

## **Council Housing in Kirklees December 2019**

### **1. Purpose**

- 1.1 To provide an overview of the key options for the management and maintenance of Council Housing in Kirklees and related implications, benefits and risks.

### **2. Summary**

- 2.1 Kirklees Council is considering its future strategy for the delivery of management and maintenance services for its stock of council houses.
- 2.2 The service has been managed by Kirklees Neighbourhood Housing (KNH) an Arm's Length Management Organisation (ALMO) since 2002.
- 2.3 There are also 466 Council homes which are currently managed on our behalf under a Private Finance Initiative (PFI) by Pinnacle PSG. This arrangement ends in 2032 and is outside the scope of this paper.
- 2.4 The ALMO was established to access additional funding to bring the housing stock up to the Decent Homes standard. The Council now wants to consider whether to continue with the ALMO model of service delivery or choose another approach.
- 2.5 There are benefits and disincentives to the options. The headlines can be seen in this paper and additional detail has been placed into a condensed format in the supporting report.

### **3. Local context**

- 3.1 The clear vision for Kirklees, with its 7+1 outcomes (please see Appendix A), sets the context for this work. This is to ensure the Housing Management Service plays a major role in achieving the best possible outcomes for the people of Kirklees.
- 3.2 This means further strengthening tenant engagement, stronger alignment with other Council functions and public sector partners; resources more focussed on making a difference including for those most vulnerable; improving service quality and contributing to neighbourhood regeneration.
- 3.3 The Council currently holds the ultimate responsibility for risk associated with the management of its housing stock, tenants and leaseholders. It also holds statutory responsibilities other than being a landlord such as :-
- a. The Homelessness Reduction Act which seeks to work with people at an earlier stage and for longer in order to prevent homelessness.
  - b. The need to have, and deliver, a preventing homelessness and tackling rough sleeping strategy and action plan.
  - c. Private sector housing – ensuring people have a safe and secure healthy private rented home.

### **4. National background**

- 4.1 The rules at the beginning of the century around access to capital to improve homes to Decent Homes standards lead to most councils either appointing an ALMO or transferring their stock to a Registered Provider (RP) such as a housing association. In Kirklees, the Decent Homes programme was completed in 2007 and so the

requirements in relation to this funding no longer apply. Other Councils that have retained their housing stock will be in a similar position.

- 4.2 Previously, rental income was sent to central Government. They then pooled the monies from all authorities and re-allocated an amount back to each to manage and maintain their housing. The change to self-financing in 2011 meant that we could keep the rental income from our properties and in return, we accepted a £215m debt which needed to be managed within a 30 year business plan. This is being paid down on an annual basis and is currently forecast to stand at £170.435m at 31/03/20.
- 4.3 The national picture has changed significantly. The Hackitt Review has provided a sharp focus on health and safety. It has highlighted key issues following the tragic events at Grenfell. It has confirmed the need for Social Landlords, including Kirklees Council, to gain significant assurance, understand and mitigate such risks and provide assurance to their tenants they meet all regulatory standards.
- 4.4 The regulatory context which focuses on economic standards and consumer standards, is now further influenced by the Hackitt Review and the Housing Green Paper. Through this, the voice of the tenant is receiving renewed emphasis as is the need to stress test financial planning scenarios to ensure continued viability and strategies are robust.
- 4.5 The Regulator of Social Housing's role is to proactively regulate the 3 economic standards (Governance and Financial Viability Standard; Value for Money Standard; Rent Standard. Please see Appendix B) for Registered Providers. The Rent Standard will be applicable to Local Authorities from April 2020. The role is also to intervene where the consumer standards are not being met and where this could cause serious detriment to tenants.
- 4.6 In the case of an ALMO, the Regulator views the Registered Provider to be the landlord which is the Council but has delegated some of its responsibilities to the ALMO. However, the Regulator is clear that the accountable body remains the Council and hence any risks with non-compliance also flow back to the Council. These can blur lines of accountability but mitigation is made through obligations to the Council set out within the Management Agreement. A stock transfer to a Registered Provider (housing association) assigns the responsibility and obligations to that provider landlord.

## **5. Status of the ALMO sector**

- 5.1 Since 2010, there has been a significant drop in Councils utilising an ALMO model. This has accelerated over recent years as more arrangements come to natural review points and only 31 remain from 69 in 2010. This number includes 2 new ALMO's that have been created between 2010 and 2015. Between 2010 and 2019, 29 have returned the landlord function back to the stock owning Council whilst 9 transferred stock to a stand-alone Registered Provider. Please see chart and table in Appendix B for more detail.
- 5.2 The reasons for the changes are not always fully visible. However, there are a number of key reasons for Council's taking housing management back in house such as :-
- a. Political decisions and priorities.
  - b. Control of the Housing Revenue Account.

- c. Ability to control / directly influence strategic direction.
- d. Ability to direct operational activity in order to focus on Council / partnership priorities and balance needs of tenants with those of the wider community
- e. Cost savings.
- f. Differences in strategic intent and direction leading to tensions between the ALMO and host Authority.

5.3 In a recent speech, it has been reported that Alistair Mackintosh, CEO Housing Quality Network, confirmed he has yet to see projected savings from bringing an ALMO back in house materialise. It is of note that whilst some savings are possible, this is not the driving force in Kirklees for change.

## **6. Status of the Registered Provider Sector**

6.1 A total of 9 Councils have transferred their housing stock to a Registered Provider since 2010 and the trends can be seen at Appendix C. It is noted that there have been no stock transfers since the Government subsidy for rent write off deadline passed in 2015.

6.2 Although transfers can often initially be to local Housing Associations who are committed to working in close partnership with the Council to address local issues, changes in Board composition or executives, mergers or financial pressures can get in the way of the original spirit of partnership that was intended.

6.3 Key reasons previously for stock transfer include :-

- a. Where Housing Revenue Accounts are not in a healthy state / able to provide investment and development funding
- b. The Council is looking to transfer the risk.
- c. Council wants to focus on its Strategic and enabling role working across Housing Associations.
- d. Government funding to write-off debt associated with the stock, freeing up investment funding and reducing the overall debt burden on councils. \* Please note 6.1.
- e. Access to Homes England funding to develop more affordable homes which is more likely over time.

6.4 Key reasons why stock transfers have not occurred also include :-

- a. The potential to place the Authority in a compromised negotiating position. Whilst Housing Associations have a 'duty to cooperate', allocations and access to housing can become more problematic. An example of this is the Boards of Housing Associations seeking to manage their own business risks before any of the challenges the council may be experiencing around re-housing citizens from its Housing register (often referred to as waiting list).
- b. Although transfers can often initially be to local housing associations who are committed to working in close partnership with the council to address local issues, changes in Board composition or executives, mergers or financial pressures can get in the way of the original spirit of partnership that was intended.

- c. A lack of funding from capital markets/ inability to make business plans viable/ lack of interest or capacity from other providers.

## **7. Housing's contribution to Economic strategy and Health & Wellbeing Plan (previously Health & Wellbeing Strategy)**

- 7.1 Housing provides a major contribution to both the Economic strategy and Health and Wellbeing plan with a number of the items below positively impacting across both.
- 7.2 Housing growth – creating healthier places to live is a major driver. The construction brings with it contribution to apprenticeship opportunities, jobs, skills and inward investment to the district.
- 7.3 Health Impact Assessments for major new developments are now part of the planning process and there are specialist developments for people with support needs through partnership arrangements including NHS England's Transforming Care agenda and registered providers.
- 7.4 Housing Quality – Improving quality and standards is being driven via a variety of means including, but not limited to :-
  - a. Supporting affordable warmth and energy efficiency - measures include Better Homes Kirklees and Green Doctor.
  - b. Increasing access to good quality homes in the private rented sector including tenancy support
  - c. Driving up standards of homes and management in the private rented sector
  - d. Falls prevention
  - e. The Council's "Your Place, Your Home" approach to the wider environment
  - f. Retirement Living
  - g. Focus on reducing numbers of empty homes
- 7.5 Housing officers are also often well placed / in a position where they have a relationship with an individual to impact positively on wider factors through the 'nudge approach'. These critically include poverty and worklessness.
- 7.6 Housing is a fundamental need recognised by Maslow and in Kirklees, it's about providing support and housing options for those most vulnerable and least able to access other housing options.
- 7.7 We note that the current profile of tenants in properties managed by KNH are approximately a third not receiving benefits, a third receiving partial benefits and a third receiving full benefits. We understand that vulnerability is not limited to any one of those categories.
- 7.8 Housing's impacts on health and wellbeing are extensively documented by Sir Michael Marmot who describes Housing as a key determinant for healthy outcomes.
- 7.9 Suitable accommodation that is safe, secure and warm is one of the foundations of personal wellbeing across all ages. It enables people to access basic services, build good relationships with neighbours and others, manage their health and wellbeing, including their mental health and maintain their independence – all resulting in a better quality of life.
- 7.10 Good housing and housing support services also help to prevent people from being admitted to hospital, enable quicker and safer hospital discharge, and to remain living in their own homes, within their communities, more safely, with greater levels of independence and enjoyment.

## **8. Options - headlines**

9.1 Whilst there are, in theory, a number of potential options for the management of the housing stock, for the size of stock in question (circa 22,000 properties) there are essentially 3 main options :-

- a. Direct management by the Council.
- b. Management of the stock by an ALMO or other management company.
- c. Transfer of the stock ownership and management to another organisation.

### Governance and strategy

9.2 Direct Management of the Housing stock and maintenance by a Council provides the greatest degree of direct management control. This enables the greatest potential for alignment of strategy and operations as well as the opportunity to take a different option should it be required in the future. It also presents the greatest opportunity to holistically view housing as a part of a wider range of support to those who are vulnerable or have special requirements, which could more readily be delivered as an integrated package.

9.3 The ALMO model means there is the potential for conflict / disagreement and divergence of strategy, but the Council is the sole shareholder and should have the ultimate decision. In practice this can become blurred by the layers of delegation and revisions to agreements by conferring different rights and obligations on each party.

9.4 Transferring to a Registered Provider would mean relinquishing control and once the assets are transferred, there would not be the opportunity to reverse the model should the strategic / policy landscape change.

### Legislative / compliance

9.5 Health and safety and accountability have been brought into focus in recent times with the tragedy at Grenfell Tower. In-house provision strengthens the link between operational control and accountability.

9.6 Should we stay as we are, the Council still has overall responsibility of all risks, but the company and its board also have responsibilities. The need to report to an independent board, but also to report to and be accountable to the Council, can lead to diversions in strategy and operational activity making assurance difficult. As the company is wholly owned there is no purpose to a financial penalty based enforcement to achieve the client's contractual objective.

9.7 In the Registered Provider option, key risks are transferred to the operator. However, in terms of assurance, the Regulator is there to ensure the necessary standards are complied with. Furthermore, the Board must operate with a complete autonomy and independence, even where Council nominees are sitting as Board members.

### GDPR

9.8 If brought back in-house then would act as a Service within the Council which would eliminate questions that currently occur. There would not be a need for a range of

separate arrangements such as information sharing agreements and how KNH work with / documentation with partners would follow local established arrangements.

- 9.9 As an Almo, existing arrangements would continue e.g. retention schedules and information sharing agreements which acknowledge that the Council owns all data and systems. Any issues leading to fines imposed by the Information commissioner's office (ICO) would be applied to the Council, which also brings reputational risk.
- 9.10 The Registered Provider would become their own data controller with responsibilities direct to the ICO. Any incidents would not be reported to the Council and the risk area is transferred over.
- 9.11 The key risk to the Council is how and when data is transferred. There would be a need to go through every record and delete appropriately before transfer. Time implications for this are significant.

### Tenants

- 9.12 There is a need :-
- a. for the Council to be assured that tenants and leaseholders are safe and their voice is heard.
  - b. to ensure tenants and leaseholders have excellent service that represents value for money where governance and lines of accountability are clear and transparent.
  - c. for clarity and transparency for example around fire risk assessments.
- 9.13 The Council would be required to offer at least the same quality of service as other options. Anecdotal feedback from tenants over the years is how they value Council ownership and the stock is referred to as Council stock with a strong connection with the Council which has both positive and negative consequences for the Council. It is noted that KNH deal with the vast majority of complaints directly and, even where a complaint is submitted to the Council, KNH are the ones who resolve it on the vast majority of occasions. Continuity is provided through integration as the Council remains the landlord as well as reverting to managing / maintaining the stock.
- 9.14 The ALMO must offer at least the same quality of service as other options. ALMO Ownership remains with the council. Whilst KNH is a recognised brand to many customers, it is also clear that they hold the Council responsible for the performance of KNH and complain to the Council about issues such as housing repairs. The Council's reputation is therefore dependent on the performance of KNH even though it has no direct control of KNH's activities.
- 9.15 At times there can be a somewhat unclear demarcation. An example of this is on some things Tenants will be engaged by the Council, on others by KNH and on other items there is the potential for both. A single entity consulting on all matters would bring clarity.
- 9.16 A transfer to a Registered Provider would mean that the Consumer Standards continue to apply but there is less ability for the Council to influence outcomes for tenants.

### Finance

- 9.17 The ALMO moving into the Council would mean some relatively low initial costs that should be more than balanced out by potential cost savings through eliminating

duplication and economies of scale. Any savings would be re-cycled within the ring fenced Housing Revenue Account.

- 9.18 Staying as is would mean no transition costs. Responsibility, strategic ownership of the Housing Revenue Account and decision making has always been with the Council. KNH offer day to day management support.
- 9.19 A stock transfer would be a complex transaction / incur the most cost, both during and after transfer. This would include significant due diligence and related legal / lawyer time which, depending on negotiations, could be quite substantial. However, the model should be capable of leveraging additional investment.
- 9.20 As covered in 6.1, it is noted that there have been no stock transfers since the 2015 deadline set by the Government. This deadline was part of a 2013 agreement to assist new stock transfers by writing off debt on Council's with Housing revenue Accounts. This also suggests that without some significant element of Government subsidy to write off Housing Revenue Account debt going forward, for Councils like Kirklees with Housing Revenue Account debt currently at circa £170m, stock transfer would not be attractive to institutional investors.
- 9.21 The Housing Revenue Account in Kirklees is in a relatively healthy position. Retaining it in-house will give the council full control and continuing with the ALMO would give the Council almost full control (currently the ALMO provide operational management). If the housing stock is transferred only the HRA relating to the council's PFI contract and retained costs would remain. This would reduce the Council's opportunities to effectively deploy the HRA for wider housing related services.

#### Operational practice

- 9.22 Returning services in-house would remove the client / contractor split which would obviously remain should the status quo be adopted.
- 9.23 The stock transfer to a Housing Association option would mean the need to establish new relationships in order to influence outcomes. These could potentially be supported by Board nominations and partnership agreements / contractual methods.

#### HR

- 9.24 A return in-house has the potential to lose of some key employees with related knowledge, skills and experience. However, a single employer / entity would rationalise and simplify a complex employee relations arrangement between the organisations which can cause tensions.
- 9.25 Retaining the ALMO would offer a settled state which should lead to skills retention but retains some of the more complex employee relations and the blurring of some employment boundaries (access to benefits packages for Council staff, opportunities to take on work in both organisations). Property Services in KNH was based in the Council until 2016
- 9.26 The third option of transfer could mean a loss of key staff for the new organisation.

#### Options summary

9.27 The combination of the above, together with the additional information on the supporting document, confirm that a return in-house is most likely to achieve the Council's objectives. Retaining the ALMO would partially achieve the objective and a transfer would be unlikely to achieve the objective.

## **10 Guidance on returning an ALMO to the Council**

9.1 CLG's paper from 2012 confirms – 'The Government believes that the decision to take ALMO housing management functions back 'in house' should remain a local one. Councils in England are currently required to seek consent from the secretary of state under section 27 of the Housing Act 1985 where it seeks to transfer all or part of its housing management functions to an ALMO. There is no requirement for a Council to seek consent when taking ALMO housing management functions back in-house'.

9.2 In 2016, the Council and KNH agreed a Management Agreement valid until 2037. It included 5 year break clauses by giving at least 6 month's notice and can be mutually terminated.

## **11 Glossary of terms**

8.1 ALMO – Arm's Length Management Organisation

8.2 KNH – Kirklees Neighbourhood Housing

8.3 RP – Registered Provider (Housing Association)

8.4 ICO – Information Commissioner's Office



## Appendix A



## Appendix B

### 1. Economic standards

The Regulator of Social Housing proactively seeks assurance from providers that they are meeting the 3 economic standards, which are :-

- 11.1 Governance and Financial Viability Standard
- 11.2 Value for Money Standard
- 11.3 Rent Standard

The economic standards apply to all Registered Providers - other than the Rent Standard (which will take effect in April 2020). Local Authorities are not assessed against these standards.

## 2. Consumer standards

These apply to all registered providers including local authorities (note exclusions below). The Regulator of Social Housing's role is to set the consumer standards and to intervene where failure to meet the standards has caused, or could have caused, serious harm to tenants. The 4 consumer standards are:

- a. Home Standard
- b. Tenancy Standard
- c. Neighbourhood and Community Standard
- d. Tenant Involvement and Empowerment Standard

## Appendix C

Position	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Almos	68	58	51	47	47	39	37	34	32	31
Moved back in house	1	8	12	16	16	21	23	26	28	29
Moved to RP (stock transfer)		3	6	6	6	9	9	9	9	9

