

## **Practical steps in rebalancing communities**

*Graham Martin and Judi Watkinson*

**This guide gives councils and housing associations the legal, procedural and practical processes they need to ‘rebalance’ social rented estates through the sale of vacant properties.**

The benefits of achieving mixed communities are widely accepted and applied on new estates, but far less attention has been paid to the practicalities and benefits of introducing mixed tenure and incomes into existing estates.

This guide aims to provide senior policymakers and practitioners with:

- a cost-effective way of addressing a range of estate problems
- a potential means of funding a change in property mix to respond to changing demand
- guidance on running a ‘rebalancing’ project as part of a neighbourhood renewal programme.

The guide is based on the findings of successful initiatives and is a follow-up to the authors’ previous report for the Joseph Rowntree Foundation, *Rebalancing communities: Introducing mixed incomes into existing rented housing estates* (Martin and Watkinson, 2003).



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# Introduction

## **Tackling social imbalance**

Rebalancing communities is one way of tackling the social and economic imbalance that occurs when the residents on a housing estate are drawn from a limited range of types of household and a very limited socio-economic base.

This guide is a follow-up to the previously published report *Rebalancing Communities* (Martin and Watkinson, 2003), which identified the benefits that can be achieved on mono-tenure, low-income rented estates through introducing mixed tenure – and hence incomes – through a programme of selling off a proportion of void properties as they became available.

There can be very few policy options that offer the opportunity both to improve the quality of life on challenging housing estates, and to generate revenue savings and capital resources for investment. This guide identifies the key legal, procedural and practical processes to implement a programme to rebalance communities at the level, either of a single estate, or across a whole borough.

# 1 Background

A previous study (Martin and Watkinson, 2003) identified a higher proportion than expected of social landlords taking practical action to introduce owner-occupation into new and existing estates. Over 70 per cent of the social landlords responding to the survey reported that they had taken at least some action to mix tenure on their estates.

Additionally, a number of landlords had taken initiatives based on voluntary sales for owner-occupation of previously rented properties. The responses from these landlords were of particular interest.

- All reported very favourably on their experiences, with improvements in estate reputation, void levels, rent arrears, property values, resident satisfaction and other similar indicators being recorded.
- The favourable outcomes were generally unexpected, as the great majority of responding landlords acted out of adversity. Reasons for selling included budgetary problems, high void levels and conditions linked to regeneration grants. Little or no emphasis had been given to the concept that mixing tenure could be a good objective in its own right.

Although very few landlords were aware of similar initiatives elsewhere, the initial research project did seem to suggest a movement towards mixed-tenure communities among providers of social rented housing.

The benefits that appeared to flow from a programme of selected sales for owner-occupation provided an endorsement of the arguments in favour of mixed communities. Today, it is entirely in line with the Government's 'Communities Plan' (ODPM, 2003a), which strengthens the call for a rethink of how we house our population:

... a wider vision of strong and sustainable communities is needed ... The way our communities develop, economically, socially and environmentally, must respect the needs of future generations as well as succeeding now ... Places where people want to live and will continue to want to live. (ODPM, 2003a)

The selective sale of vacant properties on social rented estates can be used as a cost-effective tool to help address the issues of failing estates and to improve the quality of life of residents.

It is also a tool that can fund the redistribution and relocation of affordable rented housing, at the same time as enhancing the quality of life on existing estates. Through a programme of sales in areas of high renting, funds can be generated to finance the provision of new rented homes in areas where there is greater demand or need.

*This guide looks at the legal and regulatory aspects of using this tool and outlines the way in which selective sales programmes can be managed.*

While this guide concentrates on the practicalities of rebalancing estates through selling vacant properties, alternative approaches such as selective market renting, or a lettings policy that includes a substantial proportion of economically active households, can have similar beneficial effects. Both Broomleigh Housing Association and Ashton Pioneer Homes have successfully transformed tenant satisfaction and demand in previously unpopular tower blocks through adopting a market renting or key worker letting policy.

## 2 Housing associations

### Housing Corporation consent to disposal

When making disposals, associations must ensure they are acting 'prudently' and within their governing instrument. The Corporation expects associations to obtain the 'best return' they can and, in the case of straightforward sales, this normally means sale at open-market value.

Housing associations require the consent of the Housing Corporation for the disposal of any interest in land (including individual property sales). This arises under Section 9 Housing Act 1996 and Section 9 Housing Associations Act 1985, and is commonly referred to as 'Section 9 consent'. Some, but not all, sales are covered by a 'General Consent'.

Where properties have been transferred to the housing association as part of a voluntary transfer agreement, then the approval of the relevant council will almost certainly be required in compliance with the transfer agreement.

Land owned by a housing association will have a restriction against it at the Land Registry. For the property to be sold, evidence of an appropriate 'Section 9' consent will be required by the Land Registry. This would be provided through the association's solicitors as part of the conveyancing process, and must be obtained by the association ahead of the sale completing.

Housing associations can dispose of certain types of land or property without formally applying for consent from the Housing Corporation by 'self-certifying' that the disposal accords with the General Consent. The most obvious category of disposal is if the property is sold leasehold (with the housing association as landlord or superior tenant). This has the benefit of the housing association being able to insert appropriate restrictive covenants (for example, to prevent the property being let without its prior consent), but the disadvantage that leasehold is not a popular form of tenure everywhere and in some locations may make the property harder to sell.

Where properties are being sold freehold for less than £50,000, the General Consent will also apply if no grant has been attached to the properties, and in some circumstances may apply even where grant has been received. In this last circumstance the local office of the Housing Corporation should be able to give precise guidance.

Self-certification that sale of a property complies with the General Consent involves completion of a HACON 5 form (with supporting papers attached as necessary) and maintaining a register. A list of what is covered by the General Consent can be found in the Appendix.

Any disposal not covered by the 2003 General Consent and not exempt from it requires an individual consent under the Housing Corporation's seal. This applies to the freehold sale of housing association properties for over £50,000 on the open market. Housing associations should submit a copy of the Housing Corporation's HACON 2 form, along with a copy of the property valuation and site plan. If possible, a letter from the relevant local authority consenting to the sale should also accompany the form.

While approval cannot be given until the final sales price and details of the purchaser are known, the process is greatly facilitated by submitting the application and documentation in advance. This allows the Corporation to carry out all necessary procedures, and the certificated approval will be held pending receipt of these details.

In theory, local authority consent is necessary only where the authority has provided grant aid in respect of the property or has nomination rights to it, or if the properties were transferred from the authority. In practice, the Housing Corporation will almost always request the local authority's consent to the sale. The processing of the consent takes about two weeks if all papers are in order and there are no complications.

If the local authority does not agree to support the sale, then the association can still make a case for approval. This has been done successfully by housing associations on a number of occasions. Key arguments used to win Housing Corporation support include:

- absence of a local authority nomination agreement on property
- absence of a local authority grant input on property
- sales money will be invested to provide replacement properties (or similar justification).

A number of housing associations that have a disposal programme for owner-occupation have agreed an 'ethical sales policy' with the Housing Corporation. In Yorkshire and Humberside, examples of this are Accent (formerly Bradford and Northern) Housing Group and Brunel Housing (now part of Yorkshire Housing Ltd).

## Housing Corporation's Regulatory Code

Part of the Housing Corporation's Regulatory Code requires housing associations to work to the Local Authority Housing Strategy. The LA Strategy should have been deemed 'fit for purpose' by the regional Government Office and should comply with the Regional Housing Strategy.

If an association is considered to be wilfully ignoring the local authority requirements and not working with them, the Housing Corporation may intervene at a regulatory level.

The Housing Corporation also considers that good asset management is an essential feature in the business and operations of housing associations. Some of the components of asset management that are listed include tenants' and residents' aspirations, demographics, sustainability and disposal.

## Financial rules for housing associations

When a property is sold by a housing association, any grant that has been provided to fund it must be placed in the association's Recycled Capital Grant Fund (unless sold under the 'Right to Buy or Right to Acquire', when *all* the net proceeds of sale are placed in the registered social landlord's (RSL's) Disposal Proceeds Fund (Housing Corporation, 2006) and must subsequently (within three years) be used for investment in a range of approved activities. These include funding new housing provision and certain improvements to existing properties.

The following is an extract from the Housing Corporation's *Capital Funding Guide* (as at July 2006).

### **3 Outright sale of rented property**

- 3.1 An outright sale of rented property is a sale on the open market, a negotiated private sale, or an outright sale to a sitting tenant other than on RTB [*Right to Buy*] terms. It excludes sales under the Voluntary Purchase Grant procedures, the Right To Acquire, the Right To Buy, and sales or transfers to other Housing Associations.
- 3.2 The sale proceeds received by the Housing Association must not be below a Valid Valuation by an Independent Qualified Valuer. The eligible

*continued*

deductions from the sale proceeds are the Deemed Loan Debt, and the valuation and legal expenses of the disposal. A Housing Association may not deduct any administration allowance. The net sale proceeds shall be used to recover the Capital Grant attributable to the Property in question. If net sale proceeds are less than the attributable Capital Grant, the shortfall will be written off.

3.3 Where Capital Grant is to be written off, Supporting Documentation should be attached to the Recovery of Capital Grant form to confirm the figures used in the calculation.

3.4 Where the consideration for the disposal is the provision of replacement Property on a different site, Capital Grant will not be recovered. Instead the Capital Grant liability will be transferred to the replacement Property by means of a credit and debit to the Recycled Capital Grant Fund, using suitable documentary evidence in place of the Recovery of Capital Grant form and new project application form required under Chapter REC-4. Because the property exchange is for the benefit of the purchaser, the RSL would not normally be expected to pay its own legal and valuation fees, so these expenses must not be deducted from the Recoverable Capital Grant.

Full details of the rules relating to Recycled Capital Grant Fund are contained in the Recycled Capital Grant Fund section of the Housing Corporation's *Capital Funding Guide*, July 2006.

Separate considerations will apply to transfer landlords, where former council properties have been transferred to the housing association. Details vary widely between different transfers, but will be contained within the transfer agreement. This will normally include a mechanism for calculating a payment to the council on disposal of the property.

### **Good practice summary**

- Ensure acting 'prudently' – getting best return.
- If a housing association:
  - check Housing Corporation Section 9 requirements
  - have early discussions and liaison with local authority to explain proposals.
- Check Recycled Capital Grant rules regarding use of proceeds.
- Agree strategy and put in place clear policies.

### 3 Local authorities

This chapter relates to properties owned by councils and managed through their Housing Revenue Account, as this covers all properties provided for 'general needs' and estates to which the 'rebalancing' ideas put forward in this paper would apply.

Councils require the consent of the Department of Communities and Local Government (DCLG) for disposal of any council-owned housing. The DCLG's *General Housing Consents* (ODPM, 2005) sets out the current rules for local authorities that wish to dispose of vacant council-owned homes. All the consents flow from Section 32 of the Housing Act 1985 and provide several options. While not an exhaustive list, the main options can be summarised as follows.

A local authority may sell a vacant dwelling house at full value:

- to an individual, who intends to use it as their only or principal home
- to any person (which can include a contractor or builder) where the dwelling house is in need of substantial repair, improvement or conversion, and that person enters into a covenant to carry out those works and then sell to someone for homeownership as their principal home
- to any individual for a consideration equal to its market value, provided that the purchaser has not acquired another dwelling house from the authority previously in the same financial year (N.B. in this case there appears no obligation on this individual to live in the property).

Or at a discount of up to 50 per cent:

- to a priority purchaser who intends to use it as their only or principal home provided that:
  - the property is in need of over £5,000 (excluding VAT) works of repair or improvement
  - the purchaser enters into a covenant to carry out those works within two years.

Or for 'best consideration that can reasonably be obtained':

- to a housing association, provided not more than 50 properties (or 0.25 per cent of total stock if greater) are sold during any one year.

Properties are routinely sold by local authorities under these powers, but normally for reasons of stock rationalisation, regeneration or asset management, rather than specifically to 'rebalance communities'.

In addition to complying with DCLG guidance, councils must ensure they comply with their own internal rules and standing orders relating to approvals and disposals.

## **Financial rules for local authorities**

The financial consequences of sale for local authorities are not straightforward and contain some anomalies. In an ideal world, councils might be allowed to fully reinvest the receipts of selling off vacant properties into alternative housing provision or improving existing stock. Indeed for a short time this might have been the situation. An informal guidance note issued by the-then Office of the Deputy Prime Minister (ODPM) in 2003 states:

For instance, an Authority may have a certain housing property ... that is difficult and expensive to maintain ... Under this regulation, the Authority would be able to dispose of the HRA asset and then use up to 100% of capital receipt to fund a modern equivalent replacement that better meets the needs of today's tenants.  
(ODPM, 2003b, para. 6)

Conversations with council finance staff indicated that this or some other route appeared to be usable to access full advantage of the capital receipt. This approach was however substantially modified by the revised rules that were brought in from 1 April 2004 (as part of the Prudential Funding Regime and Capital Receipt pooling arrangements) and no longer appear to support this position.

For certain types of sale it is possible for the council to reinvest the full money received into provision of new housing, or improvement of existing council properties, or wider regeneration activity. However, these rules no longer appear to apply to the *direct* sale of a vacant property to a *homeowner*.

A summary of the present rules (derived from ODPM, 2004 and OPSI, 2004) is as follows.

- Where a council sells a property from the Housing Revenue Account (HRA), then it will be expected to pay 75 per cent of the net receipts to the Treasury. This money is treated as 'pooled' and (notionally) reinvested into areas of priority

housing need through the regional housing boards. The council is able to retain the remaining 25 per cent of net receipts and can use this money either to repay debt or for any other permitted form of capital expenditure.

- Where a council sells land (from the Housing Revenue Account), it is allowed to keep 50 per cent of the net receipts, with 'only' 50 per cent being pooled.
- In both cases there is a list of approved costs and expenditure that can be deducted from the sale price before the 'pooling' calculation is carried out. This includes direct costs of sale, any improvement works carried out in the previous three years on the property and also the full cost of repurchasing a former council home if it is then sold on within three years.

This last provision is mainly intended to allow councils to repurchase run-down, vacant, former RTB properties, then modernise/improve them and sell them on for homeownership. This is an approach to turning round estates that have been blighted by abandoned/poor-condition former RTB properties. The impact of this process can be very similar to that proposed under the 'sell to rebalance' concept put forward in this report.

However, for *some* types of sale – but not others – the council is able to set up a procedure to allocate the entire receipt to relevant capital works, which include provision of new/replacement homes, improvement of the existing properties, or regeneration.

This ability for the council to access the full value of the sales receipts is achieved through the council going through an internal administration and formal decision-making process to establish a 'Capital Allowance'. This is a sort of 'pot', and is the total of past and *planned* (i.e. *intended*) expenditure on affordable housing and regeneration.

Provided the council's expenditure plans on regeneration/new build (as stated in the 'Capital Allowance' pot) exceed the capital funding already allocated to it, certain types of capital receipts can be added to it (rather than being returned to the Treasury). The guidance is specific that there is nothing to prevent a council from repeatedly 'topping up' the commitments in the Capital Allowance pot, as existing commitments are funded (OPSI, 2003, Regulations 14–18).

The procedures for managing the Capital Allowance will be covered a little later. However, only certain receipts can be applied to the Capital Allowance. Receipts that can be applied to the Capital Allowance (and for which the council can therefore spend in full on permitted activity):

- *exclude:*
  - ‘Right to Buy’ receipts
  - sales of vacant property to individuals for homeownership
  
- *include:*
  - sales of (HRA) land
  - sales of vacant properties to a landlord (for renting)
  - sales of vacant properties to third-party organisations for improvement and onward sale, including (presumably) to homeowners.
  
- *Additionally*, capital receipts from small-scale voluntary transfer (‘trickle transfer’) to a housing association are exempt from pooling, as these are deemed ‘qualifying disposals’ for the purpose of the guidance.

We therefore currently have an anomalous situation where it appears that a council can sell a vacant council home to a private landlord (either as a single property sale or for letting to, for example, someone with a special need arising from disablement), and keep all the funds received, but, if it sells to a homeowner, even someone on its priority housing list, it has to transfer three-quarters of the net sale price to the Government. However, without a change in regulation, the most financially prudent route for a local authority to pursue a ‘Sale to improve’ policy at the moment would be through partnership with either a developer or housing association.

Where working with a developer, the council would need to be selling properties that required at least £5,000 of improvement work and would need to demonstrate that it had achieved ‘market value’ on the transactions. As property prices can be depressed on estates in need of intervention (auction prices should provide a good valuation benchmark), and a widescale improvement programme – possibly combined with buying up dilapidated former RTB vacant properties – can have a substantial impact on valuation, this may not be a major problem.

A clear advantage of working with a private developer would be the direct relationship with the organisation carrying out the work, cutting out any intermediary costs. It may also lead to professional marketing of the completed homes and a level of competence in marketing that may not be available to many housing associations.

Using a housing association partner may allow greater flexibility on transfer price (up to 50 properties a year using the provisions of para. A5.2.1 of *General Housing Consents 2005* – ‘Other disposals’), greater long-term accountability and the possibility of offering shared ownership sales as part of the package. Also, in areas of high demand, and where the council has a healthy list of priority purchasers, a

housing association may have greater expertise in working in a regulated sales environment.

### The Capital Allowance

As part of establishing a 'Sell to improve' policy, the relevant council officers should ensure that a fully thought-through scheme has been worked up in compliance with the council's own internal rules and procedures, and carries appropriate member support. Part of this process should be developing proposals for the expenditure of the capital receipts, and ensuring that the council has a properly established 'Capital Allowance' (pot) and that the spending proposals have been included *by way of council resolution* as 'planned expenditure' within it.

#### Illustration of how a 'Capital pot' may work in practice

Regencaster Council identifies a forward programme of capital investment in regeneration and new housing provision requiring £10m investment. The council has identified capital resources of £5m and anticipates receipt of around £5m from asset sales in the next two to three years. By establishing – through an appropriate council resolution – a 'Capital pot' of £10m to fund the planned investment programme, the council can retain all of the (relevant) sales receipts to invest in its programme.

If/when sales receipts exceed the £5m required, the relevant share will again need to be returned to the Treasury.

However, if Regencaster Council were to identify additional regeneration/new-build works, it could pass a further resolution to increase the size of the 'Capital pot', say to £15m, and thus ensure it continued to keep the full proceeds of its asset sales.

An example of an appropriate resolution that may be suitably adapted is given below:

To agree that ... expenditure in 2007/08 that qualifies as expenditure for the provision of affordable housing are treated as the Council's contributions towards the cost of 'provision of affordable housing' for the purposes of Regulations 16 and 17 of the Local Authorities (Capital Finance and Accounting) Regulations 2003 and are treated as part of the Council's 'available capital allowance' to be offset against the capital

receipts from future disposals of housing land (before calculating the amount of receipts to be paid to the Secretary of State under pooling arrangements), save where the report seeking authority to dispose of the property specifically identifies or earmarks the receipt for expenditure for an alternative purpose (in paragraphs ... of this report).

*(Adapted from Lewisham Council's 2005/06–2007/08 OSCP & HIP Capital Programme Budget Report & 2005/06 Treasury Strategy Report to Mayor and Cabinet, February 2005)*

### **Good practice summary (councils)**

- Check internal rules and standing orders regarding approvals and disposals.
- Consider establishing a 'Capital Allowance' pot.
- Consider using a partnership arrangement to deliver 'Sale to improve'.

## 4 Strategic considerations

There are three different levels at which the strategic considerations relevant to rebalancing communities through selective sale of vacant properties can be applied.

At the highest level, an overarching view can be taken that is driven by a desire to maximise resident satisfaction and achieve stable, mixed-income communities across all communities in which the landlord operates. An example of this approach applied at the level of a county borough is given later in this chapter.

At the most pragmatic level, the selective sales approach can be seen as a cash-saving/generating solution where existing budgetary resources are insufficient to fund the property and service investment needed on an estate. This is the most common reason for landlords adopting selective sales approaches to challenging estates.

The approach of selling off a proportion of vacant properties on a mono-tenure rented estate is put forward as a useful contribution to the tools available to improve income distribution and social stability in localities showing signs of social stress and failure. Unlike many other remedies, this approach has the big advantage of being cash-positive. It saves on revenue expenditure and generates capital receipts.

The approach can be applied either across the whole of a social landlord's stock or just to estates that are identified as being in decline.

Problems indicating social stress and potential failure include:

- poor reputation of estate
- low tenant satisfaction with locality
- low demand for properties
- high turnover of properties
- high void costs (from abandonment, trashing, etc.) and delays in reletting
- visual indications of neglect and anti-social behaviour such as excessive graffiti, vandalism of fences and street furniture

- high incidence of low-level crime
- high levels of unemployment and low levels of earnings among people in work.

These are both problems and symptoms, and may feed on each other, driving a cycle of decline. The remedy of rebalancing a community through a programme of selective sales of vacant properties can impact directly on:

- low demand for properties
- high turnover
- levels of unemployment
- increasing levels of earnings.

There may also be indirect impacts. For example, the presence of willing home purchasers in a locality appears to have a positive effect on the reputation of an area.

There are also significant financial savings for the landlord from reduced void rent loss, reduced arrears and lower turnover leading to lower management costs and reduced maintenance and security costs.

In considering whether an estate may be appropriate for intervention through a 'Sale of voids' programme, it is necessary to identify the key contributory causes of the area's problems, i.e.:

- an excessive concentration of poverty
- a lack of social mix
- high unemployment
- inappropriate mix of properties to suit community
- poor housing management
- anti-social behaviour problems.

Voluntary sales policies, provided they are matched by equivalent reinvestment, can be a method of relocating the mix and supply of affordable rented accommodation to meet current priorities. However, if a key underlying cause of the problem is poor housing management, or excessive anti-social behaviour by a few households, it is unlikely that selling properties to homeowners will significantly improve the situation without parallel action to improve management or address the anti-social behaviour.

Further strategic considerations are the overall impact of a sales programme on the supply of affordable housing and the use to which capital funds generated are put.

In the longer term, the consequence of failure of an estate is likely to be demolition, which would remove all properties. Where selective sales prevent longer-term demolition, there is clearly a positive impact on supply.

In the shorter term, sales prices for properties being sold to rebalance communities are likely to be significantly lower, like-for-like, than for other properties in the vicinity. While the tenure is changed, the properties can still be seen as providing affordable housing, but in a different tenure.

And, as mentioned above, the capital receipts generated from sales allow reinvestment in affordable renting. This investment can be used to provide properties that are currently most in demand, in locations where there is currently a shortage of rented accommodation.

### **Case example: Knowsley Housing Trust**

Knowsley Housing Trust is the transfer landlord for the former Council Homes of Knowsley Council. Knowsley is one of the most deprived boroughs in England.

Since taking over the properties, the Trust has considered how to achieve long-term stability on its estates, and to improve the availability of appropriate affordable housing across the borough.

The Trust is now at an early stage of implementing a plan that seeks to:

Encourage home-ownership in localities where more than 50% of the properties are social rented, and to seek to increase the availability of rented accommodation in areas of less than 25% rented properties.

*Continued*

It is working to achieve this through a policy of:

- voluntary sales to existing tenants, first-time buyers, key workers and others through a range of assisted purchase products
- voluntary sales through assisted purchase are available only where:
  - the Trust owns more than 50 per cent of the properties in the locality
  - the Trust owns more than 50 per cent of the property archetype in the locality (this avoids disproportionate sales of the ‘best’ or most popular house types)
- in the worst-performing neighbourhoods, some vacant properties are also sold on the open market for owner-occupation
- a proportion of the sales proceeds is intended to be reinvested in provision of new affordable housing for rent in localities where the Trust owns some homes, but less than 25 per cent of properties.

### **Good practice summary**

- Carry out an appraisal to assess appropriateness for intervention.
- Consult with existing residents.
- Identify reinvestment strategy (where appropriate) for capital receipts and other savings. This may be improved investment in existing homes/ environment or provision of new properties in high-demand localities.

## 5 Policy and process

Policy can be driven by either ‘high-level’ strategic commitment to mixed-income and tenure communities, based on the drivers of seeking enhanced tenant/resident satisfaction and stable communities, or by more pragmatic problem solving, motivated out of pressure to resolve a local problem or simple resource constraints.

Both strategic drivers are clearly complementary to each other, but their relative acceptability will vary sharply between different organisations.

In practice it would appear very unlikely that an organisation- or borough-wide policy could be adopted without a strong and committed champion at board/committee/ cabinet or senior management team level. However the urgency of coming up with pragmatic solutions that address local problems may allow locally based implementations of voluntary sales policies to be agreed without strong central support.

The policy- and decision-making process and requirements are clearly different between council and housing association landlords. In part this reflects their decision-making structure, in part their different roles and stakeholders, and in part the different financial rules within which the two sectors operate.

Two overall policy approaches are clearly applicable. Policy can either be developed:

- *in an enabling and overarching manner, top down* – key policy drivers here would be:
  - resident satisfaction
  - stable and balanced communities
  - reinvestment strategy to maximise response to wider housing need.

Or it can be:

- *built up on a ‘case of need’ to address local problems* – key policy drivers here would be:
  - need for additional intervention to address estate failure
  - need to address local budgetary and resource problems.

Each approach can draw on the other’s arguments. In practice, local ‘case of need’ arguments appear to dominate local authority approvals, while some housing associations appear to be led by a wider, more top-down approach.

The approval process will vary between councils and housing associations. In all cases, it is important that key internal and external stakeholders are informed and persuaded of the reasons for adopting the policy/specific initiative. This includes tenants and their representatives on the target estates, and the staff involved in the process.

For councils, the necessary approvals will be set out in their standing orders, but will probably require a formal resolution of Cabinet or Housing Committee, and ratification by Council. Prior to this it would be prudent to obtain the understanding and support of:

- Senior Housing Officer/Director of Housing
- the relevant officers' management team
- Finance
- lead member for Housing (Chair of Housing Committee)
- local elected members
- local area panel/tenants'/community representatives.

One route for this could be through the review of the council's local housing strategies, increasing the emphasis on mixed-income and tenure communities, plus the need to ensure long-term stability and avoid marginalisation and undue concentrations of low-/no-income households.

Additionally, councils need to ensure that there is an appropriate mechanism in place to optimise use of the capital receipts (most probably sale through a third party – see legal and regulatory rules), and an appropriate council resolution to enable maximum use of the sales receipt (see legal and regulatory rules).

Any initiative that leads to disposal of housing stock can be sensitive for a local authority. Particular sensitivities are:

- a reduction in stock being seen as leading to a reduction in jobs
- a reduction in stock for rent being seen as likely to increase pressure on homelessness and the council's applicant or waiting list

## Practical steps in rebalancing communities

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- a culture that perceives the needs of potential tenants as being greater than the needs of potential purchasers
- a culture where measures to achieve long-term stability in communities are hard to support where they involve changing current practice.

The tension between short-term pressure from homelessness and the need to ensure long-term viability is a very real one, and one that can require considerable working through to achieve a consensus.

*For housing associations*, approval would require a resolution at board and approval by the relevant management team meeting.

Prior to any commitment, it would be prudent to obtain the support (or, as minimum, acquiescence) of:

- the relevant local authority – in practice this is likely to be a necessity for many sales, as the Housing Corporation will seek its consent to the sale
- the Housing Corporation, whose consent will be required for most sales
- tenants and the wider community – in many locations, this can be achieved through area panels or the relevant tenants' forum.

While the council does not own the properties, it still has responsibilities for meeting the objectives of its local housing strategies and the conditions of legislation, particularly in respect of homelessness, and will be keen to reduce its housing waiting list. Careful liaison and detailed explanation of what the housing association is seeking to achieve, including reinvestment plans, are likely to be necessary to obtain the required support.

Encouraging local authority members to visit some of the areas being considered can help win engagement. Community members may wish to make suggestions regarding selection of properties, purchaser profiles, etc.

Additionally, developing a clear disposal policy that can be shared with key stakeholders can be very useful, as illustrated by the example of Brunel and Family HA below.

### **Case example: Brunel and Family HA**

Brunel and Family HA has put an 'Ethical disposals policy' in place to dispose of units that are not financially viable in the long term and do not meet a demonstrable (rented) housing need either now or in the future, given its knowledge of likely demographic change and the housing market it operates in. Brunel's aim was to dispose of 300 units over a two-and-a-half-year period. These were large Victorian properties, many of which had been converted into bedsits. Reconverting the properties would require a level of resources that the association just could not meet.

Although the plans were eventually approved and put in place, Brunel initially struggled with 'selling' the proposed scheme to the local authority. With hindsight, Brunel considers that, strategically, it should have tried earlier to engage with the local authority's regeneration department in terms of putting forward the overall value of the programme. A lot of regeneration work in the area is being carried out in isolation – if all plans were brought together they could make a real difference.

The association also feels it could have benefited from an early exercise to 'sell the argument' to another key stakeholder, the Housing Corporation. A detailed presentation that fully described the area, the quality of the Victorian architecture and the effect the policy would have in meeting needs for affordable homeownership for black and minority ethnic (BME) households, combined with arranging for the Housing Corporation to visit the area to give context to their vision, would have greatly improved support and understanding, and facilitated delivery of the association's programme.

Accent Housing has also developed an ethical sales policy, though this focuses on target households for its sales.

### **Case example: Accent Housing**

Accent's sales policy defines the circumstances under which the association will pursue the sale of property with the following key principles.

- Properties will normally be sold to people who intend to occupy them as their principal home.

*Continued*

- Priority will also be given to people who do not currently have the means to move into homeownership at open-market prices. However, due care will be taken to ensure sales are not made to people who would not be able to afford to maintain homeownership even on the basis of a purchase price below open-market levels.
- Priority will be given to people who need to live in a particular area for employment, education or to be near community, family or neighbourhood support.

Whether the initiative is being considered by a council or housing association, it needs to be systematically thought through and appraised. The template provided in Table 1 is intended to offer a basis for thinking through and appraising any ‘Sale of vacants’ initiative.

**Table 1 Rebalancing communities through selective sales of vacant properties – sample appraisal template**

<b>Project aims/objectives</b>	
Will the scheme meet with the aims and objectives in the Regional Housing Strategy/Local Housing Strategy	Does it fit with the strategic priorities for the region? Does it fit with strategic priorities for the local area? Which strategic priority (regeneration and renewal, affordable housing, sustainable communities, etc.)?
What are the benefits for the council/housing association, its customers and partners?	For example: Turning round an estate Reducing crime/Anti-social behaviour Reducing rent loss and void expenditure Increasing income levels in area More ‘popular’ housing Meeting community needs
What is the view of the local authority (LA)?	Does the LA agree the principles of the scheme? Does the LA have nomination rights on the properties (and are they being taken up)? If so, what is being offered in return? Was the property developed/acquired/refurbished with grant aid?
What are the views of current residents?	Has consultation been carried out? What was the outcome?
Details of project area	Turnover/vacancy rates Child density levels Condition Reputation
Are there any anti-social behaviour issues?	Details of strategy in place and progress
Property condition	Type and level of repair required Will this be done by landlord, intermediary or new owner?

**Table 1 Rebalancing communities through selective sales of vacant properties  
– sample appraisal template – *Continued***

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Local housing market	Details of any community/regeneration strategies and general social/economic conditions in project area
Demand	Scale of demand for homeownership and type of purchasers the project will target
Property valuation	Relationship between proposed selling prices and house prices in specific housing market area and comparable areas How does the proposed selling price relate to likely income levels of targeted purchaser groups?
Proposed marketing approach	Details of purchase arrangements to maximise sales – use of agents/incentives
What efforts and cost will be required to develop and implement the scheme?	Staff time Consultation process Investment Funding
What are the risks, how can they be minimised and how can they be controlled?	
How does the project compare against other available opportunities?	Local lettings policies Intensive management Community wardens Clearance

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# 6 Sales and marketing

## Sales policies and practices

The purpose of a sales policy is to define the circumstances under which an association or local authority will pursue the sale of property. This can be for the express purpose of rebalancing the community and/or preventing decline, or it might be more pragmatically focused – for example, reducing the number of voids on low-demand estates or finding a way to finance the refurbishment properties in need of improvement.

## Operating the sales policy

### *Selection of properties*

The landlord's overall sales policy will outline which areas should be targeted for a programme of introducing mixed tenure. It is likely that flexibility within schemes will be desired to allow for consideration of the best option to fit the local situation. The key to sales policies is that the landlord plans (and controls) the decisions about where to introduce schemes, which properties to exclude and the numbers (or percentages) involved.

Best practice indicates that all estates and 'clusters' should be regularly appraised and a plan drawn up for each individual area. This will also highlight any management issues that need to be addressed.

If the aim of the programme is to increase the popularity of the estate, then selecting properties to sell in the 'best' parts of that estate may not produce the desired outcome. Landlords may therefore choose to target less popular properties if their priority is longer-term benefits rather than initial sales prices.

While this may appear to be contrary to expectations, especially of locally based staff, estate agents will not necessarily experience problems in finding purchasers for properties that are unpopular with those on the housing waiting list.

### **Case example: Durham City Council**

Selling vacant properties was an option tried by Durham City Council in one ex-mining village of 50 properties where a number had been vacant and difficult to let for some time. An arrangement was made to sell properties as they became vacant to a private developer. At the time of interview 18 properties had been sold – some had been demolished and replaced, and some had been converted into larger properties and sold for owner-occupation.

The landlord reports that the local residents' group is happy with the way this has improved the area. It has changed from low demand to high demand – there have been no vacancies for some time. Properties were sold mainly by word of mouth to local people.

### ***Purchaser profiles***

The client target group for each landlord will differ according to the reasons for adopting a voluntary sales programme. Generally, landlords aim to sell properties to people who intend to occupy them as their principal home. Beyond this there is a range of choices, which will be driven by a balance between the needs of the estate, available purchasers and categories of households in particular need of affordable homeownership. Target groups could include:

- small family units with one or more adults in full-time employment (to increase earning mix and reduce child density)
- first-time buyers and key workers
- larger BME households.

One regularly observed feature of purchasers is that they have family or social links on the estate and the sales programme has provided the opportunity for them to live near relatives or friends.

### ***Restrictive covenants***

Several organisations were anxious to avoid the problems associated with the resales of some Right to Buy properties, or to be able to reacquire properties in the future if demand or circumstances changed.

Very large numbers of social landlords have experienced problems with Right to Buy (or affordable homeownership) properties being purchased by irresponsible private landlords who have relet the property to the same disadvantaged groups at higher rents or to anti-social households evicted from neighbouring properties.

One solution to this issue is to place covenants on all properties sold to control sub-letting. Another is to put in place a 'buy-back' clause, which provides the opportunity of bringing a property back into the rented portfolio if the need arises (see Martin and Watkinson, 2003 for examples). Home Housing incorporates a buy-back clause and sub-letting clause in all sales and also offers owner-occupiers on its estates the opportunity to apply for shared ownership tenure in their property in times of difficulty.

Some landlords have reservations about enforcement of covenants. However, London Borough of Barking and Dagenham considers it has some good restrictive covenants on its Right to Buy properties that it has successfully enforced and that it considers could be used on other types of sale.

## Marketing techniques

Even if a local authority or housing association has experience in property sales, selling properties for outright owner-occupation requires different techniques to assisted-purchase homeownership options.

Joseph Rowntree Housing Trust's experience was that it did not have the specialist skills to handle open-market sales. However, using professional estate agents helped to broaden the client base, reduced the stigma associated with social housing 'branding' and provided the opportunity for offers at open-market value.

While estate agents are vulnerable to a bad press, reputable agents are well practised in customer satisfaction and keeping in contact with their clients. Home Housing's dedicated sales team would agree that there is a different emotional process involved when buying than when renting and a different set of communication skills are required. Anglia Housing will also be using an estate agent chain when it begins its programme of voluntary sales.

### **Case example: Brunel Housing Association**

Brunel Housing Association used an estate agent to sell the properties and monitored its performance. If the agent didn't attract potential buyers within a set timescale (usually four to six months), Brunel changed the agent. The agent had guidelines to work from and the association's asset manager investigated potential purchasers.

Joseph Rowntree Housing Trust currently uses two local estate agents to market its properties and keeps a close eye on their performance. It recommends obtaining background information on the agency prior to appointing them and carrying out a 'mystery shopping' exercise to assess agency staff attitudes to locations and tenures that may influence potential purchasers.

It is also important to monitor property valuations. At the start of a sales programme in a run-down location, property values are likely to be depressed. This should alter over time and landlords should actively ensure that properties are not being 'marked down' out of habit or the surveyor's historic perception of the neighbourhood.

Whatever outlet is used to market the properties, preparatory work needs to be done on developing a marketing plan with the sales team or estate agents. Effective communication channels must also be put in place. For one landlord, the decision by their sales officer to provide an out-of-hours contact number for the estate agent proved helpful in quickly clearing up any issues for a prospective purchaser and has not been particularly disruptive or inconvenient.

Within the marketing plan, decisions also need to be made about the extent of repairs/decorative work that will be carried out, or whether the property will be sold at a discount on condition that the new owner carries out essential repairs.

Where a scheme is in its infancy and the area needs to build up a reputation, it can be helpful to make the property attractive, and to offer incentives and target potential customers with local connections. The early experience of Joseph Rowntree Housing Trust was that substantial incentives were necessary to sell the first couple of properties, after which word spread and sales became much easier.

Prospective purchasers need clear, accurate information about what is being offered for sale. They also need a clear explanation of why any conditions, covenants, restrictions, service charges or similar are being imposed. The explanation is needed both to demonstrate a commitment to good management and to offset any negative perceptions that can be created by just putting restrictions in place.

### ***Ensuring a smooth process***

One of the greatest frustrations in the purchase of a home is the length of time it takes to complete the sale. The pending introduction of Homebuyers' Packs will shortly require all sales documentation to be fully available at the time of offer. Current good practice is that it is beneficial to ensure that sale documentation is prepared well in advance – prior to a purchaser being identified. Estate layout plans, guarantees, title documents, agreements and enquiries before contract can be supplied to the solicitor at an early stage – although the survey report and the land search are (for now) still left in the hands of the prospective purchaser. Drawing up guidance notes for purchasers' solicitors can also be considered good practice.

It is important to have good systems in place to guide the process. It helps if there is a dedicated salesperson or team that can liaise with all necessary departments. If different tasks are handled in different departments/offices, the process is much more difficult to manage. Keeping a check or progress list on the property file will ensure that all members of staff can assess the status of a case even when members of a sales team are absent.

Although, for housing associations, Section 9 consent to dispose cannot be given until purchaser details are known, it is possible to forward all the necessary documentation (completed HACON 2 form, plan, valuation and local authority approval) to the Housing Corporation in advance, so that the necessary procedures can be carried out and the certificated approval will lie pending until purchaser details and final purchase price are sent through.

### **Marketing plan**

A formally produced marketing plan can ensure that the marketing and sales process has been fully thought through, and that appropriate contacts, documents and approvals are in place to enable properties to be promptly placed on the market as they become available, and the sales process to proceed without unnecessary delay. The template provided in Table 2 may be useful in preparing a local marketing plan, and ensuring that all appropriate documents are identified and available.

**Table 2 Voluntary sales – marketing plan template**

Element of plan	
Scheme synopsis	Location, property type, value Client group Marketing approach – involvement of existing residents Marketing budget Contingency plans (withdrawal from market or remarketing as Homebuy or similar)
The scheme	
Location	Address
	Local amenities/services
The product	Size/type/construction/specification
	Covenant requirements
Value	Open-market value
Target client	Older people, first-time buyer, single, family, etc.
Appraisal findings – key elements	Local property values Area perceptions Mortgage availability Competitor activities Market demand Sources of information
Sales programme timetable	Void date Date ready for marketing Agency/sales team progress check dates Target completion date
Documents required	Homebuyer's Information Pack Title deeds Guarantees Enquiries before contract Covenant requirements Internal approvals For housing associations, the Housing Corporation's HACON 2 or HACON 5 forms (as relevant)

**Example of sales progress checklist (to keep in property file)**

**Sales agent:**.....

**Purchaser name:**.....

Item	Date actioned
1 Confirmation from solicitor all in order to proceed and deeds being accessed	.....
2 Valuation of property	.....
3 Preparation of Homebuyer's Pack	.....
4 Sales details checked/agreed	.....
5 Property placed on market	.....
6 Homebuyer's Pack completed	.....
7 Diary dates for sales progress checks with agent	.....
8 Update of valuation and/or sales details if appropriate	.....
9 Approval of purchaser details and acceptance of offer	.....
10 Explanatory letter and information pack sent to purchaser (particularly including details and justification of any estate/service charges and/or restrictive covenants)	.....
11 Sales form and monitoring/'CORE' form returned from applicant	.....
12 Details forwarded to solicitors	.....
13 Meters read at handover to purchaser	.....
14 Notify Finance Department of purchase completion date (and service charge details if applicable)	.....
15 (For housing associations) Complete Housing Corporation HACON 5 or HACON 6 form as appropriate	.....
16 Solicitor's invoice received and passed for payment	.....

### **Good practice summary**

- Involve existing residents from the beginning – consult on introducing the scheme, the marketing plan and progress on sales.
- Be flexible – use the best option for the local situation.
- Carefully assess all management issues to be addressed.
- Decide on target client groups.
- Make good use of covenants.
- Access specialist skills for marketing.
- Monitor valuations and use of incentives.
- Provide a Homebuyer's Pack.

# 7 Management

Estates that have been 'rebalanced' through selective sales (or other approaches such as selective market renting) can be expected to require less management in the longer run than when at their more challenging stage. Key savings can be expected from reduced void rent loss, reduced turnover and lower rent arrears (Martin and Watkinson, 2003).

In the shorter term it is very important that adequate resources are in place to ensure proper management of the estate while it is recovering. Sale of vacant properties may reduce voids, turnover and letting costs, and improve (over time) the reputation of the estate. It will not in itself address existing problems such as anti-social behaviour and vandalism, and adequate resources need to be provided to address these.

It can often be the case that economically active homeowners, who have invested their own money in their homes, will be more likely to respond critically to poor estate management and specific problems. While this may place short-term demands on resources, the feedback may allow earlier awareness and response to specific problems, and is an indication that, over time, the estate may become more 'self-policing'. This effect was noted, for example, in the Pype Hayes estate in Birmingham (Watkins and Martin, 2003, unpublished). Here, a long-term regeneration programme brought in mixed tenure to a previously mainly rented estate. One of the dynamics observed was the driving input of homeowners into establishing a neighbourhood forum to respond to problems of anti-social behaviour on the estate. Elsewhere, the wider 'social reach' of homeowners has been noted (Jupp, 1999).

Good practice points in establishing a management framework include the following.

- Ensuring that the lettings policy allows flexibility and that a sustainable balance is maintained within the community. Where the landlord is a housing association, this will include working with the council to ensure the nomination agreement reflects the needs of the community. This needs to be done at the highest level possible, rather than with the officer responsible for allocations who is working to laid-down procedures and criteria.
- The landlord (housing association or local authority) should prepare to deliver a comprehensive management package that will give prospective and future residents confidence to remain and invest in the area.

- Mixed-tenure estates work best where there is a professional and responsive estate management service.

**Good practice summary**

- Liaise with existing residents on management levels and expectations.
- Ensure professional and responsive estate-management package is in place.
- Ensure lettings policy is flexible so that balance is maintained.

## 8 Conclusion

Rebalancing estates through a 'Sell to improve' programme can significantly enhance the quality of life on target estates, and release capital and revenue resources for the landlord to apply in improved service delivery and investment on the estate or elsewhere.

The benefits of the process are shared between existing residents, new tenants and in-moving homeowners, the landlord and the wider community. One social landlord that has fully modelled its 'rebalancing' intentions into its business plan found its long-term finances were projected to improve significantly.

Key points for landlords to address when considering rebalancing estates through a 'Sell to improve' programme include the following.

- Ensuring up-to-date knowledge of, and compliance with, the regulatory and financial rules and procedures associated with voluntary property disposal, and ways in which use of sales receipts can be optimised.
- Ensuring appropriate levels of consultation and explanation of the proposals are undertaken with key stakeholders, including residents.
- Identification of appropriate estates for community rebalancing and development of an appropriate policy approach. It can be very useful to have a 'high-level' champion of the process to gain the necessary corporate support.
- The need for detailed planning and appraisal, as identified in the sample appraisal template provided earlier in this report in Table 1.
- A well thought-through and properly resourced marketing and sales process, and a mechanism to ensure that, once sold, properties continue to remain in owner-occupation.
- A recognition that rebalancing communities through 'Selling to improve' is likely to be only part of the solution for challenging estates. It is equally important to identify and focus attention on other factors such as the need, for example, to address anti-social behaviour or improve estate management services.

Selective sale of properties for homeownership also allows a larger landlord to redistribute its provision of affordable rented accommodation to localities where it is most needed, and into a property mix and design appropriate to modern demands.

Rebalancing communities works to address and reverse some of the long-term drivers of decline, and in practice has been found to have a more beneficial impact than expected on indicators such as turnover, demand and void levels.

For housing associations, the approval mechanism and process is fairly straightforward, and receipts can transparently be reinvested.

For local authorities, care is needed to structure the approvals and sales mechanism in a way that maximises retention of sales receipts for the authority. Reform of the rules of Council Housing Finance in a way that would allow councils to sell properties for homeownership and be able to strategically reinvest the proceeds in providing housing elsewhere would improve the opportunities for better strategic management of the council's housing stock, and would be consistent with the intentions set out in the ODPM (2003b) guidance note *Making Better Use of Local Authority Assets*.

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# Appendix: Disposal of properties by housing associations

Selected extracts from the Housing Corporation's (HC's) *General Consent 2003* incorporated in the booklet *Disposing of Land*, issued 1 April 2003. Please note that the Housing Corporation Consents section has now moved to its Leicester office from Maple House and references to the ODPM should now be read as Department for Communities and Local Government (DCLG).

N.B. The extracts below are provided to give a feel and flavour of the guidance. Landlords are advised to read the whole document thoroughly before embarking on a 'Sell to rebalance' scheme.

## Disposing of land (Section 9 of the 1996 Housing Act)

Guidance and Criteria for registered social landlords and other Housing Associations for all disposals of land or interest in land, including charges to private lenders to secure funding and the General Consent 2003.

There are considerable changes from the 1996 General Consent:

- 3.1 For all disposals of land, unless listed in Exempt Disposals at section 4, an association must have our sealed consent issued under Section 9 of the Housing Act 1996 ('the Act').
  
- 3.5 Section 9 of the Act defines 'disposal' very widely – as a '... sale, lease, mortgage, charge, or other disposition'. This includes:
  - sale or transfer of land
  - mortgage or legal charge including a floating charge
  - any grant of an easement, right of way or other right, or
  - any other interest in land.
  
- 3.6 'Land' includes any kind of property, land or buildings, and covers freehold and leasehold. Any disposal of land by an association will therefore be:
  - an exempt disposal
  - a disposal under the 2003 General Consent or other specific consents the HC issue from time to time
  - a disposal requiring individual consent under seal.

- 3.7 If Associations are unsure whether they need consent they should seek advice from their solicitors or from Consents Section at Maple House.

#### 4 Exempt Disposals

- 4.1 The following categories are exempt from, so *do not* require, our consent under Section 9 of the Act:

- a sales to tenants who have a statutory Right to Buy (including secure tenants who wish to participate in the Rents to Mortgages scheme) or Right to Acquire. This exemption includes preserved Right to Buy (i.e., where a tenant already had the Right to Buy with an earlier landlord and had that right preserved when their home was transferred to a new landlord);

*This exemption does not include sales to tenants made voluntarily by an Association (voluntary sales)*

- b sales following the service of a compulsory purchase order (CPO) which has been confirmed in writing by the First Secretary of State at the Office of the Deputy Prime Minister;
- c disposals that are part of a transfer of engagements between, or result from an amalgamation of, industrial and provident society (I&P Act societies); also disposals of land that result from the conversion of an I&P Act society to a company, or result from an amalgamation with or transfer of engagements to a company;

*Consent for these transfers of engagements or amalgamations are required under Para 12(2) of Sch1 to the Housing Act 1996. Contact the Registry at Maple House for advice*

- d disposals in the form of a transfer of property or transfer of responsibility for property, which will enable a company to be reconstructed, amalgamated or converted to an I&P Act society;

*Consent for these transfers is required under Paragraphs 13(3) and (4) respectively of Schedule 1 to the Housing Act 1996. Contact the Registry at Maple House for advice*

- e disposals by an *unregistered* association that is a registered charity, if the disposal requires an order of the Court of the Charity Commissioners;

- f disposals of non-grant aided and (see also section 9 below) made by associations that were unregistered on 1 October 1996;
- g enfranchisement under the Leasehold Reform Act 1967 or the Leasehold Reform, Housing and Urban Development Act 1993 by a leaseholder acquiring the freehold of their property or an extension to an existing or new long lease;
- h adoption of sewers under Section 104 of the Water Industry Act 1991 and adoption of roads under Section 38 of the Highways Act 1980;
- i disposals of land to which sections 81, 105 or 133 of the Housing Act 1988 applies;

*Certain disposals require the consent of the Secretary of State not the Housing Corporation, in those cases, please contact the Office of the Deputy Prime Minister*

- j lettings to tenants under a secure tenancy or what would be a secure tenancy but for any of the paragraphs 2–12 of Schedule 1 of the Housing Act 1985;
  - k lettings to tenants under an assured tenancy (including the grant of a shared ownership lease) or an assured agricultural occupancy, or what would be an assured tenancy or assured agricultural occupancy but for any of the paragraphs 4–8 or 12 (l)(h) of Schedule 1 of the Housing Act 1988 (including lettings to members of fully mutual co-operatives).
- 4.2 Some exempt disposals – under a, b and d above – may still be relevant events enabling the Corporation to recover or redirect Housing Association Grant (HAG) or Social Housing Grant (SHG). *Associations should refer to our guidance on recovery of grant.*

### ***Extract from Appendix 3, Disposing of Land, April 2003***

Part I RSLs may make disposals under the categories below, subject to the conditions in Part II:

## 1 Low-cost home-ownership

- a The RSL grants a shared ownership lease that is not an assured tenancy and the tenant's premium is 90% or less of the value of the house or the cost of providing it.
- b The RSL grants a new long lease over a house or disposes of its freehold interest in a house to a person who has exercised their right under a shared ownership lease to staircase to a 100% leasehold interest in the house.
- c The RSL grants a lease (that may or may not be assignable) to anyone aged 55 or over (i.e., leasehold schemes for the elderly), while the RSL retains the freehold.
- d The RSL disposes of its remaining interest in a house that was rehabilitated under a Rehab for Outright Sale scheme.
- e The RSL disposes of its remaining interest in a shared ownership house after a shared owner has failed to repay a loan as agreed and the lender has used its enforcement rights under its mortgage over the property.
- f The RSL disposes of a house by sale or lease to a tenant when the RSL has a voluntary sales policy (agreed with its appropriate Corporation office). The terms offered to the tenant must not be better than those offered under the current Right to Buy/Acquire terms (see current Corporation circulars and legislation). The RSL must act in the belief that the purchaser(s) intends to use the house as their main residence and the RSL must include in the transfer deed or lease a certificate stating this belief.
- g The RSL disposes of a house by sale or lease to a tenant where there is a discount as a result of a payment of Voluntary Purchase Grant. But the RSL must believe that the purchaser(s) intends to use the house as their main residence and must include in the transfer deed or lease a statement of this belief.
- h The RSL disposes of house to key worker funded through the Starter Home Initiative. But the RSL must believe that the purchaser(s) intends to use the house as their main residence and must include in the transfer deed or lease a statement of this belief.

### 2 Granting charges and mortgages

The RSL grants a charge or mortgage over land/property to be used for the provision of social housing in favour of:

- Local Authority
- Local Health Authority or NHS Trust
- the Secretary of State for Health
- a New Town Corporation
- the Commission for the New Towns
- Regional Development Agencies
- Local Development Agencies
- the Housing Corporation
- the Lottery Board
- schemes in England financed by Communities Scotland.

The RSL should consider informing its Local Authority that it intends to grant such a charge or mortgage.

### 3 Leases

- a The RSL surrenders its remaining leasehold interest in land or property to the freeholder or head leaseholder, if this is necessary to enter into a new longer lease on the same land/property.
- b The RSL surrenders a lease of a single property (originally leased for use as social housing) to the freeholder provided there is no cost to the RSL, the lease has less than six months to run and the property no longer houses social housing tenants.

- c The RSL grants a lease for all or part of a scheme to a Health Authority, Primary Care Trust or an NHS Trust at no premium and no rental if that authority/body provided 100% funding for the scheme.
- d The RSL grants a lease of 10 years or less at a rent but no premium is paid.
- e The RSL grants a lease of 25 years or less on non-residential property, such as an office, at current market value.

## **6 Tenanted property**

- a The RSL is a registered charity (but not an exempt charity) and sells or leases non-residential property acquired under its investment powers – that is, property not endowed to the charity and never used to house charitable tenants or licensees – provided that the disposal made is for the best that can reasonably be obtained.
- b The RSL sells the freehold interest in a property comprised either entirely of leaseholders where all the shared ownership leaseholders have staircased to 100% or of leaseholders who bought their leasehold interest under the Right (or Preserved Right) to Buy or the Right to Acquire to the leaseholders direct or a company made up of those leaseholders or subsequent buyers.

## **7 Empty property**

- a The RSL sells or leases empty property or unused land that was not acquired or developed with grant funding, and its valuation by an independent qualified valuer is £50,000 or less, or £100,000 or less in Greater London.
- b The RSL sells or transfers empty property or unused land to a Local Authority if the land is part of an area due to be compulsorily purchased but where the compulsory purchase order (CPO) has not yet been served.

### ***Conditions for the disposal of property under the 2003 General Consent (HACON 5)***

- 1 The disposal must be within the RSL's governing instrument (and charity law where applicable). If the disposal is subject to a charge (e.g., a mortgage), the consent of the mortgagee or any other interested party to the disposal must be obtained before contracts are formally exchanged.

- 2 On an open-market sale or sale at auction an independent and qualified (FRICS/ARICS/MRICS/ASVA/FSVA) valuer must confirm that the sale price or, in the case of an auction the reserve price is, in their opinion, the best price that can reasonably be obtained. This confirmation needs to be dated three months or less before the contract is exchanged.
- 3 Disposals must have board authority and decisions must be properly minuted. Subject to the RSL's constitution, governing bodies may delegate authority to sub-committees or employees for any of the categories in Part 1 of this General Consent but must not delegate authority for major disposals.
- 4 A disposal made under the current General Consent regulations must be recorded on form HACON 5 and kept on the RSL's General Consent Register together with the supporting papers including valuation, other consents, legal documents and site plan. Each HACON 5 on the register must be consecutively numbered and in chronological order. A certified copy (without attachments) must be sent to the other party's solicitors.
- 5 If the disposal is of HAG/SHG funded land, the RSL must inform the appropriate Corporation office in writing four weeks before the disposal. Currently no housing stock can be transferred to another RSL using the General Consent.
- 6 If the RSL is receiving an annual subsidy from the Corporation or an LA on the relevant land, it must get advance clearance of the disposal.
- 7 The disposal must not, in the opinion of the RSL's governing body, materially affect the RSL's assets that are available as security for its existing financial commitments. All RSLs have a duty of prudence and should consider whether disposal affects their asset cover in relation to development and/or long-term risks.
- 8 Disposals must not be made to a person or organisation listed in Part 1 of Schedule 1 of the Housing Act 1996. This includes the RSL's officers, employees and their relatives and businesses trading for profit in which those parties have an interest.
- 9 Any disposal should not affect the quiet enjoyment of the RSL's residential tenants, should be for a single transaction only, and should not be linked with any other disposal made under the General Consent. If there are any doubts at all, RSLs are advised to send a HACON 2 to the Consents Section at Maple House instead.

- 10 An RSL may only make a disposal to a tenant under a voluntary sales policy if it has first obtained the written agreement from the Corporation to the introduction of a voluntary sales policy.

***Disposals not covered by the 2003 General Consent (HACON 2)***

- 1 Any disposal not covered by the 2003 General Consent and not exempt from Section 9 consent requires an individual consent under the Corporation's seal.
- 2 Each application is considered on its merits, and although consent is not unreasonably withheld it is not normal policy to agree to a disposal in the following circumstances:
  - a disposal of tenanted property (unless the disposal is to another Association or to a tenant to whom the Association has made voluntary sale);
  - b disposal at less than the full open-market value (unless to another Association where a price up to open-market value can be negotiated);
  - c disposal that is contrary to an Association's objects and/or permissible activities;
  - d disposal that raises issues of financial concern or impropriety.
- 3 If the disposal is a transfer of tenanted stock between Associations, they must consult their tenants before applying for Section 9 consent.

*Procedures*

- 1 The Association should retain the bottom copy of HACON 2 and send the other two copies to Consents Section, Maple House.
- 2 If the application is in order and accompanied by any necessary supporting papers the processing should take about two weeks.
- 3 The key papers that should be sent with the HACON 2 (where relevant) are, in particular:
  - a a clearly marked site plan for disposal of land without buildings, however small, including easements and rights of way.
  - b a schedule attached to a single HACON when disposing of a multiple of units.
  - c for any leasehold disposal, an indication on HACON 2 or the term or length of the lease.
  - d a copy of the lease where it is newly granted to a party other than another Association.

- e a copy of a current (up to three months old at time of exchange) valuation where the disposal is *not* to another Association. The valuation need not be a full valuation – a ‘best value’ certificate is acceptable. The valuation should be from an independent and qualified valuer, on headed paper, and show the valuer’s signature and qualifications and should be addressed to the Association.
- f confirmation of consultation with the Local Authority if appropriate.