

TSA consent to disposals

A statutory consultation

TSA

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TSA consent to disposals

Statutory consultation

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Section A

Consultation statement

TSA consultation statement

This sets out key information about the issue we are consulting on, what effects we think any proposals or changes could have, who we are asking for views, and when and how to respond.

Please respond by 5 February 2010

Please respond to Amanda Newton
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Tenant Services Authority
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If you would like to discuss any issue raised in this document before sending your response please contact our Customer Service team on 0845 230 7000, who can refer you to the relevant TSA lead.

Why we are asking for views We are introducing a new system of regulation for social housing in England from 1 April 2010, to implement the powers given to us in the Housing and Regeneration Act 2008. We are consulting on whether our proposals best meets the objectives Parliament set for us.

What it means for you For tenants, landlords, lenders and others with an interest in the social housing sector, this consultation is an opportunity to influence how we implement our new powers.

Context for this consultation The proposals in this consultation have been developed following earlier discussion documents. We have taken account of the responses we received. This is the formal, statutory consultation on the new policies, general consents and direction.

**Taking account of
your views and what
happens next**

We will publish a summary of responses after this consultation. Please note that we shall make public individual responses to this document unless you specifically ask us not to.

Social housing matters to people for a great many reasons and we expect to receive many different views about our new approach. This means that we will not be able to do everything that everyone wants. TSA's Board will have to decide, taking account of the views we receive, and of our legal objectives, duties and powers, what is the best way to proceed.

Section B

Freedom of information and data protection

The information provided in response to this consultation (including personal information) may be published or disclosed under the access to information regimes, primarily those set out in the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004.

If you want information that you provide in response to this consultation to be treated as confidential, please be aware that we can only do so if it would be consistent with our legal obligations under the Freedom of Information Act. There is a statutory Code of Practice that public authorities must follow and this sets out how confidential information must be dealt with.

Although we cannot guarantee that all information will be kept confidential we will take into account any representations you make. In view of this it would be helpful if you could explain to us why you think any or all of the information you provide is confidential. This will help us establish whether or not there are grounds for not publishing the information you submit to us. An automatic confidentiality disclaimer generated by your IT system will not, in itself, be binding on the TSA.

The TSA will process your personal data in accordance with the Data Protection Act and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties

Section C

Consents to disposals

A Purpose

A.1 Under s174(5) of the Housing and Regeneration Act 2008 we are required to consult prior to giving consent to disposals, by private registered providers, of dwellings that are social housing. This is the consultation on our proposals for a General Consent to disposals of dwellings that are social housing. This document should be read in conjunction with our statutory consultation document “A new regulatory framework for social housing in England” which sets out the objectives and principles that underpin the TSA’s approach.

A.2 On 8 May 2009, TSA published a discussion paper on consents to disposals. We have been reviewing the responses. When the Housing and Regeneration Act 2008 (“the Act”) comes into force, private registered providers (“Providers”) will usually need the TSA’s consent for disposals of social housing dwellings, although certain disposals, such as Right to Buy sales, will continue to be exempt from the requirement for consent. These provisions apply only to private registered providers, not to local authority housing. Consents to disposals of local authority housing will continue to be controlled by Government, whatever the outcome of the Government’s consultation for

cross domain regulation (see the CLG proposals for Housing and Regeneration Act 2008 (Registration of Local Authorities) Order consultation 2009).

A.3 The TSA already has duties to come to decisions about disposals by registered social landlords and some unregistered housing associations, under the Housing Act 1996 and the Housing Associations Act 1985. The predecessor to the TSA, the Housing Corporation, issued a General Consent in 2008 under that legislation. The General Consent proposed in this consultation would supersede the earlier General Consent, which will no longer be effective.

A.4 The requirements for consent from the TSA will apply to:

- (a) Providers currently registered as registered social landlords: they will automatically become non-profit providers on the TSA’s new register. With a few exceptions, their existing housing stock will be designated as social housing;
- (b) Non-profit and profit-making Providers who are registered after the Act comes into force: the requirement for consent will apply to disposals of social housing dwellings;

- (c) Some bodies who have now de-registered as registered social landlords; and
- (d) Certain unregistered housing associations.

A.5 It is also part of the TSA's role to receive notifications of disposals of land by non-profit Providers other than disposals of social housing dwellings. The TSA may give a direction dispensing with the notification requirement.

A.6 The TSA is now consulting, with anyone who wishes to comment, on the approach which we intend to adopt to these issues of consent and notification. This includes formal consultation with the parties with whom we are required by statute to consult on these issues, but comments are welcomed from anyone interested.

A.7 In this document, the TSA invites views on the principles which we propose to adopt. These principles have where relevant informed preparation of the draft general consents and associated document[s] set out in the Annexes to this document. Respondents may wish to comment on these principles or on the wording of the documents in the Annexes; we would welcome either approach.

B Context

B.1 The Act confirms the ability of a registered provider to dispose of their land. In order to protect the public interest in maintaining the social housing stock, that ability is circumscribed by requirements to obtain the consent of the TSA or to notify the TSA of disposals.

B.2 All housing landlords with large numbers of stock need, on occasion, the ability to sell off some of that stock or dispose of it in some other way if they are to manage it effectively, making best use of their resources – for example, by disposal or transfer to another social landlord. In coming to decisions about consents to disposals, the TSA must balance those needs with the needs of the social housing sector overall.

B.3 The Act provides the TSA with various tools to assist us in carrying out our duty. In particular:

- (a) Requirements about our general approach, as set out in the fundamental objectives – section 86 of the Act;
- (b) Instruction on certain issues (such as the prohibition on giving consent to a disposal by a non-profit registered provider where the

TSA thinks that is being done with a view to enabling distribution to members) – section 172(2) of the Act;

- (c) The ability to make general consents in many areas – section 174(1) of the Act;
- (d) The ability to make a direction dispensing with the notification requirement – section 176(2) of the Act;
- (e) The ability to provide guidance, including guidance to unregistered housing associations – section 97 of the Act.

B.4. The TSA intends to take the approach to consents to disposals and to the requirement to notify of disposals, as set out in this document subject to the outcome of this consultation. In summary, that approach is as follows.

Consents to disposal

B.5 If a Provider wishes to dispose of a dwelling, the provider must in all cases except those listed in the legislation (whether the Act or other legislation) obtain the TSA's consent. The TSA may give general or specific consent. Where the TSA intends to give general consent, or a specific consent which relates to something other than to one or more particular registered providers or properties, the TSA must first consult with the HCA, one or

more bodies appearing to us to represent the interests of registered providers, and one or more bodies appearing to us to represent the interests of tenants. This is required by section 174 of the Act. This document is that required consultation.

B.6 Bodies which were in the past Registered Social Landlords but are now de-registered still have, in certain circumstances, to seek consent from the TSA to disposal of all land held at the point of removal from the register. Before giving a general consent (that is, other than one in relation to a particular landlord or particular land), the TSA must consult with bodies representative of registered social landlords. This is required by section 9(3) of the Housing Act 1996. This document is that required consultation.

B.7 The TSA intends to give a general consent to certain disposals by unregistered housing associations under section 9(1A) of the Housing Associations Act 1985. This refers to any of their land that received a public loan or subsidy starting before 24 January 1974 and continuing in a period after that date. While there is no statutory requirement to consult on this, comments are invited.

Direction for dispensation from requirement to notify of disposals

B.8 If a non-profit Provider wishes to dispose of land other than a dwelling which is social housing, it must notify the TSA as soon as reasonably practicable of that disposal. The TSA may give a direction dispensing with the notification requirement. Before doing so, we must first consult with the HCA, one or more bodies appearing to us to represent the interests of registered providers, and one or more bodies appearing to us to represent the interests of tenants. This is required by section 176 of the Act. This document is that required consultation.

C Approach and proposals

C.1 The TSA must perform our functions with a view to achieving our fundamental objectives (section 86 of the Act). We must balance those objectives as we think appropriate. The TSA sees the following as particularly relevant to the issues relating to consent to disposals and whether to require notification of disposals:

- (a) Encouraging and supporting a supply of sufficient well-managed social housing

of appropriate quality to meet reasonable demand;

- (b) Ensuring tenants have an appropriate degree of choice and protection;
- (c) Ensuring that registered providers perform their functions efficiently, effectively and economically;
- (d) Ensuring that registered providers are financially viable and properly managed;
- (e) Encouraging investment in social housing;
- (f) Guarding against misuse of public funds
- (g) Regulating in a manner which minimises interference and is proportionate, consistent, transparent and accountable.

C1 – Interpretation

C.2 There are various areas where there needs to be clarity about the application of certain words or phrases. The approach taken, and used in the draft documents attached, is explained below.

Social housing

Legacy housing as at 1 April 2010

C.3. Social housing is defined in sections 68 and 77 of the Act and encompasses low cost rental

accommodation and low cost home ownership accommodation.

C.4 At first, the more relevant definition will be that in section 77. Section 77 will designate all existing housing property of RSLs as social housing, except for those non-grant funded categories listed in sub-sections 77(4) to 77(8). Consent is required to disposal of a dwelling if the dwelling is social housing (section 172(1)). Providers will therefore need consent to dispose of any dwellings within this social housing legacy.

C.5 The term “social housing” includes the reversionary interest in these circumstances:

- (a) Reversionary interests in shared ownership dwellings in which the lessee has staircased to full ownership before 1 April 2010; and
- (b) In long private leases including a lease granted under the right to buy, if the lease was granted before 1 April 2010.

Post April 2010 provision

C.6 Social housing which is not “legacy” housing will need consent by the TSA to a disposal if it is a dwelling which satisfies the definition of “social housing” in section 68 of the Act, as expanded

in sections 69 to 71. This applies to registered providers designated both as profit making and non profit organisations, as defined in section 115 of the Act, although the TSA's powers to consent to disposals by non-profit registered providers are circumscribed by section 172(2).

What does “social housing” mean for post April 2010 provision?

C.7 Social housing includes low cost home ownership accommodation. A dwelling disposed of on low cost home ownership terms requires consent only if it has previously been used as social housing and is not an exempt disposal, such as a shared ownership lease that is an assured tenancy.

C.8 A dwelling developed for open market sale is not social housing and will not normally require consent for its disposal on the open market. It will require consent only if it is a former social housing dwelling or stands on the site of a former social housing dwelling.

C.9 Disposal of the reversionary interest in an equity percentage dwelling is social housing requiring consent if the equity percentage arrangements still exist and were entered into by the disposing landlord or by a predecessor RSL

or provider. An equity loan itself is an interest in a social housing dwelling and a provider will need consent to dispose of an existing equity loan.

C.10 Except when it forms part of the legacy of grant funded housing property covered by section 77 of the Act, accommodation in which residential care or nursing care is provided is not social housing.

Dwelling

C.11 Disposal of social housing which is a dwelling made available will require consent by the TSA. The definition of a dwelling is contained in section 275 of the Act. For the purposes of section 172, the TSA interprets this to mean that:

- (a) The asset which is intended to be disposed of is capable of being let or sold. Until a dwelling has reached that state, usually upon practical completion, its disposal requires consent only if it stands on the site of a former social housing dwelling;
- (b) as well as self-contained accommodation, a dwelling includes shared accommodation such as hostels, shared housing and residential care; and

- (c) a dwelling includes a former dwelling or land on which once stood a dwelling.
- (d) A dwelling includes its curtilage and appurtenances usually enjoyed with the dwelling, across which easements such as drains, conduits and rights of way or access may pass.

C.12 When a social housing dwelling undergoes a change of use, a cessation of use, a demolition or a redevelopment into any new form, the disposal of all or part of that dwelling, or its site, continues to require consent (section 187 of the Act).

Disposal

C.13 The definition of “disposal” of a property is contained in section 273 of the Act. It is widely defined to include sale; lease; mortgage; charging; or disposal of the property or any interest in it, in any other way. An option to require a disposal is also to be treated as a disposal. This will therefore include charges given as security to raise finance.

Disposals by former providers

C.14 A provider removed from the register on or after 1 April 2010 requires consent to dispose of social housing dwellings owned at a time when

it was registered (section 186 of the Act). There are similar requirements under section 9(6) of the Housing Act 1996 for bodies removed from the registers of the Housing Corporation and TSA before 1 April 2010.

Exempt disposals

C15. The Act states, in Section 173, that the following disposals are exempt from the requirement for consent:

- (a) Lettings to tenants under an assured tenancy or an assured agricultural occupancy, or what would be an assured tenancy or assured agricultural occupancy if it were not set out otherwise in other statutes referred to in section 173(2) of the Act. These include lettings to members of co-ownership societies and fully mutual cooperatives. Because they are assured tenancies, shared ownership leases, and any intermediate or final staircasing permitted under those leases, are usually exempt from the need for consent. TSA intends to give general consent to shared ownership leases that fail to qualify as an assured tenancy.

- (b) Lettings to tenants under a secure tenancy or what would be a secure tenancy but for the circumstances set out in s 173(2) of the Act;
- (c) Disposals to tenants who exercise the right to buy or who exercise a statutory right to acquire. TSA interprets this to include rectification by deed of errors in the original right to buy (or right to acquire) sale. However, sales made voluntarily to tenants are not exempt.

C.16 There are also disposals which are exempt under other provisions:

- (a) Disposals following the service of a compulsory purchase order which has been confirmed in writing by the Secretary of State for Communities and Local Government or any successor body.
- (b) Disposals that are part of a transfer of engagements between, or result from an amalgamation of, industrial and provident societies (I&P Act societies); also disposals of land that result from the conversion of an I&P Act society to a company (or vice versa), or result from an amalgamation with or transfer of engagements to a company. Consent for these transfers of engagements

or amalgamations is required under chapter 4 of the Act.

- (c) 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 chapter 4 of the Act.
- (d) Disposal to a leaseholder acquiring the freehold under the Leasehold Reform Act 1967 (relevant only where it is a social housing dwelling);
- (e) Where one or more are social housing dwellings, disposal to leaseholders acquiring collectively their freehold, (Leasehold Reform, Housing and Urban Development Act 1993 - s.37, Schedule 10, paragraphs 1 (1) and 1 (2) (b));
- (f) Where land forming part of a social housing dwelling is affected, adoption of sewers and roads (Section 104 of the Water Industry Act 1991 and Section 38 of the Highways Act 1980);
- (g) Disposals which require consent under other legislation – section 171D of the Housing Act 1985, sections 81, 105 or 133 of the Housing Act 1988 or section 173 of the Local Government and Housing Act 1989 (Section 190 of the Act).

Not classed as disposals

C.17. TSA interprets the definition of disposal on the basis that the following are not regarded as being a disposal:

- (a) granting a licence;
- (b) entering into a management agreement, because these do not entail any lease or tenancy being created;
- (c) the demolition of a social housing dwelling;
- (d) a change of use of a social housing dwelling.

C2 Policy

Objectives in the control of disposals

C.18 The TSA will bear in mind when making decisions on the use of general consents and other means the fundamental objectives most relevant to this issue (see above) and the following principles:

- (a) Balancing needs of individual social housing providers with overall sector needs and tenant needs;
- (b) Preventing improper disposal;
- (c) Ensuring disposals are at best consideration;
- (d) Protecting public grant invested in dwellings.

C.19. There are some circumstances where the TSA has no power to give consent. For example:

- (a) the TSA may not consent to a disposal by a non profit provider if it appears to be made with a view to distributing assets to members (section 172(2));
- (b) a non profit provider may not dispose of the landlord's interest under a secure tenancy to anyone other than another non profit provider, and so the TSA has no power to consent to such a disposal (section 171(2)).

C.20 The TSA intends to make use of our powers to give general consent and to attach conditions to a general consent, which will reflect the policy considerations set out below under individual applications.

C.21 Where the TSA does have power to consent, and has not given a general consent, we will consider each individual application on its merits and will not unreasonably withhold consent. However, TSA's normal policy would be to withhold consent in the following circumstances:

- (a) Disposal of a tenanted social housing dwelling (unless the disposal is to another

provider or to the tenant). No general consent is to be given, and TSA proposes to deal with applications for specific consent in such a way as to ensure that such changes of landlord proceed only when the tenant's best interests are properly balanced against those of other interested parties.

- (b) Disposal at less than best consideration (unless to another provider where a price up to best consideration can be negotiated).
- (c) A disposal that appears to be contrary to a provider's rules;
- (d) A disposal that raises issues of financial concern or impropriety.
- (e) A disposal under which there would be non-compliance with the Homes and Communities Agency's rules about repayment or recycling of capital grant and financial assistance.
- (f) A disposal where, before seeking consent to transfer of tenanted social housing dwellings to another provider, the transferring provider has not carried out adequate and appropriate consultation with its tenants.
- (g) Disposal of social housing dwellings for rent, even when the housing is vacant at the time of sale, where there has not been consultation with the local authority sufficiently far in advance to allow a considered response, and where, if the

local authority did raise objections, the circumstances have not been explained by the provider. Note that the TSA would not see it as its function to mediate in unresolved objections. However, TSA may seek the views of the Homes and Communities Agency.

Grant funding

C.22. TSA has a general policy that, where disposal of a social housing dwelling requires consent (whether general or specific), the consent is required regardless of whether the dwelling was funded by grant. Exceptions are those types of legacy social housing dwelling described in section 77 of the Act, as set out below. A dwelling which falls into these categories needs consent only if funded by grant.

- (a) Dwellings that are let on the open market;
- (b) Dwellings that are made available only to students in full-time education or training;
- (c) Dwellings that are a care home (within the meaning of the Care Standards Act 2000) in which nursing is provided;
- (d) Dwellings that are provided in response to a request by the Secretary of State under

section 100 of the Immigration and Asylum Act 1999;

- (e) Dwellings that are of a kind specified by regulations of the Secretary of State for Communities and Local Government.

How the TSA will operate the system

Use of the seal

C.23 The new legislation does not require TSA to give consent under seal. TSA has discretion to apply a seal if we wish, but we propose not to do so. TSA will prepare a standard wording and procedures for authorising signature of the consent.

C.24 Where the disposal is by a former RSL removed from the register between 1996 and 2010, a seal is still required and will be applied.

Making decisions and approach to consents

C.25 The TSA intends to issue a guidance note for the assistance of those applying for consent or relying on the proposed General Consent, which will cover similar issues to those contained in this consultation document, although amended in order to take account of issues which come up during the

consultation process. This will not be a formal code of practice under section 195 of the Act.

C.26 TSA may allow limited use of self-certification in the use of the general consent, if that proves acceptable to those affected by this issue, including those whom the consent will affect, such as finance lenders.

C.27 If TSA is not satisfied with a proposal for a specific consent, we may suggest that a provider changes the terms of a disposal or we may turn down an application.

C.28 The TSA may withdraw use of a general consent under certain circumstances. For example, a provider placed under a moratorium or becoming subject to the regulatory intervention and enforcement described in chapters 6 and 7 of the Act may be denied access to certain categories of the general consent.

C.29. The Act allows TSA to:

- (a) issue general consents (section 174(1a));
- (b) issue specific consents (section 174(1b));
- (c) give retrospective consent (section 174(2));
- (d) give consent by reference to a provider's policy for disposals, such as for sales

to sitting tenants or as part of an asset management strategy (section 174(3)).

C.30 TSA intends to make use of all these options, bearing in mind our fundamental objectives and the policy objectives set out above.

C3 Proposed general consents and direction

Profit making providers

C.31 A body may apply to be registered as a profit making provider. TSA will apply similar registration criteria to both profit making and non profit applicants. However, as we do not yet know how profit making bodies will operate in practice, and our regulatory powers over them are more limited, we propose to adopt a more cautious stance on consents to disposals. TSA would admit profit making providers to routine categories of the general consent but not, for the time being, to those categories involving transfer of tenants, charges or disposals out of the sector. This will be kept under review.

Review of existing general consents

C.32 TSA proposes to retain all existing categories in the General Consent 2008 except for category 12, which allows the disposal of vacant non-grant funded dwellings of low value. Such disposals will in future require individual consent unless they are included in a policy for disposals agreed by TSA. Those existing categories that are not relevant to social housing dwellings will be dropped.

C.33 TSA proposes to give a general consent to easements over social housing dwellings.

C.34 Obviously, if a general consent is not available, it is open to the provider to apply for specific consent. A draft general consent is at annex C1. Annex C2 contains suggestions about a policy on disposals, and is to be read in conjunction with annex C1. Further general consents are proposed, for the first time, in respect of deregistered bodies and unregistered housing associations: these are at annexes C4 and C5. A direction is also proposed in relation to notification by non profit Providers: this is annex C3. There are comments in the next paragraphs of this document about the proposed approach, including how it is

proposed to alter the position under the current general consent.

Transfer of vacant dwellings within the social housing sector

C.35 RSLs currently have general consent to transfer vacant stock between themselves and to local authorities and ALMOs. TSA proposes to continue this existing category of consent, with the qualifications below. Excluded transactions would need specific consent:

- (a) Profit making providers would not be allowed to dispose of or receive dwellings;
- (b) Non profit providers subject to any of the Regulator's regulatory powers in Chapter 6 of the Act or any of the Regulator's enforcement powers in Chapter 7 of the Act would be excluded from disposing of or receiving stock under this category;
- (c) Local authority providers subject to any of the Regulator's regulatory powers in Chapter 6 of the Act or any of the Regulator's enforcement powers in Chapter 7 of the Act would be excluded from receiving stock under this category;
- (d) It would continue to be a condition that the price paid for a disposal between non

profit providers could be anything up to best consideration;

- (e) It would continue to be a condition that the transaction should not reduce the disposing provider's stock by more than 50%.

Transfer of tenanted dwellings within the social housing sector

C.36 TSA proposes to continue to require an application for specific consent to each proposed transfer.

C.37 As required by the Act, TSA would not consent to any transfer of the landlord's interest in a dwelling let on a secure tenancy from a non profit provider to any body other than another non profit making provider.

Disposals to sitting tenants

C.38 TSA proposes to continue with its policy of consenting to disposals to sitting tenants. There would not be a direct access to the general consent. However, TSA would be prepared to give a specific consent to disposal to sitting tenants (or a class of sitting tenants), by a non profit or profit making provider, under our power within section 174(3) of the Act. This allows the TSA to express consent

by reference to a policy for disposals. Annex C2 suggests some considerations for a provider working on a policy on the issues which would be looked at by TSA when considering whether to grant the specific consent.

C.39 Where a discount is to be offered, TSA proposes that it should not exceed the discount available under the Right to Buy. A covenant by the purchaser to use the house as a principal residence may be desirable but not always essential, depending on the circumstances. As under the Right to Buy, discounts would be repayable upon early re-sale.

Disposals of vacant dwellings out of the sector

C.40 Having reviewed responses to the discussion paper, TSA proposes not to give a general consent to disposals of vacant stock out of the sector. These disposals will need specific consent.

C.41 TSA would, however, be prepared to give a specific consent to disposal of vacant dwellings, by a non profit or profit making provider, under our power within section 174(3) of the Act. This allows the TSA to express consent by reference to

a policy for disposals. Such policies would need to be worked up by the provider in consultation with the Homes and Communities Agency and the local authorities involved, amongst other bodies. TSA may also consider for the purpose of such a specific consent, policies for the disposal of buildings, commercial or residential, to be constructed on the site of former social housing dwellings. Once a specific consent to the class of disposals to be made under an agreed policy was in place, disposals could proceed under that consent without further reference in relation to individual properties. Annex C2 suggests some considerations for a provider working on a policy on the issues which would be looked at by TSA when considering whether to grant the specific consent.

Charges given to private lenders

Where a charge covers a social housing dwelling, TSA proposes to give a general consent on the following terms:

(a) It would be available only to non profit providers authorised by TSA by letter to use the general consent. Authorisation would be mainly but not exclusively related to the amount and quality of financial information supplied to TSA. A provider would be

expected to give certain undertakings to the TSA when asking for a letter of authorisation. TSA may withdraw a letter of authorisation but withdrawal will not invalidate charges given while it was in force;

(b) Providers subject to regulatory intervention and enforcement under chapters 6 and 7 of the Act would be excluded from the category;

(c) A non profit provider would be expected to certify to a lender, at the time of granting each charge, that it is authorised to use the general consent and that it has given undertakings to the TSA that it will not on-lend outside the group, that on-lending to an unregistered body within the group will be at arm's length, that it will not lend to another registered provider within the group that is subject to any of the Regulator's regulatory powers in Chapter 6 of the Act or any of the Regulator's enforcement powers in Chapter 7 of the Act, and that use of finance secured on social housing will be applied to non-social housing only according to TSA guidance. Giving a true self-certification would be part of the TSA's governance standard.

C.43 The terminology of private finance would be defined in the general consent.

Notifications of disposals

C.44 The Act requires providers to notify the TSA of disposals of land other than a social housing dwelling, unless the TSA gives a direction dispensing with the requirement for notification. The TSA is of the view that such notification is not essential and we are mindful of our obligation to minimise interference.

C.45 TSA therefore proposes to make a general direction (annex C3) that we will not ask to be notified of such disposals of land.

Unregistered housing associations

C.46 For these associations, section 9(1A) of the Housing Associations Act 1985 maintains a requirement for consent to disposal of land, in its widest sense, that received an old public loan or subsidy still being paid at 24 January 1974. Apart from the consent requirement, these bodies are not regulated by TSA.

C.47 TSA proposes to give general consent to:

- (a) Disposal of any land or property that is not a dwelling;
- (b) Disposal of tenanted property to a sitting tenant at a discount no greater than that available under the Right to Buy;
- (c) Disposal of vacant dwellings; and
- (d) Charging any land, including tenanted stock, to raise finance;

C.48 There would be no requirement to obtain best consideration as long as the association repays any outstanding loan debt. The draft consent is at Annex C4. Any disposal that cannot proceed under the general consent will require a specific consent.

Bodies removed from the register between 1 April 1975 and 31 March 2010

C.49 Under section 9 of the Housing Act 1996, consent is still required for disposal of any land, in its widest sense, held at the point of removal from the register. This is actually a wider regulatory ambit than that which applies to disposals by registered providers. TSA therefore proposes to give general consent to:

- (a) Disposal of any land or property that is not a dwelling;

- (b) Disposal of tenanted property to a sitting tenant at a discount no greater than that available under the Right to Buy;
- (c) Disposal of vacant dwellings;
- (d) Charging any land, including tenanted stock, to raise finance; and
- (e) Disposal of tenanted dwellings to either type of registered provider or to a local authority.

C.50 Where capital grant was paid the disposal must be at best consideration with the grant being applied as directed by Homes and Communities Agency. The draft consent is at Annex C5.

Former providers removed from the register on or after 1 April 2010

C.51 TSA may in future consult on a general consent for such providers but at present we are not proposing to issue a general consent. Applications will therefore need to be made for specific consent.

Annex C1

The Tenant Services Authority

The General Consent 2010 under section 172 of the Housing and Regeneration Act 2008 in respect of Disposals of Social Housing Dwellings by Private Registered Providers

The Tenant Services Authority (TSA), the Regulator of Social Housing (the Regulator), in exercise of its powers under section 172 of the Housing and Regeneration Act 2008 (the Act), consents to the disposal of a Social Housing Dwelling or of any interest set out in this consent in a Social Housing Dwelling by a Private Registered Provider registered with the Regulator under section 111 of the Act under the categories of disposal listed at Part I below subject to criteria listed at Part II.

Unless otherwise indicated, this consent applies equally to profit making Private Registered Providers and non profit Private Registered Providers.

A Social Housing Dwelling includes a Dwelling which has ceased to be used as Social Housing and land or buildings on which once stood a Social Housing Dwelling.

Exclusions

This consent does not apply where:

- (1) a moratorium or further moratorium on the disposal of land by a provider is in place under the provisions of section 145 Housing and Regeneration Act 2008 (because of the taking of a step specified in the Table in section 145(4)) or section 147 of that Act of that Act, unless the disposal is one set out in section 149 of that Act; or
- (2) the TSA makes an order restricting disposal transactions under sections 256 to 258 of that Act (restrictions on dealings).

This consent does not apply to Private Registered Providers that are Co-ownership Societies or Co-ownership Associations.

This consent does not apply to former Private Registered Providers de-registered under sections 118 and 119 of the Act.

Interpretation

Certain terms have the meaning given in Schedule 1 below.

Effective date

This Consent will come into effect on 1 April 2010.

Superseded consents

This consent supersedes the General Consent 2008 given under seal reference 79207 on 1 February 2008 and the General Consent 1992 (Mortgage Rescue Schemes) given under seal reference C23820 on 7 February 1992.

Part I

The categories of disposal referred to above.

Private Registered Providers that are not Co-ownership Societies or Co-ownership Associations may make disposals of Social Housing Dwellings described in the categories below subject to (a) the specific conditions described within each of the following categories and (b) the general conditions in Part II.

Transfers of vacant social housing dwellings within the social housing sector

Category 1

A non profit Private Registered Provider may dispose of a vacant Social Housing Dwelling by transfer or lease to another non profit Private Registered Provider.

This category is not available to a profit making Private Registered Provider.

This category of consent is not available when either the disposing or the receiving non profit Private Registered Provider has been notified by the Regulator that it is subject to any of the Regulator's regulatory powers in Chapter 6 of the Act or any of the Regulator's enforcement powers in Chapter 7 of the Act.

This category of consent excludes a disposal which, on its own or forming part of a larger transaction, reduces the stock of a Private Registered Provider by more than 50%.

A transfer under this category of consent may be at any consideration agreed between the Private Registered Providers so long as it does not exceed the best consideration that, in the opinion of the valuer, might reasonably be obtained.

It is a condition of consent under this category that the Dwelling continues to be Social Housing and remains so unless and until it ceases to be Social Housing under the provisions of sections 72 to 76 of the Act.

Category 2

A non profit Private Registered Provider may dispose of an untenanted Social Housing Dwelling by transfer or lease to a Local Authority which is a Registered Provider.

This category is not available when either the Private Registered Provider or the Local Authority which is a Registered Provider has been notified by the Regulator that it is subject to any of the Regulator's regulatory powers in Chapter 6 of the Act or any of the Regulator's enforcement powers in Chapter 7 of the Act, except when the Social Housing Dwelling lies within an area which is to be compulsorily purchased but for which the compulsory purchase order has not yet been served on the Private Registered Provider.

Category 3

A non profit Private Registered Provider may dispose of a vacant Social Housing Dwelling by transfer or lease to an Arm's Length Management Organisation.

This category is not available when either the Private Registered Provider or the Local Authority which is a Registered Provider has been notified

by the Regulator that it is subject to any of the Regulator's regulatory powers in Chapter 6 of the Act or any of the Regulator's enforcement powers in Chapter 7 of the Act.

Disposals of vacant social housing dwellings out of the social housing sector

Category 4

A Private Registered Provider may dispose of a vacant Social Housing Dwelling in accordance with the terms of a policy for disposals submitted by the Private Registered Provider to the Regulator and approved by the Regulator.

It is a condition of consent under this category that, in addition to the certification required by condition 5 in Part II below, a provider certifies to the person(s) to whom the disposal is made (or their solicitor) that the disposal is in accordance with the terms of a policy for disposals submitted by the Private Registered Provider to the Regulator and approved by the Regulator.

Disposals by charge and other security interest to private finance providers

Category 5

A non profit Private Registered Provider may grant a Security Interest over a Social Housing Dwelling to a Private Finance Provider which secures, or is given on terms that may in future secure, Private Finance Facilities in favour of the Private Registered Provider or one of its Group Members

This category is not available to a profit making Private Registered Provider.

This category of consent is available only to a non profit Private Registered Provider that has received a letter from the Regulator authorising the non profit Private Registered Provider to use this category of consent.

This category of consent is not available to a non profit Private Registered Provider that has been notified by the Regulator that it is subject to any of the Regulator's regulatory powers in Chapter 6 of the Act or any of the Regulator's enforcement powers in Chapter 7 of the Act.

It is a condition of consent under this category that, in relation to each grant of a Security Interest, at the time the Security Interest is entered into, a non profit Private Registered Provider certifies to the Private Finance Provider as follows:

- (a) That it has a letter from the Regulator authorising it to use this category of the general consent and that the authorisation remains valid and has not been revoked or varied;
- (b) That it is not subject to any of the Regulator's regulatory powers in Chapter 6 of the Act or any of the Regulator's enforcement powers in Chapter 7 of the Act;
- (c) That it has undertaken to the Regulator when applying for a letter of authorisation to use this category of the general consent that the Private Finance Facilities will not be on-lent other than to a Group Member.
- (d) That it has undertaken to the Regulator when applying for a letter of authorisation to use this category of the general consent that before the non profit Private Registered Provider enters into an agreement to on-lend Private Finance Facilities to an Unregistered Body which is a Group Member, the non profit Private Registered Provider will obtain independent advice that the proposed

agreement is on terms which would be reasonable commercial terms for parties at arm's length.

- (e) That it has undertaken to the Regulator when applying for a letter of authorisation to use this category of the general consent that the Private Finance Facilities will not be on-lent to any Group Member which is a Private Registered Provider that has been notified by the Regulator that it is subject to any of the Regulator's regulatory powers in Chapter 6 of the Act or any of the Regulator's enforcement powers in Chapter 7 of the Act.
- (f) That it has undertaken to the Regulator when applying for a letter of authorisation to use this category of the general consent that the Private Finance Facilities will be used for non Social Housing purposes only in accordance with any regulations and guidance produced by the Regulator.
- (g) That it has undertaken to the Regulator when applying for a letter of authorisation to use this category not to breach conditions 4, 9 and 10 in Part II below in respect of the proposed transactions.

These certifications are additional to that required by condition 5 in Part II below.

It is a condition of consent under this category that a Dwelling subject to a Security Interest continues to be Social Housing and remains so unless and until it ceases to be Social Housing under the provisions of sections 72 to 76 of the Act.

The only general conditions in Part II of this consent that apply to disposals in this category are conditions 4, 5, 9 and 10, to the extent provided in (g) above.

Other legal charges

Category 6

A Private Registered Provider may grant a Security Interest over a Social Housing Dwelling to:

- (a) a developer or seller taking the Security Interest solely for the duration of the development or sales period;
- (b) a registered charity with a financial interest in the development.

It is a condition of consent under this category that a Dwelling subject to a Security Interest continues to be Social Housing and remains so unless and until it ceases to be Social Housing under the provisions of sections 72 to 76 of the Act.

Category 7

A Private Registered Provider may, to enable the redevelopment of a Social Housing Dwelling, grant a Security Interest over that Social Housing Dwelling in favour of:

- (a) a local authority
- (b) a public health authority or trust
- (c) a government department or agency
- (d) the Homes and Communities Agency
- (e) a public regional or local agency for development or regeneration
- (f) the Big Lottery Fund
- (g) Communities Scotland when financing schemes in England.

It is a condition of consent under this category that a Dwelling subject to a Security Interest continues to be Social Housing and remains so unless and until it ceases to be Social Housing under the provisions of sections 72 to 76 of the Act.

Category 8

A Private Registered Provider may grant a rentcharge over a Social Housing Dwelling in order to secure payment of a service charge to the body providing services.

It is a condition of consent under this category that a Dwelling subject to the rentcharge continues to be Social Housing and remains so unless and until it ceases to be Social Housing under the provisions of sections 72 to 76 of the Act.

Disposals incidental to home ownership initiatives

Category 9

A Private Registered Provider may dispose of a Social Housing Dwelling by grant of a shared ownership lease that is not an assured tenancy.

It is a condition of consent that the Dwelling continues to be Social Housing and remains so unless and until it ceases to be Social Housing under the provisions of sections 72 to 76 of the Act.

Category 10

A Private Registered Provider may grant a new long lease of a Dwelling or transfer its freehold or superior leasehold interest in a Dwelling to a person who, before 1 April 2010, had exercised their right under a Shared Ownership Lease to staircase to full ownership and thereby end the shared ownership arrangements.

Category 11

A Private Registered Provider may grant or extend a lease of a Social Housing Dwelling to a person aged 55 or over in a scheme designed for people in that age range.

It is a condition of consent that the Dwelling continues to be Social Housing and remains so unless and until it ceases to be Social Housing under the provisions of sections 72 to 76 of the Act.

Category 12

A Private Registered Provider may dispose of its remaining interest in a Social Housing Dwelling let on a Shared Ownership Lease after the shared ownership leaseholder has failed to repay a loan as agreed and the lender has exercised its enforcement rights under its mortgage over the Dwelling.

Category 13

A Private Registered Provider may dispose of a Social Housing Dwelling to a tenant under the Social HomeBuy Scheme by outright sale or by the grant of a Shared Ownership Lease that is not an assured tenancy. Sections 11, 11A, 11B, 12, 12A

and 12B of the Housing Act 1996 shall not apply to disposals in this category.

It is a condition of consent under this category that, where the Dwelling is disposed of under a Shared Ownership Lease, the Dwelling continues to be Social Housing and remains so unless and until it ceases to be Social Housing under the provisions of sections 72 to 76 of the Act.

Category 14

A Private Registered Provider may dispose of a Social Housing Dwelling by transfer or lease to its tenant in accordance with a policy for disposals to tenants submitted by the Private Registered Provider to the Regulator and approved by the Regulator.

This category includes disposals to tenants under policies for disposals to tenants submitted to and approved by the Regulator or the Housing Corporation before 1 April 2010.

This category does not apply to Dwellings which have ceased to be used as Social Housing or to land and buildings on which once stood Social Housing Dwellings.

Category 15

A Private Registered Provider may dispose of a Dwelling that is or has already been used as a Social Housing Dwelling by transfer or lease to a key worker where that Dwelling was funded through the Key Worker Living Programme. The Private Registered Provider must believe that the purchaser intends to use the Social Housing Dwelling as his or her main residence and must include in the deed of transfer or the lease a statement of this belief.

Grant of easements; surrender of rights and covenants over Social Housing Dwellings

Category 16

A Private Registered Provider may grant an easement over a Social Housing Dwelling.

It is a condition of consent that the Dwelling continues to be Social Housing and remains so unless and until it ceases to be Social Housing under the provisions of sections 72 to 76 of the Act.

General condition 3 in Part II shall apply to the consideration for an easement under this category with the following modifications:

- (a) where the value is less than £10,000, the valuation of an independent and qualified valuer is not required. The minuted opinion of the board of the Private Registered Provider shall be conclusive as to whether the value is less than £10,000.
- (b) an easement may be granted at nil or nominal consideration when it is in favour of a company or person responsible for supplying gas, water electricity, drainage, telephone and other communication services to the Private Registered Provider's own land or to adjacent land owned by another Private Registered Provider.
- (c) an easement may be granted at nil or nominal consideration when it is in favour of another Private Registered Provider which owns land adjacent to the Social Housing Dwelling or to persons with whom another Private Registered Provider has a joint development agreement on land adjacent to the Social Housing Dwelling.

Category 17

A Private Registered Provider may dispose of land that forms part of a Social Housing Dwelling by transfer or lease to a company or person responsible for the supply of gas, water electricity, drainage, telephone or other communication services to the Private Registered Provider's land or to the land of another Private Registered Provider.

General condition 3 in Part II shall apply to the consideration for a disposal under this category with the following modifications:

- (a) the disposal may be at nil or nominal consideration; and
- (b) where the Private Registered Provider disposes of the land at greater than nil or nominal consideration, and the value is less than £10,000, the valuation of an independent and qualified valuer is not required. The minuted opinion of the board of the Private Registered Provider shall be conclusive as to whether the value is less than £10,000.

Category 18

A Private Registered Provider may surrender a right to light in respect of a Social Housing Dwelling.

It is a condition of consent that the Dwelling continues to be Social Housing and remains so unless and until it ceases to be Social Housing under the provisions of sections 72 to 76 of the Act.

General condition 3 in Part II shall apply to the consideration for a surrender under this category except that where the value of the right is less than £10,000, the valuation of an independent and qualified valuer is not required. The minuted opinion of the Board of the Private Registered Provider shall be conclusive as to whether the value is less than £10,000.

Category 19

A Private Registered Provider may surrender a right or easement over a Social Housing Dwelling owned by another Private Registered Provider and may release another Private Registered Provider from a covenant in respect of a Social Housing Dwelling owned by that other Private Registered Provider.

General condition 3 in Part II shall apply to the consideration under this category except that where the value of the surrender or release is less than £10,000, the valuation of an independent and qualified valuer is not required. The minuted opinion of the Board of the Private Registered Provider shall be conclusive as to whether the value is less than £10,000.

Options

Category 20

A Private Registered Provider may grant an option to allow a Local Authority which is a Registered Provider or another Private Registered Provider to buy back a Social Housing Dwelling originally given or sold by those bodies to the Private Registered Provider if a development of the Social Housing Dwelling does not keep to the terms of any agreement with those bodies and the Private Registered Provider may subsequently dispose upon exercise of that option.

Category 21

An RSL may grant an option in relation to the grant of an assured shorthold tenancy of a Social Housing Dwelling to a person under the Homes and

Communities Agency's Rent to HomeBuy scheme to allow that tenant to take a Shared Ownership Lease of the Dwelling.

It is a condition of consent that the Dwelling continues to be Social Housing and remains so unless and until it ceases to be Social Housing under the provisions of sections 72 to 76 of the Act.

Leases

Category 22

A Private Registered Provider may surrender its remaining interest in a Social Housing Dwelling to the freeholder or head leaseholder if this is necessary to either take the freehold or enter into a new longer lease of the same Social Housing Dwelling.

It is a condition of consent that the Dwelling continues to be Social Housing and remains so unless and until it ceases to be Social Housing under the provisions of sections 72 to 76 of the Act.

Category 23

A Private Registered Provider may surrender a lease of a single Social Housing Dwelling (originally

leased for use as Social Housing) to the freeholder provided there is no cost to the Provider, the lease has less than six months left to run and the Social Housing Dwelling is vacant.

Category 24

A Private Registered Provider may grant or extend a lease of a Social Housing Dwelling to a public health authority or trust at no premium and no rental if that authority or trust provided 100% of the funding for redevelopment of the Social Housing Dwelling.

It is a condition of consent that the Dwelling continues to be Social Housing and remains so unless and until it ceases to be Social Housing under the provisions of sections 72 to 76 of the Act.

Category 25

Where a number of leaseholders of properties jointly own the freehold (or superior leasehold) interest in those properties and a Social Housing Dwelling owned by a Private Registered Provider is one of those properties, the Private Registered Provider may enter into a deed of transfer of the joint freehold (or superior leasehold) title when one of the other leaseholders has changed.

It is a condition of consent that the Dwelling continues to be Social Housing and remains so unless and until it ceases to be Social Housing under the provisions of sections 72 to 76 of the Act.

Category 26

A Private Registered Provider may dispose of the freehold or superior leasehold reversionary interest in a Social Housing Dwelling which, since before 1 April 2010, has been let on a long private lease that is not a Shared Ownership Lease. For purposes of this category, a Shared Ownership Lease is no longer a Shared Ownership Lease when the shared owner ended the shared ownership arrangements in the lease by staircasing to full ownership before 1 April 2010.

This category of consent is not available for leases in schemes designed for people aged 55 or over.

Category 27

A Private Registered Provider may, where it owns both leasehold and freehold (or superior leasehold) titles to a Social Housing Dwelling, surrender or transfer the leasehold title if this is necessary to merge the titles.

It is a condition of consent that the Dwelling continues to be Social Housing and remains so unless and until it ceases to be Social Housing under the provisions of sections 72 to 76 of the Act.

Category 28

A Private Registered Provider may extend the term of the lease of a Social Housing Dwelling let on a long lease that is not an assured tenancy.

It is a condition of consent that the Dwelling continues to be Social Housing and remains so unless and until it ceases to be Social Housing under the provisions of sections 72 to 76 of the Act.

Miscellaneous disposals

Category 29

A Private Registered Provider may dispose by lease of 25 years or less an appurtenance belonging to, or usually enjoyed with, a Social Housing Dwelling that is a garage, where that lease is for continuing use as a garage.

This category does not apply to land or buildings on the site of a former garage.

General condition 3 in Part II shall not apply to the consideration under this category and the Private Registered Provider may charge whatever premium and rental it considers appropriate.

Category 30

A Private Registered Provider may dispose by transfer or lease of land that forms part of a Social Housing Dwelling at nil consideration or below best consideration to a highways authority or local authority for the provision of estate roads, road widening, visibility splays or for the provision of a recycling collection point serving the Private Registered Provider's Social Housing Dwellings either exclusively or jointly with adjacent land.

Category 31

A Private Registered Provider may dispose by transfer or lease of land that forms part of a garden, yard, outhouse or other appurtenance of a Social Housing Dwelling and that it considers surplus to requirements and does not have a residential tenant when that land is valued by an Independent Qualified Valuer at £10,000 or less.

It is a condition of this consent that a disposal should be for a single transaction only, and not

be linked with any other disposal made under this general consent.

Category 32

A Private Registered Provider may dispose by transfer or lease of subsoil beneath a Social Housing Dwelling, with all costs paid by the purchaser, to railway companies or their development companies who are digging tunnels.

It is a condition of consent that the Dwelling continues to be Social Housing and remains so unless and until it ceases to be Social Housing under the provisions of sections 72 to 76 of the Act.

Amendments after the Regulator has given an individual consent

Category 33

A Private Registered Provider may self-certify an amendment to an individual consent to a disposal by transfer or lease because of:

- (a) an error or omission in a purchaser's name (not a change of purchaser) given on the consent; or

- (b) an error or omission in the Private Registered Provider's name (not a change of identity) or registered address given on the consent. This does not permit the substitution of another Private Registered Provider, even within the same group structure; or
- (c) inclusion or deletion of the name of a spouse, partner or another family member purchasing with the original purchaser named on the consent.

Except when category 35 below also applies, the payment or other legal consideration must not have altered.

Category 34

A Private Registered Provider may self-certify an amendment to an individual consent to a disposal by transfer, lease or charge made to correct an error in the postcode of one or more of the properties disposed of (not a change of property).

Category 35

Disposals when an original sealed consent has already been granted

A Private Registered Provider may dispose of an individual vacant Social Housing Dwelling to a private individual in reliance upon the original consent referred to in paragraph (a) below provided:

- (a) there is already an original consent under section 172 of the Act or under section 9 of the Housing Act 1996 in place for the disposal of the Social Housing Dwelling to a private individual; and
- (b) no more than six months have elapsed between the date of the original consent and exchange of contracts; and
- (c) the valuation remains valid as at the date of exchange of contracts, or the original valuer has stated that the original valuation remains valid for a further period extending beyond the date of exchange of contracts, or the original valuer has given a revised valuation that remains valid as at the date of exchange of contracts, where in each case valuer and validity are as described in condition 3 of Part II; and

- (d) the conditions attached to the original consent would not be breached by the proposed disposal; and
- (e) the Social Housing Dwelling is not transferred together with any other properties;

notwithstanding that the original consent may be in favour of another individual or at a different price no less than the amount of the valid valuation.

Category 36

A Private Registered Provider may dispose of an individual vacant Social Housing Dwelling at public auction in reliance upon the original consent referred to in paragraph (a) below provided:

- (a) there is already an original consent under section 172 of the Act or under section 9 of the Housing Act 1996 in place for the disposal of the Social Housing Dwelling by way of sale at public auction; and
- (b) no more than six months have elapsed between the date of the original consent and exchange of contracts; and
- (c) the reserve price recommended by an independent qualified valuer remains valid as at the date of exchange of contracts, or the original valuer has stated that the original

reserve price remains valid for a further period extending beyond the date of exchange of contracts, or the original valuer has given a revised reserve price that remains valid as at the date of exchange of contracts, where in each case valuer and validity are as described in condition 3 of Part II; and

- (d) the conditions attached to the original consent would not be breached by the proposed disposal; and
- (e) the Social Housing Dwelling is not transferred together with any other properties;

notwithstanding that the reserve price at auction may be less than that stated in the original consent.

Part II

General conditions applying to disposals

A Private Registered Provider may make a disposal under Part I of this General Consent if all the relevant conditions below (or, where applicable, those specified in the relevant category) are met. Before any disposal takes place the Secretary and one other officer or employee of the Private Registered Provider must certify that the disposal accords with the General Consent. Disposals that breach these conditions will be invalid. Each disposal should be considered individually.

Conditions

1. The disposal must be within the Private Registered Provider's governing instrument (and charity law where applicable).
2. If the disposal is of a Social Housing Dwelling subject to a legal charge or mortgage, the consent of the mortgagee to the disposal should be obtained before exchanging contracts, unless the charge or mortgage will be discharged from the disposal proceeds.
3. An independent and qualified valuer must confirm that the consideration for the disposal or, in the case of an auction, the reserve price is, in their opinion, the best that can reasonably be obtained. This confirmation needs to be dated three months or less before the contract is exchanged - or any other period as the Regulator may specify. An Independent and Qualified Valuer means a District or Borough Valuer or a professional member or fellow of the Royal Institution of Chartered Surveyors or any successor body or bodies thereof, who is not employed by, or acting on behalf of, or a member of the family of, the person or organisation selling or transferring or purchasing the Social Housing Dwelling being valued.
4. Disposals must have board authority and decisions must be properly minuted. Subject to the Private Registered Provider's constitution, governing bodies may delegate authority to sub-committees or employees for any of the categories in Part I of this General Consent, according to an appropriate scheme of delegation.
5. A disposal made under this General Consent must be recorded in a form specified by

the Regulator and kept on the Private Registered Provider's General Consent Register. The register must be kept at the Private Registered Provider's head office and be available for the Regulator's inspection at all times. Attached to each specified form should be supporting papers sufficient to identify the disposal and justify use of the General Consent. These would include (as necessary) the valuation, other consents, legal documents and a site plan. Each specified form on the register must be consecutively numbered and in chronological order, and should be signed by the Private Registered Provider's Secretary and one other authorised officer or employee. A copy of the specified form (without attachments) for any transaction must be sent to the other party's solicitors.

6. If the disposal is of a Social Housing Dwelling funded by Capital Grant or by Financial Assistance from the Homes and Communities Agency, the Private Registered Provider should consult the Homes and Communities Agency's "Affordable Housing Capital Funding Guide" to see whether the disposal is one that calls for the repayment or recycling of the grant or Financial Assistance. If so,

the Private Registered Provider must follow the timetables for reporting and recording published in the Guide.

7. If the Private Registered Provider is receiving a Revenue Subsidy on the relevant Social Housing Dwelling, it must get advance clearance of the disposal from the authority giving the subsidy.
8. The disposal must not, in the opinion of the Private Registered Provider's governing body, materially affect the Private Registered Provider's assets that are available as security for its existing financial commitments. All Private Registered Providers have a duty of prudence and should consider whether a disposal affects their asset cover in relation to development and/or long-term risks.
9. Disposals must not be made to the Private Registered Provider's officers, employees, and their relatives, or businesses trading for profit in which those parties have an interest.
10. A non profit Private Registered Provider may not make any disposal under this consent with a view to enabling it to distribute assets to members.

Part III

Withholding access to the general consent

The Regulator has a general power to withdraw its consent to a Private Registered Provider making a specific disposal or class of disposal under the General Consent. The Regulator will use this power if it considers it must do so to protect the Private Registered Provider's assets and/or tenants, or following disposals that breach this or previous General Consents. If the Regulator withdraws or restricts the use of the General Consent, it will inform the Private Registered Provider in writing. For every further disposal, until told otherwise, the Private Registered Provider will have to obtain specific prior consent.

Part IV

Validity of consent

Our General Consent is effective from the date of the certification shown below in favour of any person lawfully claiming on behalf of the Private Registered Provider or dealing with the Private Registered Provider, even if there is any inaccuracy or omission in the certificate on the form specified

and completed in accordance with condition 5 of Part II of the General Consent.

Peter Marsh

A signatory duly authorised by the Board of the Regulator for Social Housing.

Schedule 1

The meaning of terms used in the consent.

Definitions of capitalised words and terms used within this General Consent unless otherwise stated are as set out below. In this consent references to a particular statute or statutory instrument or part of either of them are to that statutory reference as it may have been extended modified amended re-enacted or replaced at the date upon which its construction is relevant for the purposes of this Consent and not as originally enacted or as at the date of this Consent and any statute or statutory instrument which it replaces. References to publications, such as to the Affordable Housing Capital Funding Guide, are to the edition or version at the date upon which its construction is relevant for the purposes of this Consent.

“the Act” means the Housing and Regeneration Act 2008, as stated in the preamble.

An “Arm’s Length Management Organisation “ or “ALMO” is a company set up by a local authority under Section 2 of the Local Government Act 2000 to manage and improve all or part of its housing stock. The company is owned or controlled by the local authority and operates under the terms of a management agreement between the authority and the ALMO, approved under section 27 of the Housing Act 1985 by the Secretary of State for Communities and Local Government. It may not trade for profit.

“Assured Tenancy” has the meaning given by Section 1 of the Housing Act 1988.

“Capital Grant” means grant under the following legislation:

section 29 of the Housing Act 1974 as subsequently amended and re-enacted; section 50 of the Housing Act 1988; and section 18 of the Housing Act 1996;

“Co-ownership Society” or “Co-ownership Association” is a fully mutual housing co-operative where there is exclusive identity between tenants and members and where those members are

eligible for equity participation (in the form of a cash payment) when they terminate their tenancy after the minimum qualifying period and leave the society or association.

“Dwelling” has the meaning given in section 275 of the Act and includes shared housing and hostels. Under section 187 of the Act, a Dwelling includes a Dwelling which has ceased to be used for Social Housing and any land or building on which once stood a Social Housing Dwelling.

“Financial Assistance” means that provided by the Homes and Communities Agency under section 19 of the Act.

“Group Member” in relation to a Private Registered Provider means that body and its subsidiaries and associates (each as defined in section 271 of the Act) and includes those subsidiaries and associates whether or not they are Private Registered Providers.

“Private Finance Facilities” means arrangements for any of (i) lending money, including term loan, standby loan, revolving loan or any other lending facilities and including overdraft facilities and unsecured facilities; and (ii) interest rate hedging including arrangements embedded within loan

agreements or those documented separately; and (iii) the provision of other facilities, including loan notes, loan stock, performance bonds, guarantees, indemnities and letters of credit and (iv) issuance of loan notes, loan stock and bonds.

“Private Finance Provider” means each person or persons (and any transferee or assignee of any such person) providing Private Finance Facilities and any arranger, agent, trustee, security agent or security trustee acting on behalf of such person or persons (and any replacement or successor arranger, agent, trustee, security agent or security trustee).

“Private Registered Provider” is a body registered with TSA under section 111 of the Act that is not a Local Authority. Profit making and non profit providers are those organisations so designated under section 115 of the Act on the register of the Regulator. A former Private Registered Provider is one de-registered under the provisions of sections 118 or 119 of the Act.

“Rent to HomeBuy means the scheme operated by the Homes and Communities Agency under which a Dwelling is granted to a person on an assured shorthold tenancy in the expectation that the person, if they continue to satisfy qualifying criteria,

will subsequently take a Shared Ownership Lease of the Dwelling. The scheme is further described in the Homes and Communities Agency's Affordable Housing Capital Funding Guide”

“Revenue Subsidy” means any revenue grant or subsidy relating to the Social Housing Dwelling from a central government department or agency, a local authority or a public authority.

“Right to Buy” is that right given to tenants in Part V of the Housing Act 1985 as subsequently amended.

“Security Interest” means any mortgage, pledge, lien, charge, security assignment, hypothecation or other legal or equitable security interest or any other agreement or arrangement having the effect of conferring security (including, for the avoidance of doubt, a floating charge) or any other type of preferential arrangement having a similar effect and includes a Security Interest created over the benefit of another Security Interest.

“Shared Ownership Lease” means a lease of the type described on section 2(6) of the Housing Act 1996.

“Social HomeBuy Scheme” is a scheme approved by the Homes and Communities Agency (HCA) and described in the HCA’s Affordable Housing Capital Funding Guide under which Private Registered Providers approved by the HCA may dispose of Dwellings to their tenants at a discount funded by grant or other financial assistance from the HCA.

“Social Housing” has the meaning given in sections 68 and 77 of the Act.

“Unregistered Body” is a body not registered with the Regulator under section 111 of the Act. It includes former Private Registered providers, registered social landlords removed from the registers of the Housing Corporation and the Regulator before 1 April 2010 and housing associations removed from the register of the Housing Corporation before 1 April 2010.

Explanatory note

To be drafted

Annex C2

Suggestions on preparing policies for disposals for purposes of the general consent

1. Section 174(3) of the H&R Act 2008 allows for a provider to submit a policy for disposals to TSA. TSA may give consent to a provider for disposals under an agreed policy. Disposals certified as being made under that agreed policy may proceed under the General Consent 2010, without the provider having to seek consent for each sale.
2. Reference to an asset management strategy is not enough. There is no prescribed format for asset management strategies. Providers show them to the TSA but there is no process for approving either the broad strategy or any property disposal plans that they contain.
3. Therefore the provider must present something more specific than an asset management strategy in order to obtain consent to a programme of disposals. An approved policy, for example, could allow a provider to dispose of "X" properties a year. Or it could relate to various ways of dealing,

through disposals, with stock difficulties in a specific area.

4. For purposes of land registration, the policy needs to be expressed sufficiently clearly for a solicitor to certify that any particular disposal is part of an agreed policy for disposals covered by the general consent.

Considerations for a property disposal programme on the open market

5. What is the reason for considering a policy for disposals? Would TSA agree in principle that it is a valid reason?
6. What would be the effect on the business plan?
7. Policies should be developed in consultation with local authorities, HCA and TSA's Consents Teams and Risk and Assurance Teams.
8. How far should the provider consult representatives of tenants and how early in the process?

9. The provider should have done an option appraisal of properties and have considered the effects of each option on the area. For disposals options it should do a local market assessment - markets can change rapidly. Who would the provider be selling to - owner occupiers, landlords, developers? Have other providers been sounded out?
10. Consider grant repayment and, if in an area of low demand, sort out the grant write off with the HCA.
11. What will be the proper internal authorisation? It would probably be the Board.
12. There may be implications for equality and diversity. A provider should confirm that they have covered that dimension.
13. Implication of merger or de-registration for the policy. What major changes could prompt a review?
14. What would be the timetable for the disposals and the means of knowing when the programme would be complete? What else might end the programme?
15. For how long would approval of the policy be valid? What are the requirements for renewing or varying it? What interim reporting should take place and to which interested parties?

Considerations specifically for a programme of disposals to sitting tenants

16. This guidance is for providers who seek TSA approval to a policy of voluntary sales to tenants, a formal approval which will allow them to rely on the General Consent 2010.

Obtaining TSA's approval for a voluntary sales policy

17. Voluntary sales policies cover the disposal of social housing stock to social housing tenants of a provider. This is distinct from the statutory schemes - right to buy, preserved right to buy and right to acquire, the conditions for which are determined by statute. The Board of a provider may introduce a voluntary sales policy. (However, TSA would not normally approve a voluntary sales policy for a co-operative with fully mutual rules.) The Board's exercise of this

power is subject to any consents that may be required (for example, to meet grant conditions) and compliance with TSA policy and guidelines. Chief among these are the considerations that discounts must be reasonable, justified and on terms no better than are available to tenants under statute.

18. A provider should prepare a voluntary sales policy in consultation with its Business Analyst at TSA who will arrange the necessary internal consultation. The provider should indicate that it has clearance from HCA to develop such a policy with TSA. It will be the Business Analyst (or delegated officer) who gives the letter of approval. A reference to, or copy of, this letter should be placed with form HACON 5 on the provider's register of disposals.

Discounts and right of first refusal

19. A provider may offer a discount to tenants under a voluntary sales policy. However, a voluntary sales policy should not offer terms that are better for tenants than any of the statutory schemes in any respect, regardless of whether the property received grant. TSA will review proposed discounts when

considering an application for approval to use the General Consent. So, while the Board is free to grant a discount, it would be prudent to ensure that any proposed discount is not likely to result in approval being withheld or in raising concerns regarding governance or good management.

20. The terms of the voluntary sales policy must be no better for the tenant than those available under the RTB.
21. A provider would need to consider whether the discount means the one that the tenant would have been entitled to had they applied under RTB, according to the length of their tenancy, flat or house, etc. or does it mean the lower of the foregoing and the cash limit for the area?
22. Discounts given under a voluntary sales policy will be subject to Sections 11 and 12 of the Housing Act 1996 (repayment upon early resale and right of first refusal).
23. If a provider does work for the tenant, is that to count towards a discount in kind?

Other considerations

24. Properties subject to the policy must be identifiable (e.g., by way of a schedule of properties or a defined area with clear boundaries).
25. The policy must be published and accessible to all eligible tenants (or prospective tenants).
26. Eligibility criteria must be unambiguous, simply expressed and available to all on like terms (subject to the criteria). Providers should give clear guidance on matters such as the basis of valuation, sale price, discounts, right of first refusal and timetable. If a provider restricts availability, it should explain the method of deciding which applications would proceed.

Annex C3

The Tenant Services Authority (TSA), the Regulator for Social Housing.

The General Direction 2010 under section 176 of the Housing and Regeneration Act 2008 in respect of notification of disposals of land by non profit private registered providers

Preamble

Section 176(1) of the Housing and Regeneration Act 2008 (the Act) requires a non profit Private Registered Provider to notify, as soon as reasonably practicable, the TSA of a disposal of Land other than a Social Housing Dwelling.

Section 176(2) of the Act enables the TSA to give a direction dispensing with the notification requirement.

Section 176(3) provides that such a direction may be general or specific.

General Direction

In exercise of its powers under section 176(2) of the Act the TSA gives this general direction that non

profit Private Registered Providers are not required to notify the TSA under section 176(1) of the Act of a disposal of Land other than a Dwelling that is Social Housing.

Effective date

This general direction has effect from 1 April 2010 and shall last until it is cancelled or superseded by a new direction or directions.

Peter Marsh

A signatory duly authorised by the Board of the Regulator for Social Housing.

Schedule 1

The meaning of terms used in the direction.

Definitions of capitalised words and terms used within this Direction unless otherwise stated are as set out below. In this consent references to a particular statute or statutory instrument or part of either of them are to that statutory reference as it may have been extended modified amended

re-enacted or replaced at the date upon which its construction is relevant for the purposes of this Consent and not as originally enacted or as at the date of this Consent.

“Disposal” has the meaning given in section 273 of the Act.

“Dwelling” has the meaning given in section 275 of the Act.

“Land” includes all land, buildings, individual flats, blocks of flats and interests in land.

“Private Registered Provider” is a body registered with TSA under section 111 of the Act that is not a Local Authority. A non profit Private Registered Provider is one so designated in the Register of the TSA under section 115 of the Act.

“Social Housing” has the meaning given in sections 68 and 77 of the Act.

Explanatory note

Under previous legislation, registered social landlords had required the consent of the Tenant Services Authority (referred to above by its legal title) for disposal of any land. The Housing and Regeneration Act 2008:

- (a) Classified all registered social landlords as non profit private registered providers;
- (b) Restricted the consent requirement to disposals of social housing dwellings only; and
- (c) Gave TSA a discretionary power to ask to be notified of disposals of other land by non-profit private registered providers.

This requirement for notification was introduced as a potential measure that might assist financial regulation, one of TSA’s statutory objectives. However, TSA has an additional statutory objective of minimising regulatory interference. In balancing these objectives, TSA has decided not to call for these notifications in any circumstances, for the time being. However, TSA will keep this under review and may call for some notifications if circumstances change.

Annex C4

The Tenant Services Authority (TSA), the Regulator for Social Housing.

The Unregistered Housing Associations General Consent 2010 made under section 9 of the Housing Associations Act 1985

Order

The TSA (the Regulator), exercising its powers under Section 9 of the Housing Associations Act 1985, as amended by paragraph 9 of Schedule 9 to the Housing and Regeneration Act 2008, consents to the disposal of Grant-Aided Land (hereafter “Land”) or the disposal of any interest in Land by an unregistered housing association (“an Association”) under the categories of disposal listed below subject to the conditions stated within those categories and the General Condition at the end.

Exclusion

This consent does not apply to Associations that are Co-ownership Societies or Co-ownership Associations.

Interpretation

Certain terms have the meaning given in Schedule 1.

Commencement

This Consent will come into effect on 1 April 2010.

Category 1

An Association may grant an easement on any Land.

Category 2

An Association may dispose by transfer, lease or charge of any Land that is not, nor ever has been, the site of Housing Accommodation.

Condition of category 2:

Where there remains at the time of disposal an outstanding balance of any loan given in respect of the Land under the powers referred to in paragraph 3 of Schedule 1 to the Housing Associations Act 1985, the Association repays that balance immediately upon disposal, irrespective of the amount of proceeds of disposal.

Category 3

An Association may dispose by transfer, lease or charge of Land that is Housing Accommodation, or on which once stood Housing Accommodation.

Conditions of category 3:

Where the Land currently forms Housing Accommodation, except when the disposal is a charge made to secure finance, the Housing Accommodation is vacant.

Where there remains at the time of disposal an outstanding balance of any loan given in respect of the Land under the powers referred to in paragraph 3 of Schedule 1 to the Housing Associations Act 1985, the Association repays that balance immediately upon disposal, irrespective of the amount of proceeds of disposal.

Category 4

An Association may dispose of the freehold or superior leasehold reversionary interest in Land that is Housing Accommodation, except where that Housing Accommodation comprises a scheme designed for people aged 55 or over.

Category 5

An Association may transfer or lease Land that is a dwelling to a sitting tenant.

Conditions of category 5:

- (a) Where disposal is at a discount, the amount of the discount and the terms on which the discount is given are no more favourable than those available under the statutory Right to Buy.
- (b) Where there remains at the time of disposal an outstanding balance of any loan given in respect of the Land under the powers referred to in paragraph 3 of Schedule 1 to the Housing Associations Act 1985, the Association repays that balance immediately upon disposal, irrespective of the amount of proceeds of disposal.

Category 6

An Association may extend a long lease by agreement with the leaseholder.

General condition applying to all disposals

Associations disposing of Land under the terms of this consent shall supply the disponent with a certificate signed on behalf of the proprietor by its Secretary (or by two trustees, if a charitable trust) or its solicitor or licensed conveyancer that the provisions of section 9 of the Housing Associations Act 1985 have been complied with.

By order of the Regulator for Social Housing.

Peter Marsh

A signatory duly authorised by the Board of the Regulator for Social Housing.

Schedule 1

Definition of capitalised words and terms used within this Consent unless otherwise stated are as set out below. In this consent references to a particular statute or statutory instrument or part of either of them are to that statutory reference as it may have been extended modified amended re-enacted or replaced at the date upon which its construction is relevant for the purposes of this Consent and not as

originally enacted or as at the date of this Consent.

“Co-ownership Society” or “Co-ownership Association” is a fully mutual housing co-operative where there is exclusive identity between tenants and members and where those members are eligible for equity participation (in the form of a cash payment) when they terminate their tenancy after the minimum qualifying period and leave the society or association.

“Dwelling” has the meaning given in section 275 of the Housing and Regeneration Act 2008 – (a) a house, flat or other building or part of a building occupied or intended to be occupied as a separate dwelling; and (b) including any garden, yard, outhouse, or other appurtenance belonging to, or usually enjoyed with, the dwelling.

“Grant-Aided Land” has the meaning given in Schedule 1 of the Housing Associations Act 1985. It will include all land, buildings, individual flats, blocks of flats and interests in land.

“Housing Accommodation” includes Dwellings and buildings occupied as shared housing, such as hostels and lodging houses.

“Right to Buy” is that right given to tenants in Part V of the Housing Act 1985 as subsequently amended.

“Unregistered Housing Association” is a body satisfying the definition in section 1(1) of the Housing Associations Act 1985 which has never been registered with the Housing Corporation or the TSA.

Explanatory note

This general consent is for housing associations that have never been registered with either the Housing Corporation or the Tenant Services Authority (TSA).

Its scope is further restricted to those unregistered housing associations who either repaid a public loan or received an annual subsidy to help with their loan repayments at any time after 24 January 1974. The loans or subsidies referred to are those given under miscellaneous legislation that applied, up to 1975, to assist the provision of low cost housing.

The TSA believes that, in England, all those annual subsidies have now ended but some long term loans may remain outstanding. There remains, nevertheless, an obligation on these unregistered

associations to obtain the TSA's consent to any disposal of the publicly assisted land, together with the housing or communal facilities constructed on it.

The TSA has no power to regulate these housing associations, other than in giving consent to disposals. The TSA has simplified these requirements by issuing this general consent, leaving it to consider individually applications for consent to dispose of tenanted social housing dwellings.

Annex C5

The Tenant Services Authority (TSA), the Regulator for Social Housing.

The General Consent 2010 under section 9 of the Housing Act 1996 in respect of de-registered bodies

Preamble

By virtue of the legislation set out in Schedule 1 below the consent of the TSA is required for the disposal of land held at the time of removal by any body removed from the registers of the Housing Corporation and the TSA between 1 April 1975 and 31 March 2010 inclusive.

Order

The TSA, in exercise of its powers under section 9 of the Housing Act 1996, hereby makes the following general consent in respect of disposals of land held at the time of removal by any body removed from the registers of the Housing Corporation and the TSA between 1 April 1975 and 31 March 2010 inclusive. These bodies may dispose of such land as falls into the categories

below subject to the conditions set out within the categories and the general condition at the end.

Interpretation

Certain terms have the meaning given in Schedule 2 below.

Exclusion

This consent does not apply to bodies that are Co-ownership Societies or Co-ownership Associations.

Effective date

This Consent will come into effect on 1 April 2010.

The categories of disposal referred to above.

Category 1

Grant of an easement on any Land.

Category 2

Grant of a charge on any Land for purposes of raising finance.

Category 3

Disposal by transfer or lease of Land that is not, nor ever has been, the site of Housing Accommodation.

Conditions of category 3:

Where Capital Grant was paid in respect of the Land, the disposal is at the best consideration that can reasonably be obtained, as confirmed no more than three months before disposal by an independent and qualified valuer, and the deregistered body repays or recycles any Capital Grant paid on the Land where so required by grant conditions of the Homes and Communities Agency.

Category 4

Transfer or lease of Land that is a Dwelling to a sitting tenant.

Conditions of category 4:

- (a) Where disposal is at a discount, the amount of the discount and the terms on which the discount is given are no more favourable than those available under the Right to Buy.

- (b) Where Capital Grant was paid in respect of the Land, the disposal is at the best consideration that can reasonably be obtained and any discount calculation is based on that best consideration, as confirmed no more than three months before disposal by an independent and qualified valuer, and the deregistered body repays or recycles any Capital Grant paid on the Land where so required by grant conditions of the Homes and Communities Agency.

Category 5

Disposal to a Private Registered Provider or a Local Authority which is a Registered Provider by transfer or lease of Land that is Housing Accommodation and is tenanted.

Condition of category 5:

The body repays or recycles any Capital Grant paid on the Land where so required by grant conditions of the Homes and Communities Agency.

Category 6

Disposal of the freehold or superior leasehold reversionary interest in Land that is Housing Accommodation, except where that Housing Accommodation comprises a scheme designed for people aged 55 or over.

Category 7

Disposal by transfer or lease of Land that is Housing Accommodation, or on which once stood Housing Accommodation, and which does not fall into categories 4, 5 and 6 above.

Conditions of category 7:

- (a) Where the Land currently forms Housing Accommodation, that Housing Accommodation is vacant.
- (b) Where Capital Grant was paid in respect of the Land, the disposal is at the best consideration that can reasonably be obtained, as confirmed no more than three months before disposal by an independent and qualified valuer and the de-registered body repays or recycles any Capital Grant paid on the Land where so required by grant

conditions of the Homes and Communities Agency.

Exceptions to condition (a):

Condition (a) does not apply to extensions of long leases by agreement with the leaseholder.

Condition (a) does not apply to the disposal of the freehold or superior leasehold interest, or to the grant of a new long lease, to a person who has exercised their right under a Shared Ownership Lease to staircase to a 100% leasehold interest in the Dwelling.

General condition applying to all disposals

Bodies disposing of Land under the terms of this consent shall supply the donee with a certificate signed on behalf of the proprietor by its Secretary (or by two trustees, if a charitable trust) or its solicitor or licensed conveyancer that the provisions of section 9 of the Housing Act 1996 have been complied with.

By order of the Regulator for Social Housing.

SEAL REQUIRED UNLESS NEED REMOVED IN TRANSITIONALS.

Peter Marsh

A signatory duly authorised by the Board of the Regulator for Social Housing.

Schedule 1 to the General Consent 2009 in respect of de-registered bodies made under section 9 of the Housing Act 1996.

The statutory requirement upon de-registered bodies to seek consent to disposals of land.

1. The Housing Corporation maintained a register of housing associations from 1 April 1975 to 30 September 1996 inclusive under section 3 of the Housing Associations Act 1985 and, during that period, removed certain housing associations from the register under section 6 of the Housing Associations Act 1985. Section 9(4) of the Housing Associations Act 1985 maintained the requirement for the Housing Corporation's consent to the disposal by a de-registered body of any land held at the time of removal from the register.

2. The Housing Corporation maintained a register of social landlords from 1 October 1996 to 30 November 2008 inclusive under section 1 of the Housing Act 1996 and, during that period, removed certain social landlords from the register under section 4 of the Housing Act 1996. Section 9(6) of the Housing Act 1996 maintained the requirement for the Housing Corporation's consent to the disposal by a de-registered body of any land held at the time of removal from the register.

3. Part I of Schedule 19 to the Housing Act 1996 repealed section 9(4) of the Housing Associations Act 1985. However, paragraph 6 of the Schedule to The Housing Act 1996 (Commencement No.3 and Transitional Provisions) Order 1996 (No. 2402) provided for Section 9(6) of the Housing Act 1996 to apply to disposals by a body which was removed from the register under the Housing Associations Act 1985 before 1st October 1996, as it applied in relation to a body removed from the register under section 4 of the Housing Act 1996.

4. The Housing Corporation's powers of registration referred to in paragraph 2 above

and its powers of consent referred to in paragraph 3 above were transferred to the TSA, with effect from 1 December 2008, by the Transfer of Housing Corporation Functions (Modifications and Transitional Provisions) Order 2008 (No. 2839).

5. The TSA maintained a register of social landlords from 1 December 2008 to 31 March 2010 inclusive under section 1 of the Housing Act 1996 and, during that period, removed certain social landlords from the register under section 4 of the Housing Act 1996.
6. This General Consent deals with those housing associations and social landlords deregistered under paragraphs 1, 2 and 5 above.

Footnote to schedule 1

On 1 April 2010, the register of social landlords created by section 1 of the Housing Act 1996 ceased to exist and all registered social landlords, by virtue of section 278 of the Housing and Regeneration Act 2008, became Private Registered Providers on a new register created by section 111 of the Housing and Regeneration Act 2008. The

requirement for consent to disposals by Private Registered Providers removed from the section 111 register on or after 1 April 2010 is governed by section 186 of the Housing and Regeneration Act 2008 and is not a matter for this General Consent.

Schedule 2 to the General Consent 2009 in respect of de-registered bodies made under section 9 of the Housing Act 1996.

The meaning of terms used in the consent.

Definitions of capitalised words and terms used within the General Consent 2008 unless otherwise stated are as set out below. In this consent references to a particular statute or statutory instrument or part of either of them are to that statutory reference as it may have been extended modified amended re-enacted or replaced at the date upon which its construction is relevant for the purposes of this Consent and not as originally enacted or as at the date of this Consent.

“Capital Grant” means grant under the following legislation:

Section 29 of the Housing Act 1974 as subsequently amended and re-enacted;

Section 50 of the Housing Act 1988; and Section 18 of the Housing Act 1996.

“Co-ownership Society” or “Co-ownership Association” is a fully mutual housing co-operative where there is exclusive identity between tenants and members and where those members are eligible for equity participation (in the form of a cash payment) when they terminate their tenancy after the minimum qualifying period and leave the society or association.

“Dwelling” has the meaning given in section 63 of the Housing Act 1996 – a building or part of a building occupied or intended to be occupied as a separate dwelling, together with any yard, garden, outhouses and appurtenances belonging to it or usually enjoyed with it.

“Land” includes all land, buildings, individual flats, blocks of flats and interests in land.

“Housing Accommodation” includes Dwellings and buildings occupied as shared housing, such as hostels and lodging houses.

“Local Authority” has the meaning given in the Housing Associations Act 1985.

“Private Registered Provider” is a body registered with TSA under section 111 of the Housing and Regeneration Act 2008 that is not a Local Authority.

“Right to Buy” is that right given to tenants in Part V of the Housing Act 1985 as subsequently amended.

“Shared Ownership Lease” means a lease of the type described on section 2(6) of the Housing Act 1996.

Explanatory note

This general consent is for bodies that used to be registered with either the Housing Corporation or the Tenant Services Authority (TSA).

Bodies removed from the register between 1 April 1975 and 31 March 2010 inclusive still need the consent of the TSA to dispose of any land held at the time of removal. This requirement is actually stricter than that which applies to providers currently registered with the TSA. TSA therefore intends, by giving this general consent to a wide range of disposals, to make the consents requirements for de-registered bodies no more onerous than those for registered providers.

However, buildings owned by these bodies may have been funded with the help of Government grant, and their housing may be occupied by tenants. Therefore TSA has attached certain conditions to the consent and has reserved the right to examine individually any proposals to dispose of housing that is tenanted, except when the disposal is to a body regulated by TSA.

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We can provide copies in large print, Braille and audio cassette, on request. Other language versions may also be available.

TSA consent to disposals

A statutory consultation

This consultation paper sets out our proposals for a General Consent to disposals of dwellings that are social housing. It should be read in conjunction with our statutory consultation document A New Regulatory Framework for Social Housing in England, which sets out the objectives and principles that underpin the TSA's approach.

