explain that the process will not continue if the majority object in principle to the notion of transfer and remind people that any transfer would still be subject to a formal ballot later in the process and the Secretary of State's consent.
39. Because there is a formal ballot later in the process we would strongly encourage tenant groups not to use a ballot before the end of the feasibility study stage as a means of demonstrating support. Holding two ballots on different but closely related questions is likely to cause confusion.

Regulation 17 – Rejection of the feasibility study statement

40. The local authority can only reject the feasibility study statement if it fails to contain the information requested under Regulation 16 which is:
- a statement that this is a notice given under these Regulations;
 - the feasibility study itself;
 - a record of the tenants group's decision on the transfer of the houses;
 - that at the meeting to agree the group's decision on the transfer of the houses that the majority of members voted for this decision;
 - a statement that the tenant group are of the view that the majority of tenants do not oppose the decision to transfer the housing; and
 - evidence which supports this statement
41. The local authority cannot reject the feasibility study on the grounds it disagrees with the feasibility study evidence and the outcomes. If it believes the chosen option is unworkable or unfeasible this may be a factor which they would wish to include when making a determination to the Secretary of State.

Regulation 18 - Duties of the authority - development stage

42. If the group's favoured option is transfer and the local authority has not rejected the feasibility study statement, then the local authority must proceed to work with the tenant group on finalising its proposals and, if necessary, progressing to the formal consultation process, - all to a timetable agreed with the tenant group.
43. It is important that the timings set out in the timetable are both reasonable and realistic; whilst a tenant group may wish to move ahead quickly with the proposal they should not underestimate the scope of work involved and how long this will take.
44. Where a landlord to take ownership of the homes has not yet been identified, this should happen as a matter of priority. The tenant group should lead on this, but, as with all actions in the development stage, the local authority should provide reasonable facilities and information as appropriate.

45. The new landlord must be a private registered provider. Whilst it is possible to look to create a new private registered provider to take ownership of the housing, the relatively small amounts of housing likely to be transferred is likely to make this uneconomical in most cases. In all cases the Social Housing Regulator will need to assess the competency and viability of the private registered provider that takes on the stock before the Secretary of State will consent to a transfer.
46. It is the tenant group's interest to start the process of identifying a suitable private registered provider as soon as possible in the process; not least because the providers themselves may wish, as part of the feasibility stage, to satisfy themselves that any transfer fits with their wider business and represents good value for money.
47. To ensure consistency with wider transfer policy, we would expect tenant groups to follow the same process as in the draft transfer manual and to provide a business case to, and seek approval from, the Homes and Communities Agency (HCA) or, in London, the Greater London Authority (GLA) before formal consultation, even if no Government funding for debt write-off is required.
48. It is unlikely the Secretary of State will consent to transfer if this approval has either not been sought or where the HCA/GLA have not approved the business case. It should be noted that the HCA/GLA not approving a business case will not, in itself, stop the process – though it is likely that in practice it will lead either to the tenant group stopping the process or the local authority requesting a determination from the Secretary of State.
49. In addition where Government funding support for debt write-off is sought, Government, as well as HCA or GLA, will need to approve the business case. Government will not provide support for debt write-off for Small Scale Voluntary Transfers (less than 500 homes) but may provide support for debt write-off for tenant led Large Scale Voluntary Transfer (500 homes or more). Where support for debt write-off is required a full business case will need to be submitted and approved and the tenant group should engage at an early stage with the HCA or, in London, the GLA to discuss the process and what is required.
50. Again it is important to note that a decision by the Government not to provide support for debt write-off does not in itself stop the process. This still requires either the tenant group to notify the local authority it no longer wishes to continue or for the local authority to request a determination from the Secretary of State to halt the process. We would expect though, since the transfer is likely to be unviable without Government financial support, the tenant group will end the process or that the local authority will request a determination under Regulation 13 and Part 5 of the Regulations.

Regulation 21 - Consultation of tenants

51. Once the tenant group's business case for transfer has been approved, the local authority is required to formally seek the views of tenants in the affected houses. Regulation 21 mirrors the requirements of Schedule 3A to the 1985 Housing Act, which sets out the need to consult with secure tenants and introductory tenants. Following the requirements of Regulation 21 will satisfy the requirements of Schedule 3A,

paragraph 3(2) to (6), so there should be no need to have a separate ballot to fulfil the requirements in Schedule 3A.

52. In serving a notice under Regulation 21 the local authority should follow the Guidance on meeting the requirements of paragraph 3 to [Schedule 3A to the Housing Act 1985](#). In addition, the local authority may make clear any reasons for opposing the proposed transfer, but it should also include a statement from the tenant group explaining its reasons for pursuing transfer. There could also be evidence available which has been collected and analysed as part of the feasibility study or in the development stage, which may also be utilised in the consultation. The local authority must also explain the ballot process and what a majority vote either way would mean.
53. The Regulation requires the local authority, to the timetable agreed with the tenant group, to serve notice in writing on each tenant (including leaseholders) informing them of:-
- the proposal to transfer properties from the local authority and the identity of the proposed new landlord;
 - the likely consequences of the disposal for the tenant, both positive and negative;
 - that following a ballot, if the majority of secure and introductory tenants wish for a transfer the authority will seek the formal agreement of the Secretary of State to transfer the properties;
 - that in the event of transfer secure tenants will retain their right to buy as under sections 171A-171H of the Housing Act 1985;
 - informing them that they can comment on the proposal to the authority within a specified period of time. When agreeing this period of time (which should be a minimum of twenty-eight days), the authority and tenant group should take account of the fact that some tenants may not have followed previous communications and will need time to understand the proposal and potentially seek advice before responding. Both the authority and tenant group should also be aware that for some tenants English may not be their first language or they may have disabilities which will impact on their ability to give a swift response.
54. Serving this first notice meets the requirement under paragraph 3(2) of Schedule 3A to the Housing Act 1985.
55. Following the end of this consultation there should be a reasonable period before issuing the second notice. During this period the authority should consider any representations made to them within the consultation period with the tenant group.
56. It is possible that the response to this first stage of the consultation will give a very clear indication that a ballot would be highly unlikely to result in a vote in favour of transfer and the worth of such a ballot would be called into question. In such situations the local authority would wish to discuss with the tenant group whether to abandon the proposal. If the local authority and the tenant group fail to agree, a determination may be sought to halt the process.
57. With the agreement of the tenant group, the authority should serve a further written notice on the tenants informing them of any significant changes the tenant group has

decided to make to its proposal. It should also confirm that there will be no transfer if the majority of secure and introductory tenants do not support it. It should also inform them that if they have any objections they can communicate them to the Secretary of State

58. The ballot should normally commence immediately after the issue of this second notice, and the period in which objections may be made to the Secretary of State (which should be at least 28 days) should normally run concurrently with the ballot.
59. Tenants should understand that the ballot relates to the consultation with tenants under Regulation 21 and Schedule 3A to the Housing Act 1985. The Secretary of State will want to know that there is a majority of secure and introductory tenants in support of transfer. Whilst the local authority and tenants may also wish to ballot leaseholders this is not encouraged as it may lead to a situation where a majority of secure and introductory tenants vote one way, but by including leaseholders the majority of people balloted vote for the opposite. In this situation, the Secretary of State is likely to consider the votes of the secure and introductory tenants only, as Schedule 3A provides that the Secretary of State must not give consent to any disposal where the majority of the secure and introductory tenants do not wish the transfer to proceed (see paragraph 5 of Schedule 3A).

Regulation 22 - Seeking consent of the Secretary of State

60. The transfer proposal can move to the next stage (i.e. Secretary of State consent) only if there is a majority of secure and introductory tenants supporting transfer.
61. Where this is the case, the local authority must seek the consent of the Secretary of State to transfer the homes.
62. If this is not the case, the proposal ends; as do any requirements imposed on the local authority by these Regulations, including any requirement to seek the Secretary of State's consent to transfer.
63. The local authority should seek Secretary of State approval as soon as possible after the date of the result. However, it is unlikely that the Secretary of State will give consent until the Social Housing Regulator has agreed that the receiving private registered provider is viable. As this process can take between six to twelve months it is important that the tenants group and local authority manage expectations so that tenants do not expect an immediate transfer.
64. In addition, as mentioned in paragraph 48, it is unlikely that the Secretary of State will consent to transfer unless approval to proceed to consultation has been given by the HCA or GLA.
65. The Secretary of State is not obliged to grant consent to transfer. Apart from the reasons above, as with any transfer, he will wish to consider the wider public interest and, in particular, any representations he has received on the matter, especially those from tenants or the local authority. However, if a local authority has not sought a determination before balloting, or the Secretary of State has previously refused to stop the process after receiving a request for a determination from the local authority, and

the business case was approved by the HCA/GLA and been agreed as viable by the Social Housing Regulator, it is likely he will place strong weight on the fact that tenants have democratically voted to transfer their stock.

Regulation 25 - Procedure (Determination by Secretary of State)

66. At any point after the tenant group serves its proposal notice on the local authority, the local authority can serve a determination notice on the Secretary of State (regulation 13). The tenant group can serve a determine notice where the authority has rejected a proposal notice (regulation 12). The notice effectively seeks the Secretary of State to direct whether the process should or should not continue.
67. The Department is unlikely to provide funding to support local authorities or tenants groups in either producing the determination notice or in producing a response to a determination notice sent by other parties.
68. The tenant group or local authority must provide clear evidence to support whatever is its case.
69. It is important that the Secretary of State's discretion is not fettered by giving detailed guidance about what would be regarded as significantly detrimental. However, this could include proposals which would lead to a negative impact on the Housing Revenue Account or where the loss of stock would lead to significant loss of economies of scale in provision of services. When looking at the impact on regeneration the Secretary of State is likely to require evidence of concrete progress on the regeneration scheme (eg it should be more than a long-term aspiration). Detrimental impacts could include issues around the loss of land and property reducing the value to developers and making the process unviable as well as impacts on employment and the local economy.
70. The Secretary of State will not consider a determination notice where the local authority simply objects to the transfer in principle. Nor will he consider one where the local authority believes that the outcome of transfer is detrimental to the tenants in stock being transferred. An authority can object only where it can show clear evidence of a significant detrimental effect on the local authority's ability to provide housing or other services in the wider authority area or on the regeneration of the area.
71. Similarly, the Secretary of State will not consider a determination notice that seeks to protest about the decision of the arbitrator. The arbitrator's decision is final.
72. It is important that the other party (the tenant group if the applicant is the local authority, the local authority if the applicant is the tenant group) has the opportunity to comment on the determination notice. Regulation 25 provides for this.
73. Government expects that proposals for tenant led stock transfers should be given proper consideration by the local authority, but also that where the local authority believes, based on the evidence, that a transfer would have a significantly detrimental effect on the housing service it is able to provide or regeneration in the local area, it

should seek a determination at an early stage. It is no one's interest to expend time and resources that could be avoided through an early decision.

74. There is no limit to the number of times a local authority can serve a determination notice. This is because it is possible that further evidence may come to light not available at the time of an earlier notice. Government would however strongly encourage local authorities, where they have more than one reason to issue a determination notice, to present all the evidence in one go. Government wishes to discourage the drip-feeding of notices: i.e. making representations on one ground, having it rejected, then making representations on separate grounds, but ones known at the time of the first notice. Where further evidence comes to light that was not available at the time of an earlier notice, local authorities will be expected to demonstrate or explain why the further evidence was not available previously.

Circumstances under which the duty on a local authority ends

75. The duties and obligations under these Regulations end when:

- the tenant group formally advises the local authority it no longer wishes to consider transfer of ownership of the homes in question;
- the tenant group does not comply with the Regulations and does not seek to challenge the authority's decision to cease co-operation with the arbitrator;
- the arbitrator determines that tenant group has not complied with the Regulations to such an extent that the local authority does not need to continue to co-operate;
- the Secretary of State, in response to a determination notice, directs that the local authority does not need to co-operate;
- a majority of secure and introductory tenants of all the homes in question vote against transfer;
- the Secretary of State withholds consent to transfer; or
- transfer of ownership of the homes to a private registered provider is completed.

End of Guidance