

Housing and Community Services Committee

Wednesday 9 September 2009 7.30pm

**Council Chamber
Runnymede Civic Centre, Addlestone**

Members of the Committee

Councillors P J Waddell (Chairman), Mrs R M Denby and J M Edwards (Vice-Chairmen);
J R Ashmore, C J Chapman, R J Edis, P A Francis, R N Jones, L C Pouyanne and
A S T Ridge-Newman

AGENDA

Notes:

- i) Any report on the Agenda involving confidential information (as defined by section 100A(3) of the Local Government Act 1972) must be discussed in private. Any report involving exempt information (as defined by section 100I of the Local Government Act 1972), whether it appears in Part 1 or Part 2 below, may be discussed in private but only if the Committee so resolves.
- ii) The relevant 'background papers' are listed after each report in Part 1. Enquiries about any of the Agenda reports and background papers should be directed in the first instance to **Mr M L White, Department of Administration and Leisure Department, Runnymede Civic Centre, Station Road, Addlestone (Tel: Direct Line: 01932 425623). (Email: malcolm.white@runnymede.gov.uk)**.
- iii) Agendas and Minutes are available on a subscription basis. For details, please ring Mr B A Fleckney on 01932 425620. Agendas and Minutes for all the Council's Committees may also be viewed on www.runnymede.gov.uk.
- iv) In the unlikely event of an alarm sounding, members of the public should leave the building immediately, either using the staircase leading from the public gallery or following other instructions as appropriate.

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GLOSSARY OF TERMS AND ABBREVIATIONS

TERM	EXPLANATION
ACC	Surrey Adults and Community Care Services formerly known as Social Services.
ALMO	Arms Length Management Organisation. This is an organisation established specifically to manage Council stock. The properties remain Council owned and tenants retain their secure tenancies. This can provide opportunities for extra funds to meet the Decent Homes Standard if all government requirements are satisfied.
BFI	Benefit Fraud Inspectorate. The BFI is part of the DWP. Its duty is to inspect local authorities responsible for administering benefit on Housing and Council Tax. The responsibility for this function will pass to the Audit Commission from April 2008.
BHM	Balancing Housing Markets. This assessment looks at the whole housing market, considering the extent to which supply and demand are "balanced" across tenure and property size.
BME	Black and Minority Ethnic Groups. This is a collective name used by various bodies.
BNAM	'Basic Needs Assessment Model'. This is the main method for calculating affordable housing requirements suggested in Government guidance – <i>"Local Housing Needs Assessment: A guide to Good Practice"</i> .
CLG	Communities and Local Government. Government department responsible for local government and housing functions. See the CLG website at www.communities.gov.uk .
COMPACT	This is a requirement of Central Government. It entails developing an agreement between the Council and tenants or voluntary organisations about the way in which they will be consulted on the services they receive or deliver.
CPA	Comprehensive Performance Assessment. An external process to assess the quality of individual Council's Performance (set out in the Local Government White Paper 2001). It brings together evidence from a range of internal and external sources, in addition to an on site inspection, in order to arrive at an overall category.
DFG	Disabled Facilities Grant. This is a grant made available to disabled persons to provide adaptations to their property. Dependent on the type of work, it is a mandatory grant. The amount of grant awarded is subject to a test of resources of the disabled person.
DHCS	Director of Housing and Community Services.
DWP	Department of Work and Pensions (Government Department)
ESP	Existing Satisfactory Property. This scheme involved working with a Housing Association to purchase low cost housing in the private sector. Originally the scheme involved the repurchase of ex-Right to Buy Council properties. However, the scheme was broadened to include any low cost housing in the Borough.
GOSE	The Government Office for the South East. This is the local office of the Office of the Deputy Prime Minister (formerly the Department of Transport, Local Government and the Regions) for the South East region of England. Its role includes development of the Regional Housing Strategy.
HMO	House in Multiple Occupation. In general terms this is a property that is let to three or more tenants. However, for an exact definition reference must be made to the Housing Act 2004.

HOMES AND COMMUNITIES AGENCY (HCA)	This is the National Housing Agency for England. It is a Government Agency and has replaced the Housing Corporation.
HRA	Housing Revenue Account. This is a statutory account that sets out the expenditure and income arising from the provision of social housing by the Local Authority as a landlord. Expenditure in the HRA includes repairs and improvements, and management expenses. Income is mainly from rents. HRA subsidy is a significant item in the HRA.
LDF	Local Development Framework. Government replacement for the Local Plan.
LSP	Local Strategic Partnership – Leads on the Community Strategy.
NROSH	The National Register of Social Housing (NROSH) is a system for collecting social housing data on individual properties directly from local authorities and housing associations.
PFI	Private Finance Initiative. A long-term contractual private/public partnership under which the private sector takes on the risks associated with the delivery of public services in exchange for payments tied to agreed standards of performance. This can provide an opportunity to raise extra funds for investment in housing stock. Several Councils are currently acting as pathfinders.
PPG3	Planning Policy Guidance. This is Guidance issued by the Secretary of State detailing National Planning Policy within existing legislation. There are many examples of Guidance and PPG3 is the one that is the most relevant to housing. This sets out the requirements relating to the provision of affordable housing.
RARP	Runnymede Accommodation Referral Panel. This group has been established to assess the accommodation requirements of people with mental health, learning disability and physical disabilities. The group considers each individual case and makes a recommendation as to the level of support required. Representatives on the group include the following: Officer from the Borough Council's Housing Department. Officer from the Community Support Team (Social Services). Officer from the Community Mental Health Team (Social Services/Health). Occupational Therapist.
RCRA	Runnymede Council Residents Association, formerly the Tenants' and Leaseholders Services Group. This group was formed in February 1999. The members of the group are Council Tenants and Leaseholders. They meet prior to each Housing and Community Services meeting to consider policy and management issues that impact on Tenants and Leaseholders.
RHB	Regional Housing Board. The RHB has been established by the Government to prepare and oversee the Regional Housing Strategy. The Strategy for the region will set out the approach to housing investment and give a clear framework for spending decisions. One RHB exists for the whole of the South East of England.
RSL	Registered Social Landlord. This is a Housing Association which is entitled to bid for Social Housing Grant. The RSL is established for the purpose of the provision, construction, improvement or management of social housing and is a not for profit organisation.
RTB	Right to Buy. The regulations that allow Council tenants to purchase the freehold or leasehold of their home.

SAP	Standard Assessment Procedure. This is the Government's procedure for assessing the energy efficiency of a property.
SHG	Social Housing Grant. This is the main public subsidy paid to Registered Social Landlords by Central Government, through the Homes and Communities Agency to finance new homes. It can be used to pay for rented schemes as well as low cost home ownership schemes.
SMART	How targets should be set if they are to be effective – Specific, Measurable, Achievable, Realistic, Timely.
SNHSG	The Special Needs Housing Strategy Group was established to look at the level of housing needed by people with special needs. This includes those with mental health problems, learning disabilities, physical disabilities, young people leaving care, victims of domestic violence, those with drug and alcohol problems, and older people. The group has representatives from a number of different agencies. The Chairman from each of the Local Special Needs Forums is also represented on the Special Needs Housing Strategy Group.
TPAS	Tenant Participation Advisory Service. The independent tenant advisers. Their role is to help tenants understand the complexities of the stock options and to audit the Council's statements and figures.

1. FIRE PRECAUTIONS

The Chairman will read the Fire Precautions which set out the procedures to be followed in the event of fire or other emergency.

2. NOTIFICATION OF CHANGES TO COMMITTEE MEMBERSHIP

3. MINUTES

To confirm and sign, as a correct record, the Minutes of the meeting of the Committee held on 16 June 2009. These Minutes were included in the July 2009 Summons/Minutes Book.

4. APOLOGIES FOR ABSENCE

5. DECLARATIONS OF INTEREST

If Members have an interest in an item please record the interest on the form circulated with this Agenda and hand it to the Legal Representative or Committee Administrator at the start of the meeting. A supply of the form will also be available from the Committee Administrator at meetings. Members who have previously declared interests which are recorded in the Minutes to be considered at this meeting need not repeat the declaration when attending the meeting. Members need take no further action unless the item in which they have an interest becomes the subject of debate, in which event the Member must leave the room if the interest is personal and prejudicial.

6. BENEFIT ANTI-FRAUD POLICY (DF)

(Ref: Minutes of Housing and Community Services Committee dated 11 January 2000, page 858, para 542 and 23 February 2000, page 1037, para 656)

1. Purpose of Report

1.1 **The purpose of this report is to seek approval for an updated Benefit Anti-Fraud Policy.**

2. Background Information

2.1 In February 2000 the Council approved the following documents:

- Benefit Anti-Fraud Policy and Strategy

- Fraud Inspectors Code of Conduct
 - Benefit Fraud Prosecution Policy
- 2.2 Copies of the current Anti-Fraud Policy documents have been placed in the Members' Room for reference.
- 2.3 The Anti-Fraud Policies sought to encourage greater prosecution activity and establish clear guidelines to identify the circumstances under which prosecutions would be undertaken and penalties imposed.
- 2.4 Since the change of priority to include more prosecution activity, the Benefit Fraud Investigation Team has had a history of success with 62 successful prosecutions, 102 cautions and 5 administrative penalties to date. There were 12 successful prosecutions in 2008/09 alone and sentences over the years have included fines, community service, tagging, suspended sentences and periods of imprisonment.
3. Report
- 3.1 The existing policy needs to be updated to reflect the experience gained of investigations and the application of sanctions and the changes that have occurred in the administration of benefits and fraud over the past 9 years. The revised Anti-Fraud Policy at Appendix 'A' now combines the previous three documents to incorporate the anti-fraud sanctions policy (which includes prosecutions) and the anti-fraud strategy. It also includes reference to the new Local Housing Allowance, introduced in April 2008, and takes account of the changed arrangements for the prosecution of fraud jointly by local authorities and the Department for Work and Pensions.
4. Council Policy
- 4.1 The revised Benefit Anti-Fraud policy is consistent with the Council's overall Anti-Fraud Corruption Strategy.
5. Resource Implications
- 5.1 There are no additional resource implications arising from adoption of this policy.
6. Equalities
- 6.1 An Equalities Impact Assessment (EIA) has been completed on the revised policy and was presented to the Equalities Working Party on Friday 7 August 2009. No recommendations for change were made. A copy of the EIA is attached at Appendix 'B'.

OFFICERS' RECOMMENDATION that –

the Housing Benefit and Council Tax Benefit Anti-Fraud Policy as set out in Appendix 'A' be adopted with immediate effect.

(TO RESOLVE)

Background Papers

As noted in 4.1 above.

7. BENEFIT FRAUD - NEW JOINT WORKING ARRANGEMENTS WITH THE DWP (DF)

1. Purpose of Report

1.1 **The purpose of this report is to explain the new arrangements for joint working with the Department for Work and Pensions (DWP) on the investigation and prosecution of fraud, and to seek authority for authorising the Benefit Fraud Investigation Manager to conduct certain prosecution cases on behalf of the Council.**

2. Background Information

2.1 Since the inception of the Housing Benefit (HB) and Council Tax Benefit (CTB) schemes, a framework had been developed by the Department for Work and Pensions (DWP) (previously the Department of Social Security) to enable local authorities to investigate and prosecute fraud against the benefits that they administer. For a number of years the DWP believed that this framework permitted the investigation and prosecution of fraud against social security benefits where the receipt of a DWP administered benefit guaranteed entitlement to HB or CTB.

2.2 In July 2003, on instruction of the DWP, following representations from several local authorities, John Howell QC gave an opinion on the legal basis for the use of these powers. He concluded that local authorities did not have powers to prosecute offences against benefits other than HB or CTB and that they were also unlikely to have the power to investigate such offences. As a result, local authorities were asked to stop investigating offences against DWP administered benefits until a legislative solution could be developed. This did not stop local authorities working with the DWP but it meant that any prosecution for offences other than HB or CTB would have been taken by the DWP.

2.3 Against this background, the DWP consulted with affected and interested parties to resolve the issues highlighted by the *'Howell Opinion'* with a view to giving local authorities powers to investigate and prosecute offences against DWP administered benefits.

3. Reports

3.1 Sections 46, 47 and 48 of the Welfare Reform Act 2008 (WRA) have now given local authorities clear powers to investigate and prosecute offences against specified national social security benefits alongside Housing Benefit (HB), including Local Housing Allowance, and Council Tax Benefit (CTB), namely:

- Income Support
- Jobseeker's Allowance
- Incapacity Benefit
- State Pension Credit, and
- Employment and Support Allowance.

3.2 A local authority authorised officer can exercise these new investigation powers when also investigating fraud against HB/CTB in the same case. Such Officers can also investigate even if the HB/CTB element of the investigation is not affected. Similarly, when a local authority has completed an investigation it can continue with the prosecution of the national benefit fraud regardless of whether proceedings are to be brought for HB/CTB fraud.

3.3 These new powers are entirely voluntary and it is up to individual local authorities to determine whether to bring proceedings where there is no HB/CTB offence.

3.4 However, the DWP has made it clear that, under the Fraud Partnership Agreement between local authorities and the DWP, local authorities will only be given information

regarding national benefits if they invite the DWP Fraud Investigation Service (FIS) to participate in the investigation. If the FIS declines it will direct and confirm local authority requests to the relevant delivery organisation, e.g. Jobcentre Plus or The Pension Service, before the information will be released.

- 3.5 When the local authorities have completed their investigations they have to notify the FIS of the outcomes which will then pass the information obtained to the relevant delivery organisation for formal decisions on entitlement and the calculation of any overpayments. Local authorities may make the decision on whether to caution or prosecute and are free to use the DWP prosecution service or their own.
- 3.6 Recent cases of joint working by the Council and the DWP have resulted in successful prosecutions with sentences including fines and community service. In one case the offender was curfew tagged and in another current ongoing investigation it is expected that there will be a custodial sentence.
- 3.7 The Council may use its own Officers, solicitors or an appointed barrister, to prosecute cases on its behalf, and/or that of the DWP, or it may use the services of the DWP's Solicitor Prosecutor Branch (SOLP).
- 3.8 Section 223 of the Local Government Act 1972 permits a local authority to authorise an officer to conduct prosecution proceedings in the Magistrates' Court even though he or she is not a solicitor holding a current practising certificate.
- 3.9 It is anticipated that joint working will increase the number of prosecutions the Council will take which will place additional strain on the Council's Legal Division. For this reason it is proposed that the Council's current Benefit Fraud Investigation Manager, Mr N Morley, should take prosecution cases where the offender has pleaded 'guilty' and where he has not been directly involved in the investigation. He has already completed a suitable training course and now needs to be authorised to prosecute on behalf of the authority. His involvement will reduce the number of cases in which a Council solicitor would be required to attend court. A Council solicitor will continue to take cases where there is a 'not guilty' plea, either as the prosecutor or in support of an appointed barrister.

4. Council Policy

- 4.1 The Council has a Benefit Anti-Fraud Policy currently which, since 2000, has been the basis on which benefit fraud investigations have been conducted and how appropriate sanctions have been applied. A copy of the existing policy can be found in the Members' Room for reference. A separate report on this agenda proposes updates to the current policy and this can be found at Appendix 'A'.

5. Resource Implications

- 5.1 The task of conducting guilty plea prosecutions can be undertaken within the Benefit Fraud Investigation Manager's current range of duties. In most prosecution cases he, or another investigating officer, would normally be in attendance as a witness.
- 5.2 Where Officers determine that it is best to conduct selected prosecutions, they can do so under the Scheme of Delegations provided the Director of Administration and Leisure believes that there is a good chance of success and the Council's own legal costs of the action are likely to be less than £5,000. Action that would exceed that amount requires specific Committee authority.

6. Equalities

- 6.1 An Equalities Impact Assessment (EIA) has been completed on the revised Anti-Fraud Policy referred to in 4.1 above and was presented to the Equalities Working Party on Friday 7 August 2009. No recommendations for change were made. A copy of the EIA is attached at Appendix 'B'.

OFFICERS' RECOMMENDATION that –

under Section 223 of the Local Government Act 1972, Mr N Morley, Benefit Fraud Investigation Manager, be authorised to conduct prosecution proceedings in the Magistrates Court on behalf of the Council where the offender has entered a guilty plea.

(TO RECOMMEND)

Background Papers

1. Statutory Instrument 2008 No 463 Social Security – The Social Security (Local Authority Investigations and Prosecutions) Regulations 2008
 2. DWP HB/CTB Circular F1/2008
8. REFORM OF COUNCIL HOUSING FINANCE (DF)
1. **Purpose of Report**
 - 1.1 **The purpose of this report is to suggest a response to the Consultation Paper issued by the Department of Communities and Local Government (DCLG) entitled *Reform of Council Housing Finance: Consultation*.**
 2. **Background Information**
 - 2.1 The review of the Housing Revenue Account (HRA) subsidy system was proposed in the housing green paper in July 2007 and was announced by the Minister of Housing on 12 December 2007. In the intervening period, the DCLG and HM Treasury have jointly conducted a series of "work streams" that are brought together in this consultation exercise. The work streams are:
 - Costs and standards for social housing
 - Rents and service charges
 - Rules governing a local authority's HRA and capital
 - Mechanisms for delivering funding
 - 2.2 During this process there has been a significant level of lobbying of Government by tenant groups and local authorities. This includes the "Campaign for Fair & Local Housing Finance" group of local authorities led by Waverley Borough Council.
 - 2.3 The Department of Communities and Local Government (DCLG) issued a consultation paper on 21 January 2009 on proposals for removing some disincentives to local authority investment in new Council housing within the current financial framework. These include changes to both revenue and capital rules. A response to this paper was agreed by this Committee in March 2009.
 - 2.4 The DCLG issued this new consultation paper - Reform of Council housing finance - on 21 July 2009. The consultation paper is 59 pages long. The DCLG also issued the following papers on the same day:
 - i) Review of Council housing finance: Impact assessment (23 pages)
 - ii) Analysis of rents (92 pages)
 - iii) Summary of commissioned research (8 pages)
 - iv) Review of the major repairs allowance (47 pages)
 - v) Options for dealing with housing loan debt in the local authority sector (16 pages)
 - vi) Evaluation on management and maintenance costs in local authority housing – summary report (37 pages) and report of findings (90 pages)

- vii) Tenants' attitudes towards Council housing finance and rents policy; to inform the review of Council housing finance (45 pages).
- 2.5 Responses to the consultation paper are required by 27 October 2009.
- 2.6 A copy of the consultation paper and all the supporting papers has been placed in the Members' Room. The papers are also available from the DCLG website at <http://www.communities.gov.uk/publications/housing/Councilhousingconsultation>
- 2.7 The Minister for Housing and Planning, John Healy MP, has also written to all Council leaders. The letter provides a useful and relatively concise summary of the Government position. The letter is attached at Appendix 'C'.
3. Reform of Council housing finance: Consultation Paper
- General
- 3.1 The length of the consultation paper and supporting documentation illustrates the complexity of the current housing finance system and the difficulty of implementing changes. *Pages 12 to 46* of the consultation paper contain the main part of the consultation. For ease of reference these pages are reproduced at Appendix 'D'.
- 3.2 Although the Government seem committed to implementing significant changes to the system, and have set out their preferred options for doing so, there is likely to be more consultation exercises and certainly more work on detail to be carried out before the implementation of the proposals.
- 3.3 The consultation documents do not provide authority-by-authority details of the potential impact of the options for change. This means that it is not possible for the "winners and losers" of the proposals to be identified. This is understandable, not least because clearly the winners would be more content with the proposals than the losers.
- 3.4 The consultation paper asks 17 direct questions. The suggested responses to each question are set out in Appendix 'E'. Each question is followed by a commentary on the specific implications to Runnymede, and the suggested specific response.
- The Housing Revenue Account (HRA)
- 3.5 Section 2 of the consultation paper sets out the current housing finance system.
- 3.6 Every local authority with Council housing must maintain a Housing Revenue Account (HRA). The HRA comprises the revenue expenditure and income arising from the provision of the Council's own housing stock. The HRA is a ring-fenced account. Rents therefore cannot be subsidised by Council tax and, equally, local authorities are prevented from using rent income to keep Council tax levels down.
- 3.7 The Budget Book for 2009/10 shows the entries in the HRA in detail. A summary of the HRA estimate for 2009/10, with the actual for 2008/09 shown for comparison, is set out in table A below:

Table A: Summary of actual net cost of HRA services in 2008/09 and budget for 2009/10		
	2008/09 Actual	2009/10 budget
Management expenses	£000	£000
Housing repairs and maintenance (total)	3,275	3,436
HRA subsidy paid to the Government	6,580	4,960
Total expenditure	15,821	14,748
Total income from rents and charges	13,830	14,523
Investment income	160	82
Use of capital reserves	2,132	0
Total income	16,122	14,605
Increase (decrease) in HRA balances	301	(143)

- 3.8 The budget for housing repairs and maintenance follows the stock maintenance and improvement plan set out in the HRA Business Plan. The updated HRA Business Plan covering the period 2008-2013 (including the supporting 30-year financial model) was approved by this Committee in September 2008.
- 3.9 However, it is HRA subsidy that has been the focus of much of the criticism that has led to the Government's review. HRA subsidy is the difference between assessed rent and assessed expenditure. Some authorities receive HRA subsidy (52 out of 205 local housing authorities in 2008-09). The other 153 local housing authorities pay "negative HRA subsidy" to the Government. Therefore, the HRA subsidy system exercises a redistribution of resources between local authority areas. It is this re-distribution process that is - for housing authorities in negative HRA subsidy - often the most unpopular part of the system.
- 3.10 The system is projected to move into surplus nationally of £300m in 2009/10, i.e. the authorities in negative subsidy will pay in total £300m more than is paid out to authorities that receive subsidy. Runnymede Borough Council is due to pay the Government £6.352m in 2009/10.

Costs and Standards of Council Housing

- 3.11 Section 3 of the consultation paper sets out some issues identified by the Government concerning costs and standards of Council housing. The first 5 of the consultation questions are asked in this section.
- 3.12 The consultation paper identifies that the Government allowances in the HRA subsidy system for management and maintenance of stock are inadequate. This acknowledgement is welcome and rectifying this shortfall would lead to the prospect of a more sustainable long-term future for Council housing.
- 3.13 This section of the consultation paper also sets out concerns that some authorities are not making fair allocations of costs to their HRA, proposes that housing standards are updated to include items such as common areas and to introduce an energy savings standard, and proposes the introduction of sinking funds for leaseholder charges.

Reform of the System

- 3.14 Section 4 of the consultation paper identifies two broad models for financing Council housing in the future:
- Improvements to a national system for funding Council housing
 - A devolved system (self funding)

- 3.15 Under both models, the Government would remain committed to the following:
- Costs, standards and rents would be based on the same principles
 - Local authorities would be required to draw up 30 year business plans based on updated stock condition surveys following the completion of their Decent Homes programme
 - All housing capital receipts would be retained locally and would be accounted for alongside housing revenues
- 3.16 It is not realistic to expect the Government to simply abolish the HRA Subsidy system and leave the "winners" with large surpluses and "losers" with large deficits. Nor is it realistic to assume that HM Treasury would accept a new system that required significant sums of new public money. Therefore, the consultation paper sets out proposals to replace HRA Subsidy with a devolved system - the "self-financing option". This is Government's favoured option.
- 3.17 The self-financing option proposes that a re-allocation of the "national" housing debt currently accounted for in the HRA Subsidy system is made to local housing authorities.
- 3.18 The estimated total of national Council housing debt for the purposes of HRA Subsidy is £18.37 billion in 2009/10. Runnymede Borough Council currently has a small element of this figure (£235,000). However, this share of national Council housing debt is not the same as the actual Council housing debt, which for Runnymede Borough Council is nil.
- 3.19 The consultation paper states that the debt allocation would be a once-and-for-all settlement that would create a new baseline for each local housing authority. Thereafter, local authorities would be free from the restrictions of the HRA Subsidy system. The Government state that by freeing Councils from the annual funding decisions in the current system, long-term planning can be better assured and that efficiencies and better services developed. In principle, this is welcome because, under the current annual funding settlements, seemingly relatively modest changes in spending allowances can impact significantly on the viability of HRA Business Plans simply because of the cumulative impact of marginal changes.
- 3.20 The options for coming to a methodology for the reallocation of national housing debt are set out in the package of papers with the consultation paper. These do not provide an indication of the debt that would be allocated to Runnymede Borough Council. The options paper on loan debt briefly explains a debt redistribution model under which the highest debt per unit is £30,248 (South Cambridgeshire). Based on £30,000 a unit, the debt allocated to Runnymede would be in the region of £90m. Of course, Runnymede Borough Council is currently debt free and a reallocation of debt of this size would radically alter the shape of our balance sheet and would require a fundamental review of our treasury strategy and practices.
- 3.21 The consultation paper favours an approach to calculate the opening debt level based on a 30-year assessment of cash flows (30 years matches the life of the HRA Business Plan). The cash flow model would use updated figures for the cost of management, maintenance, major repairs and rent and other income that are used to calculate subsidy. Therefore, the assumptions made about future costs and rental income will be crucial. The result of this calculation would be the debt allocated/imposed on a Council. Another way of looking at the debt figure would be to call it "buy-out debt".
- 3.22 The Government proposals require that each local housing authority would re-new or substantially refresh their HRA Business Plans to inform the cash-flow projection. Therefore, establishing robust figures in the HRA Business Plan is critical.
- 3.23 The consultation paper suggests that the Government intend to increase the amount for management and maintenance allowances by £700m nationally. This figure is based on evidence that the current allowances significantly under-estimate these costs. This is a welcome development and will be crucial to making the proposed system sustainable. Indeed, the Runnymede Borough Council HRA Business Plan forecasts that our HRA

will run out of money in about 10 years time because the current spending allowances, especially the allowance for major repairs, are too low to meet needs over the medium term. If we receive our fair share of the new resources it should, all other things being equal, lead to a more sustainable HRA Business Plan.

- 3.24 However, caution over too much optimism must be exercised because the consultation paper does not clarify how the £700m increase will be funded. It could be funded from growing "surpluses" in the national housing account (see paragraph 3.10), or from further rent increases. The current state of national Government finances would seem to rule out the option of "new" money in the system. Indeed, the state of the national finances may require Government to take every opportunity to restrain spending and this could mean that insufficient resources are available to achieve the desired wholesale reform of housing finance.

Rents

- 3.25 Evidence on rents was published as part of the review. However, the consultation does not propose changes to rent policy. Rather obliquely, the consultation papers states that *"..we expect to deal with future Council rent policy separately, in the context of the HRA subsidy determination for 2010-11 and a future direction by the Secretary of State to the Tenant Services Authority on Council rents"*. Assumptions about rent will form a critical part of the model used for the self-financing system.
- 3.26 The idea that Councils should set their own rent policy seems to be ruled out.
- 3.27 It would be realistic to acknowledge that Governments may wish to amend or change rent policies at some time(s) during the next 30-years. Dependent on the nature of change, this could very quickly render the new system unsustainable and/or require the need to "revisit" debt settlements.

Housing finance: Capital expenditure and receipt changes

- 3.28 The "housing capital receipt pooling" system rules that requires local authorities to pay a proportion of their housing capital receipts to the Government. There is a relaxation in these rules that allows local authorities to retain certain specified housing capital receipts as long as they are spent on affordable housing or regeneration projects.
- 3.29 The consultation paper sets out, on pages 39 and 40, the Government thinking on the future of capital receipt pooling. The Government propose to remove the requirement for local authorities to pay over a proportion of the sale of all housing assets, including from right-to-buy sales, subject to the self-financing proposal being adopted. This is a welcome development. However, the consultation paper proposes that restrictions on the use of housing capital receipts are retained under the new system.

Disabled facilities in local authority housing

- 3.30 Currently, the HRA is charged the full cost of adaptations to Council stock to meet the needs of disabled tenants. The budget for these works is £211,000 in 2009/10 (a separate agenda item proposes increasing this budget). No Government support is provided towards the cost of the work. This is in contrast to the financing arrangements for disabled facility works to non-Council dwellings where a Government grant (£270,000 in 2009/10) helps pay towards the overall cost of private sector improvement work (estimate for 2009/10 is £450,000). This means that tenants pay the full cost of works for their fellow tenants through their rents, whilst the whole community (including tenants) pay towards works to non-HRA dwellings. This is patently unfair. Regretfully, the Government make no proposals to remedy this situation, other than to allow local authorities to use the locally retained capital receipts (which would otherwise have been pooled) to pay for the provision of disabled facilities in local authority housing.

- 3.31 Implementation

- 3.32 Section 5 of the consultation paper states that the Government wishes to move swiftly towards having the self-financing option up and running. The Government hope to have agreement about the costs of running stock at the local level, operational practicalities and the debt settlement by spring 2010. However, this ambitious timetable is subject to all stock owning authorities accepting the Government terms.
- 3.33 Otherwise, the Government will require primary legislation to achieve a national settlement. This could lead to a new system being in place for the 2012-13 financial year.
- 3.34 However, the Government are not going to leave local housing authorities alone after the change. The consultation paper states that "*Council housing would remain a major national public service and central Government would have an ongoing interest in ensuring that it was managed well and that tenants' interests were protected*". There will continue to be management and maintenance standards for local authorities to meet, and rent policies to be followed. These will be regulated by the Tenant Services Authority (TSA), and a separate item on this Agenda sets out the issues arising from this development.
- 3.35 It remains to be seen whether the TSA will significantly change the burdens on local housing authorities. The Government state that they will bring forward regulations that will provide the TSA with strong regulatory powers applying to local authority landlords. Also, the TSA would be expected to look closely at local authority business plans and set standards, subject to strategic direction by central Government.

4. Risk Management

- 4.1 The new arrangements would change the triggers on the financial risk to the HRA Business Plan. At present, the risk to the HRA arises from the uncertainties of annual subsidy determinations, whereby the HRA Business Plan may become unsustainable (i.e. the HRA running out of money sooner or later) should annual settlements be unfavourable. The new risk is that the cost of debt servicing and/or of managing and maintaining stock becomes greater than expected and the HRA becomes unsustainable. The consequences are similar, but the triggers are different.
- 4.2 There is, of course, always the possibility that a future Government again changes the rules, for example, for changes in rent policy or standards that apply to social housing. In such circumstances, the consultation paper states that the Government would re-open the debt settlement. The risk is that if the debt allocation is revisited, a future settlement could be unfavourable.
- 4.3 There is also a risk that if local authorities become very successful and manage stock profitably, central Government will inevitably want to share any surplus.
- 4.4 Assuming a large debt would change the nature of the treasury risks for the Council. The Council will turn from a lender of funds, to a net borrower. Controlling interest rate risk on borrowings will, in particular, become an important task.

5. Equalities

- 5.1 The consultation paper asks three questions on the impact of the proposals on equalities.
- 5.2 There should not be a negative impact on equalities from the purely financial aspect of the proposals.
- 5.3 The proposed continuation of the unfair financing arrangements for adaptation works to Council stock to meet the needs of disabled tenants could lead to disabled tenants in the HRA being at a relative disadvantage to those in non-HRA dwellings.

6. Resource Implications

- 6.1 There would be a major transformation in the balance sheet of Runnymede Borough Council should these proposals be implemented. Runnymede Borough Council would move from a lender to a borrower. Treasury strategy and practices would need to be fundamentally reviewed.
- 6.2 The impact on the HRA could be positive or negative. The "devil will be in the detail".
- 6.3 The change to the new system will require considerable input from housing and finance staff. This includes analysing and responding to Government proposals as they develop, and reporting to Committee and tenant groups as appropriate. There is a possibility that consultancy support may be required as these proposals develop, both to supplement scarce internal resources and provide expert review of the Council's strategy and options.
- 6.4 The consultation papers suggest that the average cost for each local authority in developing the self financing option would be £180,000. This is broken down to producing a business plan (£20,000), consulting with tenants (£60,000), and a stock condition survey (£100,000). Although the cost for Runnymede Borough Council should be substantially lower (we are one of the smaller housing authorities), they will still be significant. It would normally be expected that Government grant will be paid towards these costs.
- 6.5 There will be new duties, tasks, responsibilities and accountabilities arising from the new system once implemented. Hopefully, these can be developed in conjunction with the implementation of the system.

7. Legal Issues

- 7.1 The accounting entries for the HRA are set out in various statutes and associated Regulations and Directions.
- 7.2 The Government hope to make as much of the change as possible by using existing legislation. Where this is not possible, or some local authorities challenge use of existing powers, the Government will create new legislation as required.
- 7.3 The Housing and Regeneration Act 2008 gave power to the Government to permit local housing authorities to 'exempt' properties from the Housing Revenue Account subsidy system.

8. Conclusions

- 8.1 It is likely that the focus on the Government's proposals will be on the allocation of national housing debt. There will be a natural difficulty in gaining acceptance that the allocation of debt is fair, especially from tenants who regard the capital cost of their dwellings as already paid for and by Councils who are proud of their debt-free position. For Runnymede Borough Council, it seems that we would be allocated a new debt of around £70m to £90m. The cost of servicing the debt would be charged to the HRA, but the need to pay over £6.5m of "negative HRA Subsidy" to the Government will be removed.
- 8.2 However, the key exercise will be the terms of the "once-and-for-all" settlement, which is akin to a 30-year housing subsidy settlement. Assumptions about costs and rents will need to be built into a model that will determine the debt that each authority must take on. It is not yet known whether the Runnymede Borough Council HRA would be a "winner" or "loser" under the new arrangements and this will obviously colour our opinion over the desirability of such change.
- 8.3 An encouraging feature of the proposals is that the Government appear to be willing to re-set and fund the assumptions about management and, especially, maintenance allowances. All things being equal, this should be a favourable factor for Runnymede Borough Council given that our HRA Business Plan identified under-funding of the major repairs allowance in the HRA subsidy system as the key reason for the financial plan being unsustainable in the medium term.

- 8.4 There are also some relaxations in the rules over housing capital receipts that are welcome, even if some conditions over their use remain in place. Of course, howsoever modest, any relaxation in the rules surrounding housing finance is welcome.
- 8.5 There seems little change in the other aspects of Government housing policy. Government policy on rents and standards and services will remain in place and will be enforced by a powerful TSA. It is not yet possible to identify whether this will lead to significant changes in tenant and Councillor involvement in local decision-making.
- 8.6 There is much work still to do, both by the Government in developing the new financial arrangements and by local housing authorities in assessing the impact of changes and whether these leave their HRA Business Plans in a deliverable position.
- 8.7 The deadline for responses to the consultation paper is 27 October 2009. It is likely that further information on the Government proposals will be received after this Committee meeting and a further or supplementary response may be desirable. The next meeting of this Committee is on 5 November 2009. Therefore, further or supplementary responses may have to be made through the Corporate Management Committee or through urgent action under Standing Order 42.

OFFICERS' RECOMMENDATION that –

- i) **the responses set out in Appendix 'E' form the basis of the Council's submission to the Department of Communities and Local Government on the Government consultation paper on the reform of Council housing finance; and**
- ii) **the Director of Housing and Community Services be authorised to make additions and changes, in consultation with the Chairman, to the responses that are complementary to the views expressed by this Committee and Council policy in general.**

(TO RESOLVE)

Background Papers

"Reform of Council housing finance: Consultation", DCLG, July 2009, and supporting papers as listed in this report (DF)

9. GOVERNMENT (TENANT SERVICES AUTHORITY) CONSULTATION ON THE NEW REGULATORY FRAMEWORK FOR SOCIAL HOUSING (DHCS)
1. Purpose of Report
- 1.1 **The purpose of the report is to obtain the Committee's approval to the proposed response to the Tenant Services Authority on their consultation paper.**
2. Background Information
- 2.1 The Tenant Services Authority (TSA) became operational in December 2008. The establishment of the agency followed the Cave Review of Social Housing and the Housing and Regeneration Act 2008 in which responsibility for regulating Housing Associations and the housing activities of local authorities became part of the remit and powers of the TSA. The full range of the TSA's regulatory powers will come into force on the 1 April 2010.
- 2.2 From 2010 the nature of social housing regulation will change. The Government's intention is that the TSA will be the first regulator for all landlords of Social Housing in England.
- 2.3 One of the first activities undertaken by the new TSA was to organise a consultation exercise with tenants and landlords. This was called the National Conversation and took place between January and March 2009. A range of consultation measures were used to get feedback including interviews, questionnaires, online surveys and regional events.

Overall three quarters of tenants in both the face-to-face and postal consultations indicated that they were satisfied with the services their landlords provide.

2.4 The consultation exercise aimed to establish the issues that tenants highlighted as priorities. The following 4 stood out as the most important issues for tenants:

- i) Repairs and maintenance;
- ii) Safety and security;
- iii) Reasonable and affordable rents;
- iv) Decent condition of homes.

The above factors have been taken into account by the TSA in formulating the proposed regulatory framework, on which the TSA are now consulting local authorities and others.

3. Report

3.1 The consultation paper on the new regulatory framework runs to 90 pages and a copy of it has been placed in the Members' Room.

3.2 The original date for a response was the 8 September but the TSA have agreed that the Council can provide a response to the document by the 10 September. They have set some key questions and the individual questions, a commentary on the proposal and Officer's proposed response to the questions are contained in the paper at Appendix 'F'.

3.3 After the statutory consultation the TSA expect to publish the final framework and implement it from April 2010.

3.4 The TSA have acknowledged that there are many good landlords providing locally responsive services and they have said that they want to free these from unnecessary burdens and allow them to concentrate on what they do best. However, they also want to ensure that those landlords who could do better are encouraged to do so. They feel this can be achieved by a well designed framework that has a backstop of possible regulatory intervention.

3.5 The TSA have also said that they wish to have a system of "co-regulation where landlords, the regulator and tenants work together, rather than simply where the regulator prescribes or rules." To demonstrate the current consultation document does not set specific standards to be achieved but outlines the shape of the whole regulatory framework of which standards would be a part. The TSA have stated that they will publish supplementary discussion papers on some of the more detailed or technical parts of the framework. It is also proposed that codes of practice and guidance will be issued.

3.6 The consultation document does however stipulate the areas of landlord activity that will be covered by specific standards and these are as follows:

Theme	National Standards to Apply
The service offer to tenants	Quality of Accommodation (Decent Homes)
	Tenants Choice & Customer Service
	Repairs and Maintenance
	Neighbourhood & Estate Management
	Anti Social Behaviour and Security
Tenant Empowerment & Involvement	Empowerment
	Complaints
	Local area co-operation
The Tenancy Agreement	Rents
	Tenure
	Allocations
Governance – Will not	Governance

apply to local authority housing.	
Viability – Will not apply to local authority housing.	Viability
Value for Money	Efficiency and Value for Money

The TSA have also said that they would expect local standards to also be set for the first two themes above i.e. services to tenants and empowerment/involvement.

4. Legal Issues

4.1 The TSA are empowered to provide a regulatory framework and implement it as a result of the Housing and Regeneration Act 2008. The Act sets down ten statutory objectives for regulation which have been taken into account in drawing up the regulatory framework.

5. Resource Implications

5.1 Commentary on the TSA proposals and a proposed response is given in Appendix ' F'. There will undoubtedly be areas where further service enhancements will be required to comply with the new standards. The extent of these will not be known until the standards are finalised in detail and published. There is the possibility that achieving the new standards will require additional resources but the extent of change is not yet known.

5.2 The Housing Regeneration Act also permits the TSA to raise fees from registered providers to cover the cost of their work. They have stated that they are currently in discussions with the CLG about the level of Government funding and until this has been determined they are unable to give any indication as to the fee requirement. They have however stated that they will issue a detailed consultation on this matter later this year.

5.3 The ability of the HRA to fund further services and/or improved standards will be dependent on a fair settlement for HRA subsidy. The item elsewhere on this agenda, regarding the proposed reform of Council housing finance sets out the possible significant change in the funding regime. However if the current HRA subsidy system or a reformed new system provides inadequate resources, then the Council will not be on an equal footing with other social landlords such as RSLs and unable to deliver to the same standards. This point has therefore been made in the response to the TSA.

6. Equality Issues

6.1 The consultation document seeks feedback on the approach to ensuring equality of service provision and one of the questions in Appendix 'F' deals with this particular issue.

7. Conclusions

7.1 The new Tenant Services Authority have published proposals for a new regulatory framework for social housing. The Council is being given an opportunity to comment on the framework before it is adopted and introduced from April 2010. The Committee is asked to consider the response (attached at Appendix 'F') to the specific questions that have been posed by the Government.

OFFICERS' RECOMMENDATION that –

the Committee approve the response to the consultation paper as set down in Appendix 'F'.

(TO RESOLVE)

Background Papers

Director of Housing and Community file for TSA

10. DISABLED FACILITY GRANT FUNDING (DHCS)

1. **Purpose of Report**

1.1 **The purpose of the report is to seek approval for an increased budget in respect of Disabled Facility Grants for Council owned properties.**

2. **Background Information**

- 2.1 Disabled Facility Grants (DFGs) are statutory grants available to all. They pay for adaptations to be undertaken to enable disabled residents remain in their home.
- 2.2 The grant is means tested, which requires residents with higher than average incomes to contribute to the cost of providing adaptations. A Government grant is available to the Council to cover part of the cost of works undertaken in private homes, but no such grant is payable in the case of Council owned properties. The HRA is expected to fund the cost of works which are not covered by contributions from tenants.
- 2.3 DFG applications are demand led, and there is no way of knowing in advance just how much is required each year, and the budgets are based on previous years' spending.
- 2.4 The budget for DFG for Council dwellings for 2009/10 is £211,000. For comparison purposes, expenditure on DFG for Council dwellings was £192,997 in 2007/08 and £240,064 in 2008/09.
- 2.5 The budget for DFG works to private dwellings forms part of the Housing Capital Programme and is £400,000 in 2008/09. The Government grant towards this is £270,000.

3. **Report**

- 3.1 Expenditure on DFG for Council dwellings to date is £55,000, and cases already approved will increase spending and commitments to £210,000. Already a waiting list of new cases is building up, and assuming new applications are received at a similar rate to the first six months of the year, it is clear that a substantial increase to the DFG budget will be required to be able to process new applications.
- 3.2 As indicated above, DFGs are statutory grants which means that applicants are entitled to assistance, subject to any contribution they are required to pay as a result of the means test. Although some tenants are asked to help pay for their adaptations, the majority are on limited incomes which results in the Council having to fund the whole cost of the works.

4. **Financial Considerations**

- 4.1 Our projections for the year, based on expenditure to date, suggests that the DFG budget needs to be increased to a minimum of £370,000. A supplementary estimate will be required. The additional £159,000 would be taken from HRA reserves. HRA reserves stood at £3.088m at 31 March 2009 and, therefore, are able to absorb the additional cost in the short-term. However, the financial projection in the HRA Business Plan disclosed that the HRA would fall into deficit in 2017. The main reason for the currently healthy HRA gradually moving into deficit is the under-funding of stock maintenance through the HRA subsidy system. The fact that the Government provide no funding for DFG works to Council dwellings is a significant element of this unsatisfactory position.
- 4.2 If the HRA is to meet similar demands for DFG adaptations year on year in future, it is clear the Business Plan would not be able to support such a level of expenditure indefinitely. It is possible that this year's increase in demand for grants is a one-off, but it cannot be assumed that this is the case. Officers have noticed a steady increase in applications over recent years, no doubt a reflection of the age profile of our tenants.
- 4.3 A separate report on this Agenda sets out the Government proposals for a reform of the Council housing finance system, including an indication that the under-funding of maintenance and DFG works may be addressed. However, there is no assurance that the changes will benefit the Runnymede Borough Council HRA.

5. Legal Consideration

- 5.1 As a statutory grant the Council is unable to deny any qualifying tenant adaptations where a need has been identified by an Occupational Therapist. Whilst it is possible to build up a waiting list until the new financial year, because those seeking assistance are often in some considerable need, it is not felt appropriate to require them to wait so long. Postponing adaptations would also result in commitments for next year's budget taking up most if not all of the funds available straight away, thus exacerbating the problem for 2010/11.
- 5.2 It is lawful to finance approved DFG applications in respect of Council owned housing stock including caravans/mobile homes from the HRA reserves as suggested in this report.

6. Equality Issues

- 6.1 Tenants applying for DFGs are by definition either elderly and/or disabled. Restricting funds would impact disproportionately on these vulnerable sections of our community.

7. Conclusion

- 7.1 Officers consider that the immediate needs of disabled tenants and the statutory requirement to carry out and pay for the works overrides the alternative of artificially rationing supply of DFG works. Therefore, the recommendation is that HRA reserves are used to meet this current peak in applications, and that the position is reviewed next year in the light of the current HRA consultation exercise.

OFFICERS RECOMMENDATION that –

- i) the budget for disabled conversion works for Council housing be increased by £159,000; and**
- ii) the Corporate Management Committee be requested to approve a supplementary estimate of £159,000 to be financed from existing reserves in the Housing Revenue Account (HRA).**

(TO RESOLVE)

Background Papers

Head of Tenant Services Budget details for Disabled Facilities Grant

11. FINANCIAL MONITORING STATEMENT (DF)

1. Purpose of Report

- 1.1 **To present the financial monitoring statements for the 2009/10 financial year for Housing services and Community services.**

2. Background Information

- 2.1 The Financial Monitoring Statement was introduced to all Committees in September 2006 to inform Members of the current financial position of the services under the remit of each Committee. This Committee receives two statements, one for Housing services and the other for Community services.
- 2.2 Each statement reflects an updated position based upon the 2009/10 original estimates approved by this Committee in January. The Financial Forecast previously approved by Council in December 2008 has now been updated to reflect changes made during the updating of the Council's Revenue estimates.

3. Report

- 3.1 The two statements at Appendix 'G (i)' and 'G (ii)' are split into three distinct parts:
- Projected budget and forecast
 - Savings still to be delivered
 - Current year key budget indicators
- 3.2 The Projected budget and forecast sections show the anticipated variations in the current year's budget. These variations are categorised as approved changes and other potential changes. Implications for the following three years are included for completeness so that the full-year effect of any changes can be seen.
- 3.3 The achievement of the revenue reductions programme approved by the Council is one of the Council's key performance indicators. Savings targets not yet achieved are reported in the second section of each statement. These savings are all incorporated into the projected budget and forecast figures in section one.
- 3.4 The final section sets out the key budget indicators for the significant areas of this Committee's budget. This indicates the actual income received set against the amount expected (the budget) for the period covered by each statement.

(FOR INFORMATION)

Background Papers

None stated.

12. STANDING ORDER 42 – URGENT ACTION

The following action has been taken after consultation with the Chairman of the Committee under Standing Order 42.

<u>Officer</u>	<u>Action Taken</u>	<u>Central Index No.</u>
Director of Housing and Community Services	Approval of purchase of a replacement vehicle for the Runnymede Day Centres transport service.	700

(FOR INFORMATION)

Background Papers

SO 42 proforma No 700 on Committee Section SO 42 file.

13. EXCLUSION OF PRESS AND PUBLIC

OFFICERS' RECOMMENDATION that –

the press and public be excluded from the meeting during discussion of the following reports under Section 100A(4) of the Local Government Act 1972 on the grounds that the reports in question would be likely to involve disclosure of exempt information of the description specified in appropriate paragraphs of Part I of Schedule 12A of the Act.

(TO RESOLVE)

PART II

Matters involving Exempt or Confidential Information in respect of which reports have not been made available for public inspection.

a) Exempt Information

Para

14. HOME IMPROVEMENT AGENCY

3

Confidential Information

(No reports to be considered under this heading)