



October 1996

The principles governing the terms of a transfer of land following an inquiry into the affairs of a registered social landlord

General determination 1996



**THE HOUSING
CORPORATION**

PREAMBLE

- 1 The Housing Corporation (“the Corporation”), in the exercise of the powers conferred on it by paragraph 27 of Schedule 1 to the Housing Act 1996 and all other powers enabling it in that behalf, with the consent of the Secretary of State and after consultation with such bodies appearing to the Corporation to be representative of registered social landlords as it considered appropriate, hereby makes the following General Determination of the principles it will follow in making a direction concerning the terms of a transfer of land following an inquiry into the affairs of a registered social landlord.
- 2 This General Determination is made without prejudice to the Corporation’s power to make specific Determinations under the provisions of the Housing Act 1996.

CITATION AND COMMENCEMENT

- 3 This Determination may be cited as the Principles Governing The Terms of a Transfer Of Land Following An Inquiry Into The Affairs Of A Registered Social Landlord General Determination 1996.
- 4 This Determination has effect from 1 October 1996.

INTERPRETATION

- 5 Words and expressions used in this determination shall, unless the context otherwise requires, have the following meanings-

“the Act” shall mean the Housing Act 1996

“land” shall have the meaning given by Section 205 (1) of the Law of Property Act 1925

“registered social landlord” (or RSL) means any landlord registered with the Corporation under part I of the Act

“charity” shall have the meaning given by Section 96 (1) of the Charities Act 1993

“registered charity” means a charity which is registered under section 3 of the Charities Act 1993 and is not an exempt charity within the meaning of that Act.

POWER TO DIRECT TRANSFER OF LAND

- 6 Where, as a result of an inquiry under paragraph 20 of Schedule 1 to the Act or an audit under paragraph 22, the Corporation is satisfied as regards a registered social landlord (RSL) that there has been misconduct or mismanagement in its administration or that the management of its land would be improved if its land were transferred to another RSL, the Corporation may direct the registered social landlord to make such a transfer. The principal objectives of a transfer under these powers will be to protect the interests of tenants and to safeguard public investment.
- 7 Any such direction will be made by the Board of the Corporation, with the prior consent of the Secretary of State, having so far as possible taken into account the legitimate interests of all relevant parties, which shall include

tenants and residents; the Corporation and any agent appointed on its behalf will seek to consult and keep informed, so far as is reasonably practicable, the tenants of the landlord prior to a final decision on the transfer of land. The nature of the consultation will depend upon the circumstances and the urgency of the case, as well as the size of the landlord and the existence of any recognised tenants' groups.

secured creditors; the Corporation will consult all secured creditors on any proposal to direct a transfer.

the landlord; senior staff and members of the landlord will be kept informed and consulted, so far as is reasonably practicable, on any proposal to transfer land, and the Corporation will seek their co-operation in facilitating an effective and timely outcome.

other regulators; all other regulators with an interest in the landlord will be consulted on a proposal to transfer land. These may include the Registrar of Friendly Societies, the Registrar of Companies, and the Charity Commissioners. However, the Corporation may not exercise its powers under paragraph 27 in relation to a registered charity.

local authorities; the views of all local authorities with an interest in the RSL whose land is subject to transfer will be taken into account.

- 8 Such consultation as is described above will be with respect to any proposed transferee RSL, and the terms of the transfer. The Corporation will ensure that tenants are fully aware of any change in their tenancy status that might arise out of the proposed transfer.

TERMS OF TRANSFER

- 9 The Corporation will ensure that the terms of any transfer include provision for the repayment of the debts and liabilities of the landlord, including debts and liabilities secured on the land. This may involve, as an alternative, the transfer of the debts and liabilities to the recipient RSL, with the consent of the relevant creditors.
- 10 Where the landlord concerned is a charity the Corporation will only direct a transfer to be made to another registered social landlord which is also a charity, and whose objects appear to the Corporation to be as nearly as practicable similar to those of the RSL concerned. In any other case, the Corporation may direct a transfer to be made to itself or to another registered social landlord.
- 11 The price of any land that is transferred will not be lower than the amount certified by the district valuer to be the amount the land would command if sold by a willing seller to another registered social landlord.

BY ORDER OF THE CORPORATION this day of 1996

R A J Mayer
Chief Executive

EXPLANATORY NOTE

(This note is not part of the Determination).

The Determination sets out the principles upon which the Corporation will decide the terms of any transfer of land to another registered social landlord, pursuant to a direction made by the Corporation's Board following an inquiry into the affairs of an RSL and/or an extraordinary audit carried out as part of the inquiry.