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Public Sector

Communities and Governance

An ALMO transfer model?

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Life without transfer?

This bulletin has been prepared on the assumption that it is important to anticipate that the current efforts to identify a 'life without transfer' for ALMOs may not be successful – or satisfy everyone. The attempts to influence the current Council Housing Finance Reform debate to achieve self-financing on a basis which delivers significant amounts of additional investment and perhaps also to devise a way of using the Management Agreement fee income to leverage in worthwhile levels of additional finance will continue; but those efforts may not result in any or all of the hoped-for benefits, at least not within the timescale dictated by the state of many Housing Revenue Accounts (**HRAs**). It therefore seems important to create a specifically ALMO transfer model. The political, policy and practical benefits will be clear.

Source: iStockphoto

Securing tenant involvement

Some ALMOs looking at transfer are attracted to the Gateway model (which has tenant membership at its heart). This will be attractive not only to tenants who will be asked to vote on a transfer proposal but also to the Tenant Services Authority (**TSA**) which has made tenant empowerment a key focus for its regulatory and registration work. Given that the new model proposed here will need to have TSA endorsement this approach is both important and, pragmatically, attractive.

It needs to be recognised, however, that Gateway principles have been available to and endorsed by many stock transfer authorities and their new landlords over several years (since Preston). Introducing 100% tenant membership and a tenant majority board will not of itself create a new transfer model specific to ALMOs. More, it is believed, is required. And of course some ALMOs will not believe that tenant empowerment is best delivered through the constitution at all. They will be looking to less formal arrangements, including devolution to tenant management organisations and estate management boards.

Preserving/enhancing the service delivery partnership

The concept at the heart of this proposed new ALMO transfer model is to preserve and if possible enhance the service delivery ethos of ALMOs and expand the housing management-based partnership created with the local authorities. Conventional stock transfer relationships have, consciously or otherwise, been based on the (former) Housing Corporation's insistence on independence. Clearly, independence is vital in the sense that the ALMO landlord needs to be classified to the **private** sector, in relation to both its assets and its liabilities. Funders in particular will want to know that the ALMO landlord can make its own key business decisions about income and expenditure. But there is, we believe, plenty of scope within these parameters to shift the current (im)balance between influence and freedom towards a closer and more constructive relationship.

Creating a new contract structure

We envisage three elements to this. The core landlord function will transfer to the reconfigured ALMO on terms which leave no doubt about operational independence and funder protection. The stock will transfer on a freehold basis and it will be available for security purposes in the usual way, i.e. primarily through its rental income but with the possibility of empty property sales if absolutely necessary. This is how stock transfer works now.

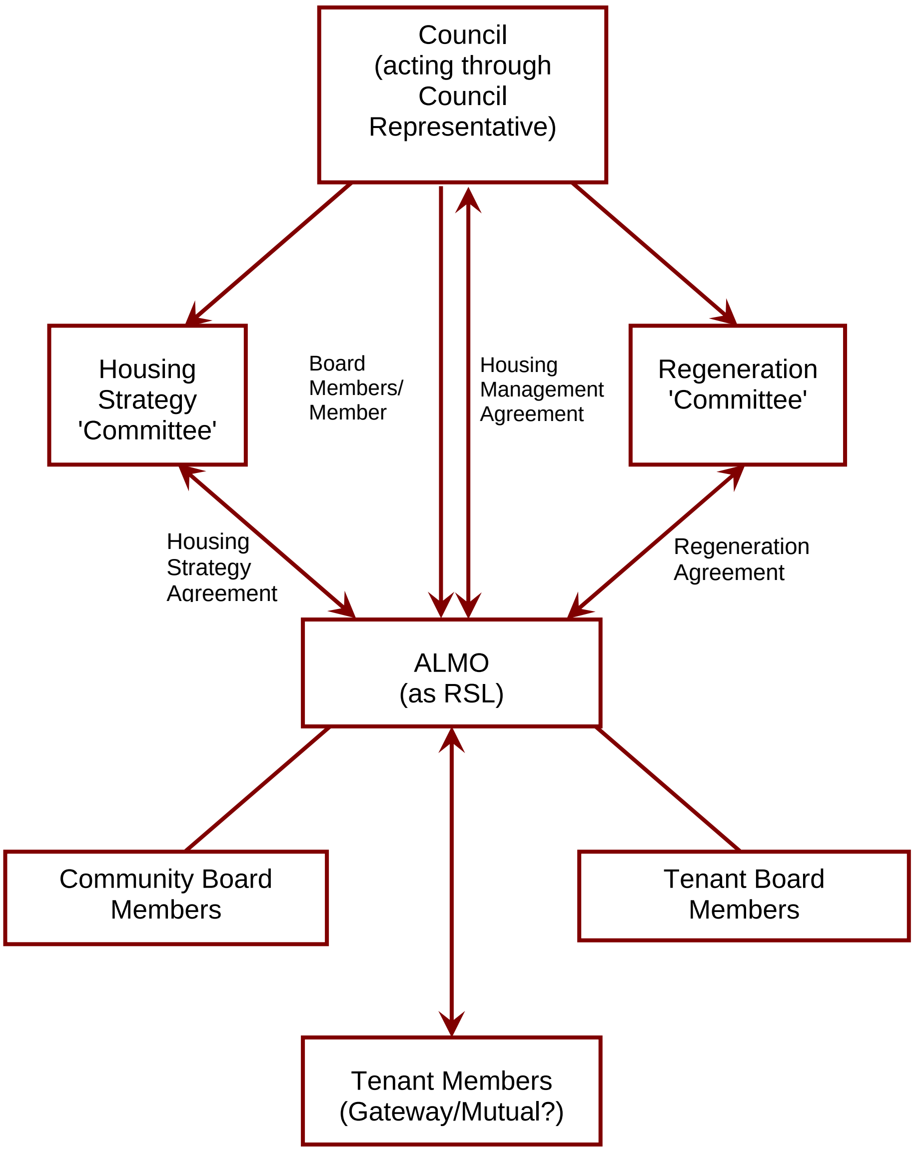
The model differs in respect of the other two key areas of the relationship between the authority and its reconfigured ALMO.

The first is housing strategy where there will be an express and detailed commitment to assist the local authority to deliver its housing strategy (through nomination rights and so on but also in the various other 'softer' areas of community-led work).

The second area relates to the Council's regeneration strategy and will include its new build work (likely to be much more significant now than before). The Regeneration Strategy agreement will cover land issues and in particular will ensure that there is an integrated approach to estate reconfiguration and the release of land for local authority/ALMO schemes.

The three areas of the relationship will be recognised in three agreements within the overarching Transfer Contract. Whilst not being prescriptive we envisage three ALMO committees dedicated to these three areas of work, i.e. housing management (the core ALMO business now), housing strategy and regeneration. The Council could, in turn, create two committees/panels for the non-core work.

The structure



Ensuring fundability

The new model will not compromise the traditional warranties on which funders have relied and which, though one sided, are unlikely to be revisited in the current difficult market conditions. The usual mortgagee exclusion provisions will be included. In so far as there is any need to do so, then endorsement by the Council of Mortgage Lenders (**CML**) could be obtained.

Settling the valuation

This is potentially problematic for ALMO transfers. Either or both of Communities and Local Government (**CLG**) and the Treasury (**HMT**) look askance at valuations which **appear** to take inadequate account of the substantial decent homes investment and leave HMT (and CLG?) with unattractively high levels of debt to write off before transfer can take place. And CLG have effectively said, obviously subject to the outcome of the General Election, that they will not write off more debt than is required to deliver a simple 'Decent Homes offer' to tenants. A commitment to a more explicitly transparent valuation discussion and perhaps also an open-book business plan approach might be attractive to CLG (and HMT) and also to the local authority, and might reflect also the new relationship, envisaged here, between the ALMO and its 'client' authority. (There is currently a coyness about stock transfer business plans which can be difficult to justify.)

Satisfying CLG

In addition to the approach to the valuation (and business plan), CLG may find the new model attractive in that it relieves or at least addresses any anxiety that ALMO transfers cut across the attempt to put local authorities at the heart of future local housing strategies (whether as part of a 'single conversation' or not); and a demonstrably partnership-led approach might help CLG endorse the model. It is however unlikely that any fundamental policy change needs to be made and thus necessitate any significant revision to the current transfer guidance.

Engaging with the TSA

Currently the TSA is, perforce, adopting previous Housing Corporation registration criteria and there is clearly an opportunity to allow the TSA to endorse a new approach to stock transfer, particularly if it is one which puts tenants at its heart and otherwise delivers arguably a more constructive approach to the ongoing local authority/ALMO landlord relationship. There is, in short, no need for a reconsideration of firmly-held principles.

Complying with EU procurement

One of the concerns about new models in the 'life without transfer' scenario is the loss of the so-called Brixen (or Teckal) protection. The ALMO landlord will indeed no longer be wholly owned by the local authority but because a land-based relationship is being substituted for a management agreement-based relationship the loss of this protection is not problematic. Stock transfer proceeds at present on the basis that the local authority can – subject to compliance with the normal stock options appraisal 'rules' – make its own choice (with tenants of course) about the identity and nature of the new landlord. There is nothing in these proposals which need cause that convention to be revisited.

Application

There are at least four ALMO transfers proceeding on the basis of the current arrangements. There will inevitably be a lull in transfer activity before the General Election, not least because of the recent Government's statement that it will support transfer (i.e. by writing off debt) to any greater extent than retention. In anticipation of the next tranche of ALMO transfers, however, the approach outlined here is offered for consideration and adoption.

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