

## **Council – 8th September 2008**

### **Walsall Housing Group (whg) structure change review – Report of Health, Social Care and Inclusion Scrutiny and Performance Panel**

#### **1. Purpose**

At its meeting of 7 July 2008 Council resolved:

*‘That the Council notes whg’s proposals to: • Transfer all whg’s properties into one property owning registered social landlord (RSL), the current RSL of whg, being Walsall Housing Trust Limited (WHT); and • Change the existing Local Trust Boards to Local Neighbourhood Boards as committees of WHT with a range of delegated authorities from the WHT Board. This Council requests the Health, Social Care and Inclusion Scrutiny and Performance Panel to fully consider the proposals towards the conclusion of whg’s consultation process and then produce a brief report and recommendations at the appropriate time for consideration by Council, being not later than at its meeting on 8th September 2008.’*

In order to complete this work within the time scale requested by Council the Health Social Care and Inclusion Scrutiny and Performance Panels affordable housing working group arranged a number of meetings to evaluate the proposals put forward by whg to enable them to report to the Health Social Care and Inclusion Scrutiny and Performance Panel on the 28 August 2008. This briefing note is to provide Members with the findings of the working group and debate at the Health, Social Care and Inclusion Scrutiny and Performance Panel.

#### **2. Recommendation**

That the Health, Social Care and Inclusion Scrutiny and Performance Panel, having received the report of the Affordable Housing Working Group which is considered to be a balanced view based on the evidence received, commends the proposals for the group structure changes at Walsall Housing Group as part of the development of Walsall Housing Group for the future.

#### **3. Process**

The affordable housing working group held a series of meetings over 2 different days (11 and 13 August 2008) and received evidence from:

- A representative of the National Association of Tenants;
- Representatives from Walsall Federation of Tenant and Resident Associations;
- Whg Local Housing Trust tenant representatives;
- Representatives from whg including from Anthony Collins Solicitors acting on behalf of whg;
- Elected member representatives on whg trust boards and the parent board; and
- Walsall Council officers.

As part of its considerations the working group received the following written evidence from whg:

- An external independent evaluation report from Campbell Tickell on whg's governance proposals which supported the process undertaken and the resulting proposals for change;
- Presentation slides from whg on key points in the governance change proposals;
- A summary of the draft whg business case to the Housing Corporation.

Following these meetings members of the working group discussed the key findings.

### **Key Findings**

1. It was recognised that all interviewed had agreed that whg had greatly improved the quality of life for tenants over the past 5 years and for whg to continue to provide excellent services and housing it did need to look towards a new future strategy.
2. The working group acknowledged that all witnesses agreed that in essence the proposal made good business sense in that it would cut costs and duplication and open up greater avenues for funding. The working group also recognised that a significant number of tenant representatives were opposed to the new proposed structure of combining the current five Local Housing Trusts in to one larger trust and viewed this as a backward step that would lead to more power for whg and less for the tenants, whilst some were not averse to a single trust so long as it could be ensured constitutionally that overall power remained with the tenants.
3. Many tenant representatives viewed the proposed structure as a move away from the original ethos of Local Housing Trusts, an ethos that many felt had successfully empowered local people to focus on making decisions and solving local issues.
4. The working group heard a significant range of fears expressed around the possibility that one central trust would become focused solely on central issues at the detriment to the outer lying areas. While recognising the benefits and cost savings of a streamlined organisation and the enabling of 'Local Neighbourhood Boards' (LNBs) to look specifically at local matters, it was also acknowledged that there was possibility for the new structure to become centrally focussed, leaving outlying areas in a difficult situation as LNBs would not have the same decision making powers as the current Local Housing Trusts. In response to this concern whg strongly disagreed with this view, stating that better focus will be enabled through the concentration of resources via a single Trust.
5. Whg saw the move away from Local Housing Trusts to LNB's as releasing Tenant representatives from some regulatory responsibilities such as financial monitoring and approval of statutory accounts.. Whg considered that removing these responsibilities would enable Tenant representatives to focus their time and activity exclusively on local housing issues including performance management and other tenant matters as they would be spending less time

considering corporate management issues. Others that were interviewed were split in their view on this; some saw it as an opportunity to be more involved and empowered while others felt the new committee style would be purely a talk forum with no power to influence decisions. All felt it was important that the LNB's remain influential within their set boundaries. The working group were also informed that as the parent organisation whg has always had authority over the Local Housing Trusts in final decision making and as such the proposals did not change the relationship between local representation and the overarching body. Whg also informed the working group that the proposal included the allocation of a £150,000 local neighbourhood fund which would be divided proportionally across the 5 LNB's in relation to the number of properties that were located in each area.

6. Difficulties in attracting tenant participation were also discussed and whg expressed the view that the proposal would encourage greater tenant participation due to LNBs being able to focus on local issues that matter to local people and that more people would be willing to and want to get involved. The majority of others interviewed felt that this may have the opposite effect and make tenants disengage as they perceive they will have little power and influence to make a difference and on this point some tenant representatives stated they would resign from their role.
7. Many witnesses felt that the communication and the engagement of tenants in the consultation process had been poor and rushed; although it was recognised that attempts by whg had been made. Many felt that the process did not reflect that of 5 years ago where open community events were held to inform tenants of the changes. Instead a postal consultation had been adopted and as a result little interest was shown by tenants. In response to this point whg felt that tenants and members had been engaged and encouraged to be involved in the process stating that 3 of the 5 trusts had already voted unanimously to go ahead with the new structure. The remaining 2 trusts had deferred taking a decision awaiting sight of the external evaluation report but were expected to vote at their next meetings on 18 and 27 August 2008.
8. At the Panel meeting on 28 August 2008 it was confirmed that all 5 Local Housing Trusts, namely: Aldridge and Brownhills; Bloxwich; Central Walsall; Darlaston and Willenhall had voted unanimously in favour of the proposed group structure changes.
9. The accountability of tenant representatives was questioned by members of the working group as under the current arrangements tenant representatives are not accountable in any way to the tenants they represent. Whg's response was that they felt the proposed changes provided an opportunity for tenant representatives to be more involved and engaged in their representative role through the opportunity to concentrate on local issues and concern at the LNB.
10. Witnesses would like to ensure that whg remains customer focussed and that power remains with the tenant representatives to make decisions on behalf of the customer.

11. Strong views were expressed as to the priority which should be given to genuine tenant representative majorities and control at the decision making level - which currently is the status on the 5 Local Housing Trust's, but not the parent whg Board. The working group felt that this remained a crucial principle, although whg's position was clear that this was not permissible under their current status as an organisation under Housing Corporation guidelines. Whg also outlined the position that even under the present system ultimate control already rested with the parent Board, who in effect had a power of veto over decisions. The working group requested that appropriate Walsall Council officers seek additional legal views as to the legality or otherwise of this important issue.
12. Advice on this issue was received at the Health, Social Care and Inclusion Scrutiny Performance Panel meeting on 28 August 2008. The Panel were advised that there was no formal legislation that prevented a tenant representative majority on Housing Association Boards. Housing Corporation Guidance states that there must be a minimum of one tenant representative on a Housing Association Board. The guidance goes on to suggest that Housing Association Boards should be split with one third tenant representatives, one third local authority nominations and one third independent members. The Panel were further advised that there was nothing in the transfer agreement between whg and the Council which specified the percentage of tenant representatives required on any of whg's boards or Local Housing Trusts.
13. The working group received information from Council officers in relation to the Council's position and officers recommended that 5 specific assurances in a deed of variation were sought in order to protect the Council's interest. These were:
  - a. Maintaining the Council's nomination rights
  - b. Ensuring the contractual arrangements under the original agreements are maintained
  - c. Ensuring the terms of the warranties in favour of the local trusts will automatically be assigned to the new entity
  - d. Ensuring the covenants within the current transfer agreement will be honoured
  - e. That the development of claw back arrangements, RTB sharing agreements and the VAT sharing agreement all remain in place.
14. Since this meeting, whg have confirmed that a draft deed of variation has been drawn up by their solicitors which they feel addresses these points. The draft has been forwarded onto the Council's own legal department and will need to be approved by the Council using delegated authority before the transaction can be completed.

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15. After considering the report from the affordable housing working group on the evening of 28 August 2008 the Health, Social Care and Inclusion Scrutiny and Performance Panel voted to recommend in favour of the proposed group structure changes at whg by a majority decision.

**Signed**

A handwritten signature in black ink, appearing to read 'Tim Oliver', with a horizontal line above the first part of the name.

**Councillor Tim Oliver**

Chair Health Social Care and Inclusion Scrutiny and Performance Panel  
Lead Member, Affordable Housing Working Group

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