

# STATES OF JERSEY



## THE REFORM OF SOCIAL HOUSING

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Lodged au Greffe on 4th March 2013  
by the Council of Ministers

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STATES GREFFE

## **PROPOSITION**

**THE STATES are asked to decide whether they are of opinion –**

- (a) to approve –
  - (i) the establishment of a new Strategic Housing Unit in the Chief Minister's Department as set out in sections 3.12 to 3.14 of the attached Report of the Council of Ministers dated 4th March 2013;
  - (ii) the proposed regulation of Social Housing as set out in sections 4.1 to 4.18 of the attached Report;
  - (iii) a rent policy of a return to near market fair rent levels as set out in section 3.12.9 of the attached Report;
  - (iv) the incorporation of States owned housing as a Company Limited by Guarantee wholly owned by the States of Jersey as set out in sections 3.38 to 3.47 of the attached Report;
- (b) to request –
  - (i) the Chief Minister to take the necessary action to establish the Strategic Housing Unit and to further request the Chief Minister to bring forward for approval by the Assembly the necessary legislation to give effect to the proposals in relation to the regulation of Social Housing;
  - (ii) the Minister for Social Security to take the necessary action to address the Income Support implications of the revised rent policy to enable its implementation by April 2014;
  - (iii) the Minister for Housing to take the necessary action to prepare for company status and to bring forward for approval by the Assembly the necessary legislation to give effect to the proposals with a target date for commencement of the Company's operation of 1st July 2014;
  - (iv) the Minister for Treasury and Resources to take the necessary action to establish the funding arrangements as set out in section 3.59 and 3.63 of the attached Report.

**COUNCIL OF MINISTERS**

## REPORT

### Executive Summary

This Report and Proposition recommends the introduction of formal regulation of social housing for the first time in Jersey and the establishment of a wholly States-owned Housing Company as part of my coordinated transformation proposals.

A quarter of States homes and a lesser proportion of Housing Trust properties, require improvement to meet basic Decent Homes Standards and this proportion will worsen significantly over the next 5 years unless considerable investment is made. This is particularly pressing for the States housing stock where current arrangements do not provide sufficient funding to enable existing standards to be maintained going forward.

Four key changes are proposed to achieve the necessary transformation –

1. That a new Strategic Housing Unit be established to coordinate a long-term housing strategy.
2. That a new Social Housing Regulator is established to ensure that tenants best interests are protected and that public investment in social housing delivers optimal value for money.
3. That a new, not-for-profit, wholly States-owned Housing Company is established to improve the States-owned social housing stock and with the financial capacity to develop new social housing when required on a sustainable basis.
4. That social housing rents are returned to near market fair rent levels to ensure that tenants who can afford to do so, pay a fair rent.

Given the significance of the changes proposed, this Report sets out in some detail the strategic context for the proposed regulation and transfer and summarises the relevant elements of the social housing review, which was published as a Green Paper in 2010 and subsequent White Paper “*Achieving Decent Homes – An Affordable Social Housing Framework for the Future*” published in April 2012 (R.47/2012).

The Green Paper confirmed that the Jersey social housing regulatory framework “*is not strongly developed*” and, for the Housing Trusts to play a more significant role, this would have to be based on the same financial and regulatory regime as that put in place as a result of restructuring the Housing Department. The Green Paper acknowledged that the current Housing Department staffing is “*parsimonious*” compared to UK equivalents, but being structured as a States Department prevents it from operating to best effect and that an organisation more at arms length needs to be put in place.

This Report goes on to explain how the Housing Transformation Programme was established to fully separate regulatory, policy and service delivery functions and how both the Green Paper and the White Paper consultations suggested strong support for appropriate regulation of the social housing sector.

The Report then sets out the requirement for and purpose of, the proposed legislation, including the current regulatory arrangements and responsibilities for social housing

and explains the current conflicts of interest for the Minister for Housing who must presently act simultaneously as policy maker, regulator and landlord.

The Report summarises the role identified for, and potential regulations arising from, the establishment of the Strategic Housing Unit to oversee the development of housing policy and strategy across all tenures. The roles identified are –

1. Developing a robust cross-tenure Island Housing Strategy.
2. Prioritizing resource allocations within the social housing sector.
3. Championing the Supply of Homes.
4. Managing the Affordable Housing Gateway.
5. Proposing new affordable housing products to meet the needs identified through the new Affordable Housing Gateway.
6. Proposing and updating a Jersey Social Housing Standard.
7. The development of housing policy within a States-wide strategic policy framework.
8. Carrying out (or commissioning) survey work.
9. Proposing and delivering the social housing rent policy.
10. Proposing the criteria for eligibility for social housing on the Island through the Affordable Housing Gateway.
11. Proposing standards for Tenant engagement and consultation.
12. Setting performance and probity standards for Social Housing Providers.

This Report then sets out the how the strategic context, business case and consultation outcomes all strongly support the argument for establishing a Housing Company and proposes a robust process founded on established precedent to achieve it.

If approved, this change would result in a significantly improved service for States tenants, who would benefit from an organisation wholly focussed on their needs and one which involves them in improving all aspects of the service they receive. The proposed Company would very much remain a “social business” and one that continues to protect and support many of the most vulnerable in our society.

The change would mean better “value for money” for the taxpayer from the initiation of an operationally efficient and commercially agile company able to deliver continuous improvement for Tenants and to drive optimum value from the States housing assets on a sustainable basis.

The Housing Department is a small, well run organisation. It receives good reports throughout a number of disciplines and is innovative in style and forward thinking; hence the proposals contained in this Report. Staff at the Department are proud of what they do and are dedicated to the people they endeavour to help, many of whom are the most disadvantaged in our society. Much of that help goes unannounced and largely unrecognised. That is regrettable but in an age where we dedicate inordinate amounts of time putting a price on everything, this is certainly one of those instances where we know the cost but pay little regard to the real value it delivers. Regardless of

the lack of recognition, the Department gets on quietly with the very important service it provides. That is commendable.

Notwithstanding the above, the Department has supported me as Minister for Housing in challenging the current way services are provided. It supports my view that it requires a different future and as such has been the spearhead for the proposals contained in this Report. Over some 2 years, seriously hard work has been undertaken by the Housing Team in order to bring some 90 work-streams to a conclusion; ready for a debate. That hard work is acknowledged here in this Executive Summary. These are proposals that should be the blue-print for change in other States Departments.

The States will exert more effective control of the proposed Company than it does under the current arrangements, through effective use of its sole owner “shareholder” role, through setting the policy objectives for the social housing sector via the Strategic Housing Unit, and through the activity of the Social Housing Regulator ensuring standards are achieved and performance improved.

The financial and human resource implications of establishing the proposed Social Housing Regulator and the proposed return to Fair Rent Levels are considered for both the proposed new Housing Company and the existing Housing Trusts. This is followed by a summary of the many benefits for tenants, Social Housing Providers and the States of the proposed regulation and wider transformation.

Under the Regulations that follow any States approval of an enabling Law, tenants would be guaranteed Decent Homes Standards for the first time in Jersey, the policy and regulatory separation necessary for good governance would be achieved and the States and Public would be able to ensure that Social Housing is provided in a sustainable, fair and efficient way in the interests of all social housing tenants.

A related Report and Proposition *Victoria and George V Cottage Homes (Repeal of General Principles)* will propose incorporating the Victoria and George V Cottage Homes within the standard tenancy arrangements for the proposed new company.

COUNCIL OF MINISTERS

## 1. Introduction

- 1.1. The way Social Housing is provided in Jersey needs to be transformed if the sector is to operate on a sustainable basis and be able to deliver new and improved homes for Jersey residents.
- 1.2. A quarter of States homes, and a lesser proportion of Housing Trust homes, require improvement to meet basic Decent Homes Standards and this proportion will worsen significantly over the next 5 years unless considerable investment is made. The current implementation of rent policy and the Annual Returns arrangement (whereby £26.7 million will be paid back to the States from rental income in 2013), effectively prevent sufficient investment in the social housing stock. There is currently little regulation of social housing to ensure this situation does not occur again. The States recognized this need for change in approving the Strategic Plan 2012 (P.28/2012) which sets “House our Community” as a corporate priority and in approving P.6/2007 The States of Jersey Property Plan, but since the economic downturn and with waiting lists for social housing rising, a policy solely based on selling the States housing stock is no longer sustainable.
- 1.3. Over the last 3 years, a fundamental review of the options for restructuring social housing has been completed and 4 key changes are now proposed to achieve the necessary transformation, clarify roles and address the current conflicts of interest affecting the Minister for Housing –
  - 1.3.1.1. That a new Strategic Housing Unit is established to coordinate a long term housing strategy.
  - 1.3.1.2. That a new Social Housing Regulator is established to ensure that tenants’ best interests are protected and that Public investment in social housing delivers optimum value for money.
  - 1.3.1.3. That a new, not-for-profit, wholly States-owned Housing Company is established to improve the States-owned social housing stock and with the financial capacity to develop new social housing when required on a sustainable basis.
  - 1.3.1.4. That social housing rents are returned to near-market fair rent levels to ensure that tenants who can afford to do so pay a fair rent.
- 1.4. The Council of Ministers at its meeting of 13th March 2012 approved the principle of establishing a Strategic Housing Unit. This Report sets out the role that the Strategic Housing Unit will perform, its proposed setting and how it is proposed the Unit develops a long-term, cross-tenure housing strategy.

- 1.5. This Report proposes the establishment of a Social Housing Regulator and the bringing forward of regulations that would permit the confirmation of social housing rents at fair rent levels, amongst other matters. The Report proposes that the States agrees to the establishment of Housing Company from the current landlord functions of the Housing Department.
- 1.6. Together, the policy proposals set out in this Report and Proposition provide a strong framework for a sustainable and financially viable social housing sector, able to meet the needs of current and future Tenants and the population at large and to address the key social housing challenges presented by Professor Christine Whitehead OBE, (of the London School of Economics and Cambridge Centre for Housing and Planning Research, Department of Land Economy, University of Cambridge), within her “Review of Social Housing in Jersey” which was published as a Green Paper in March 2010.

## 2. Strategic Context

- 2.1. When the States agreed its Strategic Plan 2006-2011 (P.40/2006), it committed to “review, develop and implement strategies for the provision of Social Housing in the Island including for the long term management of States rental accommodation” (Section 3.8.4 refers). These principles have been continued within the current States’ Strategic Plan 2012 (P.28/2012) and the corporate priority “House our Community”.

### Green Paper – Professor Christine Whitehead’s Review of Social Housing

- 2.2. The States strategic direction led the then Minister for Housing to commission a fundamental review of social housing provision. The review was led by Professor Christine Whitehead OBE.
- 2.3. The Green Paper review encompassed wide Terms of Reference, but Professor Whitehead’s key findings were that –
  - *“...the current governance and financial structures limit the opportunities to make best use of resources...”*;
  - *“Rents in the States sector vary from 90% to as little as 60% of market rental values”*;
  - *“the current balance of income and expenditure is only met by running down the condition of the(States housing) stock”*;
  - *the regulatory framework is “not strongly developed” and it is “clearly inappropriate” for Housing Trusts “to be formally regulated by the Housing Department”*;
  - *the size of the sector is too small to address “unmet” demand “from those in long term housing need”*;

- *“only a very small minority of those currently housed in the social sector are not in need of that assistance”.*

2.4. As part of the Terms of Reference for her review, Professor Whitehead was specifically asked *“to analyse the present regulatory structure, compare it with regulation in other jurisdictions and recommend a suitable framework”*. Professor Whitehead identified that –

*“At the present time there is no separate regulatory framework for States housing because it is within a States Department. However there is a complication in that while the Housing Department in principle has the responsibility to regulate Housing Trusts, in practice there are no resources to make this possible. There are also potential conflicts of interest, if one housing management organisation is required to regulate another.*

*Any transfer of ownership and/or management would bring with it the need to delineate the relationship between the States and the independent landlord or manager more carefully”*. (Green Paper 2010. Section 5.4).

<http://www.gov.je/Government/Pages/StatesReports.aspx?ReportID=390>

2.5. Professor Christine Whitehead’s review of social housing in Jersey identified that the current Housing Department operates within *“a very traditional and constrained approach and there are important reasons to re-examine options that can improve efficiency; enable the social landlord to be more responsive to changing tenant needs; and perhaps most immediately can better address the backlog of repairs and improvements required and better adjust the mix of provision for identified future needs.”*

2.6. Professor Whitehead found that *“The average level of house prices and its relation to average incomes suggest that fundamental inflexibilities in the supply of land and new house-building (in Jersey) result in price/income ratios far much higher than in the UK, where it is generally accepted that there are long run supply constraints which adversely affect the competitiveness of the economy as well as the stability of the housing market.”* Therefore there was likely to be a continuing demand and role for social housing in Jersey.

2.7. Further, the Professor found that States housing tenants were characterised by low incomes, a high proportion of pensioners, single parents and separated and divorced or widowed women and lower levels of economic activity than within other tenures. Consequently the overwhelming majority of States Tenants were likely to be life-long renters.

2.8. As the Housing Trusts outsource their management and maintenance functions the Professor considered they had limited ability to cope



with Tenants who cannot manage their finances or who exhibit difficult or anti-social behaviour. As a result the Housing Department also tended to function as “*the landlord of last resort*”, which can be evidenced from the higher incidence of Income Support entitlement amongst States Tenants.

- 2.9. The Professor noted the political and public desire expressed in Housing Needs Surveys for higher levels of home ownership, but concluded that a significant proportion of social households would be very unlikely to be able to purchase without some significant assistance. The Professor considered the current eligibility criteria for States housing to be highly constrained and that there were likely to be many “hidden households” as a result of this constraint as well as many eligible and qualified households housed within the private rented sector.
- 2.10. In considering the Housing Department resources, the Professor concluded that the budget allocated was insufficient to ensure the adequate repair and modernisation of the States housing stock, and that this had resulted in the backlog identified in the Social Housing Property Plan (P.6/2007).
- 2.11. The Property Plan (2007-16) was adopted by the States in July 2007. The Plan addressed the issue of how both revenue and capital funds could be made available to ensure adequate standards by setting out a programme of sales to sitting tenants and the wider market of up to 800 States rental homes over a 10 year period. Such a programme was established to meet 3 distinct goals: providing the funds for reinvestment in the remaining stock; helping to expand owner-occupation; and changing the mix of States housing. Overall, the financial constraints in the social rented sector were to be overcome by reducing the size of the sector. The mix of future social provision was to move away from family housing to smaller units for older people and a higher proportion of new family homes were to be provided as affordable rather than social housing. It should be noted that this also enabled re-alignment of the States stock through the acquisition and construction of 400 homes aimed at addressing the ageing population.
- 2.12. Professor Whitehead considered that the Property Plan was a response to the constraints of a situation created by the combination of the policy of only funding investment from revenue, rather than from borrowing, and the requirement for the Housing Department to make a significant annual return to the Treasury which left insufficient revenue to address the annual repair needs of the stock.
- 2.13. The Professor noted that the Property Plan explicitly left a view on the appropriate size of the social sector to her more fundamental review. In addressing this, the Professor concluded that house prices and the limited supply of affordable homes would mean that Jersey would require a large rented sector for the foreseeable future. In considering the size of the social rented sector, Professor Whitehead concluded that whether the social sector should be enabled to expand depended

on the best way of meeting the needs of slightly better off less vulnerable households who will almost certainly never be able to afford to buy. If this is seen as best met by social providers, there would be a strong case for expanding the sector to some degree – although the Professor envisaged this would be within a rather different policy framework and probably through a different organisational structure where funding to support expansion and restructuring could be provided.

- 2.14. Professor Whitehead considered the management provision within the Housing Department to be parsimonious, compared with a similar sized Housing Provider in the UK employing roughly twice as many staff as Jersey in housing management and maintenance, in part reflecting a different performance and regulatory regime and in part the much lower available budget.
- 2.15. These findings led the Professor to conclude that “*an organisation more at arms length needs to be developed.*”
- 2.16. All tenants in States housing were issued a summary of the Green Paper findings in 2010 and asked to indicate whether they felt a social housing regulator was necessary: 264 responses were received and 74% of respondents confirmed they believed a regulator was required. The comments received on the Green Paper indicated that tenants, Housing Trusts and the public were also concerned that any regulator should not duplicate other existing roles and were concerned to ensure that it represented an efficient use of Public money.
- 2.17. Of those responding, 40% believed an option separating management to ownership should be followed, with 26% indicating sale to sitting Tenants should be considered, 14% preferring a sale to a newly created private sector landlord and 2% preferring sale to a private sector landlord. Only 7% preferred the status quo.

#### Restructuring States Housing – Options considered in the Whitehead Review

- 2.18. Professor Whitehead reviewed the options available for changing the social housing sector, noting that in relation to ownership, the States housing assets were debt free, but that any case for transfer would lie in the greater efficiency and flexibility in operation, and would be unlikely to be driven purely by the achievement of a capital receipt and so any decision must also be grounded in ensuring that more people obtain a better housing outcome.
- 2.19. The Professor considered that the States Housing Stock (4,502 units *in January 2011*) was not significant and so the break up of the States housing stock between landlords would create a number of small organisations without generating any significant benefits of competition and there would be inevitable loss of economies of scale.
- 2.20. Therefore, the Professor went on to outline potential options that might be worthy of further consideration: these being –

- The status quo
- An Arms Length Management Organisation
- A Hybrid Trading Company
- Sales to sitting Tenants
- Sale to one or more social landlords
- Sale to the private sector

2.21. In relation to the status quo, Professor Whitehead concluded that *“while in principle, the status quo might appear to be the cheapest and easiest option it is fundamentally unsustainable, and it is unlikely that the flexibility necessary to generate a modern social sector could be achieved without major changes. Maintaining the status quo would simply lead to an increasingly segregated, inadequate and inefficient sector, and one which is increasingly out of line with the general approach to the provision of public services in Jersey.”*

2.22. The Professor considered that *“options that involve significant sales to existing tenants; partial sales to a range of landlords, or sale to the private sector do not appear to be viable – in part because of a lack of available experience; in part because of issues of financial viability; in part because of political constraints. They also do not appear desirable. All would undoubtedly leave large gaps in social provision which would require additional States funding if they were to be filled.”*

2.23. This left 3 main options, each of which the Professor considered could have potential net benefits –

- Option 2 – an Arms Length Management Organisation;
- Option 3 – a Trading Company Hybrid, which could reduce the demands on the public purse with respect to improving the existing stock and possibly enable some additions to the stock – as long as rents are allowed to rise;
- Option 6 – Sale to a Single Independent Landlord – almost certainly in the form of a transfer to a newly created landlord, which would realise the capital value of the stock in the form of a one-off payment to government (possibly with the option of a leasehold arrangement).

2.24. The Professor concluded that the current arrangements were not appropriately structured or sustainable if a twenty-first century social housing system was to be provided. If the status quo were to be maintained, the sector would become smaller and housing quality would decline. In part this was an outcome of the policy framework which places controls on access to States housing. In part it was the result of the governance and financing structures, which inhibit the adequate management, maintenance and upgrading of the housing stock.

## Establishment and role of the Housing Transformation Programme

2.25. The former Minister for Housing established the Housing Transformation Programme in October 2010 in response to Strategic Priority 14 (“*Adequately House the Population*”) within the States Strategic Plan 2009 – 2014 (P52/2009). Strategic Priority 14 included directions for the Minister and Housing Department to –

- *Support the development of affordable housing.*
- *Define a new ‘Jersey standard’ for social rented accommodation.*
- *Continue to upgrade and improve older States homes to meet the new ‘Jersey standard’.*
- *Implement proposals for the regulation of all affordable housing providers including common waiting lists and allocation criteria.*
- *Establish a gateway for all affordable housing to ensure that existing and future stock is targeted to deliver maximum benefit.*

2.26. In November 2010, the Political Steering Group established to oversee the Programme (Chaired by the Minister for Housing and attended by the Chief Minister, the Minister for Treasury and Resources and the Minister for Social Security and their respective Assistant Ministers) determined that the key outcomes for the Housing Transformation Programme to be a success were for the current Housing Department to –

1. become a self-sustaining social housing services provider;
2. become a flexible delivery organisation able to adapt to change; but to
3. continue to provide a guaranteed significant income stream; and to
4. fully separate Regulatory, Policy and Service functions.

In achieving these priorities, the Programme should also –

5. establish whether the Housing function should become a fully independent (from States of Jersey) provider of social housing.

In developing the new organisation, the Programme should endeavour to –

6. provide increased “housing for life” accommodation;
7. improve Housing standards for residents;
8. provide better security of tenure for residents;
9. develop a level playing field for social housing providers;
10. encourage higher owner occupation.

To do this, the Programme must determine the appropriate level that will –

11. set fair rents at a sustainable subsidised level.

- 2.27. The Housing Transformation Programme appointed experienced and respected advisers to assist in the development of policy proposals, including financial advisers Sector Treasury Services Limited, legal advisers Trowers & Hamlins LLP and governance and regulation advisers Cambridge University Technical Services Limited. Professor Christine Whitehead has also been retained to provide assurance for the Programme that the challenges presented within the Green Paper are adequately addressed.
- 2.28. Upon his appointment in March 2011, the current Minister for Housing commenced quarterly meetings with the Chairmen of Housing Trusts to discuss and inform the developing policy and to prepare the Housing Trusts for proposed regulation.
- 2.29. It is considered that the Housing Transformation proposals now presented for consideration by the States directly address all of the actions identified for the Minister for Housing within Strategic Priority 14 of P.52/2009.
- 2.30. The Programme had as one of its key critical success factors the requirement “*to establish whether the Housing function should become a fully independent (from States of Jersey) provider of social housing*”.
- 2.31. To inform the financial review of options for changing States housing, a condition survey of the States housing stock was commissioned and undertaken in 2010 by Ridge Property & Construction Consultants. This confirmed that, while 73% of the States stock met the English Decent Homes Standard, the remainder did not and the survey further indicated that the proportion failing the standard would increase significantly over the following 5 years.
- 2.32. An assessment of market rental levels of the stock was undertaken in 2010 using a quality assured process, validated against Population Office private rental records and a wholesale market rental and capital valuation of the stock by Jones Lang LaSalle was completed in December 2012. This most recent market valuation indicated that the stock had an Existing Use Value for Social Housing of £582 million and a Market Value – Vacant Possession of £982 million.
- 2.33. The market rental assessment indicated that the States stock was being rented out at 70% of market equivalent rates on average – behind the near market levels set by the former Housing Committee (P.142/1991).

White Paper – “Achieving Decent Homes”

- 2.34. The outcome of the work of the Housing Transformation Programme was the White Paper “*Achieving Decent Homes – An Affordable*

*Housing Framework for the Future*”, published for public consultation and presented to the States on 13th April 2012 as R.47/2012. In the White Paper, proposals to establish a new Strategic Housing Unit, Affordable Housing Regulator, wholly States-owned Housing Company and to revert to the previous States policy of near market rents were set out, together with the many benefits and financial and resource implications of doing so.

- 2.35. A summary of the White Paper was circulated in accessible form to all current Tenants in social housing and copies of the full White Paper document were made available at public places and on-line. A social networking site was set up to engage the increasing number of people using the internet to receive information. Advertising in local press, on radio and on-line was taken out. Posters and banners were displayed at public places and on States Housing estates and Parish offices.
- 2.36. The Housing Trusts and Housing Department staff were consulted in advance about proposals within the White Paper. 29 States Members attended a briefing on the White Paper by the Minister for Housing at the Société Jersiaise on 15th May 2012.
- 2.37. Presentations and briefings on the White Paper were made to many key stakeholder groups and representatives during the 12 week public consultation period, including the Tenant’s Forum, other standing Tenants Panels and Residents’ Associations, the Citizens’ Advice Bureau, the Women’s Institute, Causeway Association, Brighter Futures, Jersey Child Care Trust, the Speech and Language Service, the Youth Service, Midwives, Parenting Support Services, the Youth Action Team, Jersey Women’s Refuge, the Mother’s Union, the Methodist Network, Age Concern, Girls’ Brigade and Family Nursing and Home Care.
- 2.38. In response to the White Paper consultation 47 written responses were received, 57% of whom were States or Housing Trust tenants. At peak, the social networking campaign reached over 17,000 social network account holders and 369 comments were made on the White Paper web page.
- 2.39. Key findings from the White Paper public consultation were in relation to –
- Acceptance that the current system isn’t suitable.
  - Significant demand for new social and affordable housing.
  - Tenant demand for decent homes.
  - Concerns about rents and affordability.
  - Some challenges to customer service and responsiveness.
- 2.40. The Minister for Housing has acknowledged all the comments made and believes that in most cases the dissatisfaction described by respondents is a clear support for change. The proposals within this Report and Proposition will certainly address the standard of homes

within the social sector and will establish a more appropriate strategic and financial framework for increasing supply of homes in the future.

- 2.41. It is acknowledged that the proposal which has created the most concern and comment amongst tenants relates to the proposal to return to 90% equivalent market rents. Key concerns raised were in relation to –
- Affordability.
  - The detrimental effect the proposal could have on those not on Income Support who may not qualify for the phased removal of the subsidy.
  - The belief that high numbers of additional tenants will need to claim Income Support.
  - The knock on effect of increased Income Support costs.
- 2.42. There was also a clear acknowledgement from Members of the Tenants Forum that the proposals were fair overall and that only those who could afford to pay more rent would be asked to do so.
- 2.43. The responses of the 4 Housing Trusts that would be regulated under the White Paper proposals differed in tone, but the majority supported the key proposals and all accepted the principle of regulation and the necessity for the independence of the proposed Regulator.
- 2.44. The Jersey Homes Trust were broadly supportive of all the proposals, but warned that the White Paper did not adequately address the unmet demand for social housing and that the business case for the proposed Company would be challenging to deliver. The Christian's Together Housing Trust supported the proposals for introducing the Strategic Housing Unit, Regulation and new Company, but warned that regulation should not be overbearing and were concerned that the rent policy should be set at an affordable level for their Tenants. The FB Cottages Trust expressed support for the Affordable Housing Gateway and indicated they had no concerns with the proposals within the White Paper. Finally, the Les Vaux Trust expressed concerns with several aspects within the White Paper. The Minister for Housing welcomed all the responses and undertook to continue consultation with the Housing Trusts to inform the proposals and to assist the Trusts in preparation for regulation.

#### Role of the Health, Social Services and Housing (HSSH) Scrutiny Panel

- 2.45. The HSSH Scrutiny Sub-Panel, assisted by Expert Advisers from the Chartered Institute of Housing, reviewed the White Paper proposals and produced an interim report published on 17th August 2012. This indicated that the Minister had produced strong proposals but also provided some useful guidance to the Housing Transformation Programme on how to improve them.

### Subsequent Consultations

- 2.46. Since publishing the White Paper the Minister for Housing held a States Member consultation briefing to release the consultation drafts of his proposed enabling Laws and has undertaken or offered consultations with all States Members on an individual basis or in groups. The Minister and Assistant Minister consulted with the Comité des Connétables on 15th October 2012.
- 2.47. Consultations have continued with the Housing Trusts on the proposals in general and specifically on the draft Regulatory Enabling Law. These resulted in several changes to the draft Law and mean that all Housing Trusts have been able to support the requirement for Regulation in principle. Of key importance to the Housing Trusts will be their on-going consultation and involvement in the development of regulations.
- 2.48. As a direct result of these consultations and correspondence with the Health, Social Security and Housing Scrutiny Sub Panel, the Minister for Housing revised his White Paper rent policy proposals to increase protection for Tenants and reduced the sanctions proposed within the draft Regulatory Enabling Law.

### **3. Summary of proposed regulatory changes**

- 3.1. This Report and Proposition proposes the formal introduction of regulation of the sector for the first time.

### **Requirement for and purpose of Legislation**

#### Current regulatory arrangements and responsibilities for social housing

- 3.2. At present there is no formal regulation of social housing provision. The Minister for Housing received nominal responsibility for regulating the sector following the transfer of functions from the Housing Committee (R&O.41/2005 refers) but there are no current formal vires to enable the Minister to do so effectively.
- 3.3. The establishment of the Population Office resulted in regulatory responsibilities for such matters as housing qualifications and residential tenancy, regulation of lodging houses and the non-qualified housing sector being separated from the functions of the Housing Department. Responsibility for rent rebate and rent abatement were transferred and incorporated within the unified Income Support system under the Minister for Social Security. This essentially meant the role of the Housing Department was subsequently limited to the performance of landlord functions for the circa 4,400 States social housing properties from the commencement of Ministerial Government.



### Current conflicts of interest for the Minister for Housing

- 3.4. Professor Whitehead drew attention to the unforeseen difficulties and conflicts of interest for the Minister for Housing which became more pronounced as a result of Ministerial Government reorganisation.
- 3.5. At present, the expectation of the States is that the Minister for Housing will be able to propose policy and regulate the social housing sector through the work of the Housing Department. But Professor Whitehead confirmed that it was “clearly inappropriate” for the Housing Department, as the largest social housing provider to regulate the smaller Housing Trusts. Instead, clear separation of policy and regulatory functions was needed to give policy makers clarity between the setting of policy and its implementation and providers and lenders confidence that regulation will be implemented consistently and without political interference to enable them to focus on service delivery. The Minister for Housing upon his appointment therefore commenced extensive consultation with the Housing Trusts to inform development of his proposals.

### Establishment and appropriate setting for the Strategic Housing Unit.

- 3.6. As a result of these conflicts of interest facing the Minister for Housing, the Council of Ministers at their meeting of 15th March 2012 agreed that a Strategic Housing Unit should be established to separate the policy making function from landlord delivery functions.
- 3.7. The “Achieving Decent Homes” White Paper concluded that the Strategic Housing Unit should remain a Ministerial responsibility. This is due to the importance of maintaining political control of and accountability for the development of social and wider housing policy making and associated regulations under the draft Social Housing (Jersey) Law 201-.
- 3.8. Professor Whitehead was asked by the Minister for Housing to advise on the most appropriate setting for the Strategic Housing Unit.
- 3.9. In her report, Professor Whitehead concluded that the setting of the Strategic Housing Unit should be one clearly within the context of strategic planning, enabling a more holistic approach to issues which affect everyone living in Jersey and impact on a wide range of other policies. The Professor noted that a major objective in setting up the Strategic Housing Unit is to enable its members to concentrate on strategic matters, including a cross tenure housing strategy that can help ensure adequate affordable housing for all. Another is to ensure that the housing strategy is fully integrated into wider strategic thinking and that those working on its development have access to the full range of available empirical evidence.
- 3.10. Therefore the Professor considered that, the Strategic Housing Unit should not be constrained by the necessary priorities of an individual spending department and the consequent operational conflicts

involved in day to day resource allocation. Rather it should be thinking in the context of overall priorities and synergies between different policy areas.

- 3.11. The Professor concluded that these objectives can most easily be achieved in a location separate from any one spending Department and that the Chief Minister's Department was therefore the most appropriate setting.

#### Role and potential regulation arising from the Strategic Housing Unit

- 3.12. The proposed roles of the Strategic Housing Unit are broadly those set out within the "Achieving Decent Homes" White Paper (R.47/2012) namely –

3.12.1. Developing a robust cross-tenure Island Housing Strategy;

Developing a long-term, cross-tenure strategy for housing the population of the Island would be a key activity for the Unit. The strategy once developed will –

- Describe the prevailing Housing market, including unit numbers, tenure, its capacity for growth, affordability, unmet need and demographic projections.
- Set out current supply projections across tenure and their ability to meet need.
- Provide opportunities and recommended methods for increasing the level of home ownership and providing other means of increasing affordability or providing housing support.
- Propose housing standards to encourage sustainability across all tenures.

The Cambridge Centre for Housing and Planning Research have been appointed by the Minister for Housing and the Chief Minister to prepare a proposed Housing Strategy Framework setting out the approach proposed to be adopted for developing the strategy.

3.12.2. Prioritizing resource allocations within the social housing sector;

It is expected that this will involve recommending the allocation of any States controlled land for social and affordable housing development to registered Social Housing Providers, and the distribution of any gains from the planning system. The manner in which such land is ultimately developed would remain a function of the planning system. The Strategic Housing Unit would also provide advice to the Treasury and Resources Department in considering the

prioritization of any further public support of Social Housing Providers, for example in increasing social housing provision, but also on disposal of social housing properties.

Approval of a subsequent Regulatory Enabling Law would allow the Strategic Housing Unit to consult upon and recommend appropriate regulations for the Minister for Housing to bring forward under the Law setting requirements for Social Housing Providers to observe in relation to prioritizing the allocation of resources to the sector and disposal of social housing property.

#### 3.12.3. Championing the Supply of Homes;

The Strategic Housing Unit would play a key role in identifying the need for new homes, through the evidence generated by the new Affordable Housing Gateway (see 4. below), Housing Needs Surveys and other means. The Strategic Housing Unit would also have responsibility for promoting the release of land for new social and affordable homes, albeit that the release of land for development and development control will remain a function for the planning system.

#### 3.12.4. Managing the Affordable Housing Gateway;

A key objective of the Housing Transformation Programme was to ensure the best use of the available social and affordable housing in the Island. The most effective way to achieve this was considered to be to establish a single, unified application process (known as the Affordable Housing Gateway), for affordable housing in Jersey, whether for rent or for purchase. The Affordable Housing Gateway therefore commenced operation in January 2012, and now has the full support and involvement of all the 4 Housing Trusts that would be regulated under the draft Social Housing (Jersey) Law 201- for their own independent housing schemes.

Approval of a subsequent Regulatory Enabling Law would allow the Strategic Housing Unit to consult upon and recommend appropriate regulations for the Minister for Housing to bring forward under the Law to formalise use of the Affordable Housing Gateway by Social Housing Providers in identifying those in priority need to allocate available social homes.

#### 3.12.5. Proposing new affordable housing products to meet the needs identified through the new Affordable Housing Gateway;

The Affordable Housing Gateway is collating information on a much wider range of housing need than has been the case to date. The Gateway will, through its means-testing and banding processes, enable the details of the demand for low

cost forms of home ownership to be quantified, together with the levels of financial support necessary to make increasing the level of home ownership achievable. Using that evidence, developing affordable housing policy and affordable housing schemes would be a key activity for the Strategic Housing Unit and is expected to include the sponsoring of legislative changes by regulation.

Some of these functions, including the development of Jersey Homebuy as a specific affordable housing scheme, have been undertaken by the Minister for Planning and Environment within the Island Plan. Clearly though, the establishment of the Strategic Housing Unit now means the overall responsibility for this is proposed to become the responsibility of the Chief Minister.

#### 3.12.6. Proposing and updating a Jersey Social Housing Standard;

The English Decent Homes Standard sets a minimum standard of social housing condition and states that homes must –

- be kept in a reasonable state of repair;
- have reasonably modern facilities and services;
- provide a reasonable level of heating comfort.

Currently, approximately 3 quarters of States homes and a higher proportion of Trust properties meet this standard, however this will inevitably decrease without adequate investment. The Minister for Housing considers this lack of investment to be unacceptable in Jersey.

Approval of a subsequent Enabling Law would enable the Strategic Housing Unit to consult upon and recommend appropriate regulations for the Minister for Housing to bring forward to require that Social Housing Providers achieve the English Decent Homes Standard for all their social housing stock within 10 years of the enactment of the Law.

A future role for the Strategic Housing Unit would be improving housing standards (in consultation with Social Housing Providers and others) and in particular bringing forward any necessary changes to the ‘Decent Homes Standard’ to develop an appropriate “Jersey Social Housing Standard”. This would be an activity coordinated through consultation with the Health Protection Service and the Building Control Section of the Environment Department, having regard to subsequent costs.

#### 3.12.7. The development of housing policy within a States-wide strategic policy framework;

Strategies such as the Island Plan have a strong housing tone and the Strategic Housing Unit would play a key role in assessing and reporting on housing supply and need and in particular social rented and low cost affordable housing.

3.12.8. Carrying out (or commissioning) survey work;

The Strategic Housing Unit would undertake the commissioning, review and reporting of periodic housing related survey work, either by specific housing surveys such as the Housing Needs Survey, or within other wider surveys such as the Jersey Annual Social Survey.

3.12.9. Proposing and delivering the social housing rent policy;

Rents across the social housing sector, (both for States housing and for the Housing Trusts), are currently set in relation to 'fair rents'. These represent an upper limit for the rent of a social rented property with a given number of bedrooms. The Fair Rent Levels are also used by the Social Security Department in setting housing component Income Support limits for Tenants in both the social and private rented sectors.

A 'fair rent' is not precisely defined in legislation, which states only that 'fair rents' should 'follow, but not lead' the market. The Housing Strategy for the 1990s (P.142/1991) made clear that fair rent levels should be set to near market equivalents. In practice this has been taken for many years to mean that a 'fair rent' should be set at 90% of the open market rent for a comparable property.

However, in recent years, 'fair rents' have not been increased to follow comparable open market rents. Successive political decisions to limit annual rent increases in 'fair rents' to around 2.5% per annum have created a widening gap between 'fair rents' and comparable open market rents.

This has led to a situation where the average rent of a home in the States owned social rented stock is now 70% of its market equivalent. Moreover, the range of rents varies considerably.

The subsidies within the current rental structure go against the principle of Income Support provided by the Social Security Department being the sole, unified support system for those unable to support themselves

Finally, because social rent levels are behind market levels, the viability of private development of affordable homes has been depleted to the point that no private sector social housing schemes have been commenced since the economic downturn and only those involving States land or other subsidy are now

possible (Source: Planning and Environment Department: Interim Review of Residential Land Availability. 2011).

A reinvigorated, sustainable and enforceable rent policy is therefore needed and responsibility for developing this policy would rest, henceforward, with the Strategic Housing Unit. Approval of this Report and Proposition would enable the Strategic Housing Unit to propose a social rent policy regulation to the Minister for Housing and thereafter to the States for consideration.

The most appropriate level of rent policy will be a key decision for the States Assembly to take when regulations are brought forward, but in the interim a return to the existing rent policy of 90% of equivalent market rents is considered essential for the following key reasons –

- i. The back-log maintenance to achieve the Decent Homes Standards in the States Housing stock was assessed as being approximately £48 million in 2010 by Ridge and Partners LLP. The Business Case proposed for the wholly States-owned Housing Company (R.15/2013) makes clear that this backlog cannot be addressed to enable the States owned stock to meet Decent Homes Standards within the 10 years proposed by the Minister for Housing unless a return to the 90% near market rent is achieved. A 90% near market rent policy enables social housing providers to provide homes on a sustainable basis that would track market prices, but not drive inflation in the wider property market.
- ii. Outline business models have been developed for the 4 Housing Trusts that it is proposed are regulated under the draft Social Housing (Jersey) Law 201- using data and assumptions provided by the Housing Trusts. These indicate that a return to a 90% near market rent would enable the avoidance of deficits or calls on the States for interest rate subsidies. This level is also needed by the Housing Trusts whose homes are understood not to meet Decent Homes Standards. The 90% level is also likely to be necessary to ensure sustainable business models for the majority of Housing Trusts when a range of economic conditions are considered through sensitivity analysis. Not to introduce a consistent rent policy would create inequities in provision between providers and would distort incentives for Tenants accessing social housing through the Affordable Housing Gateway. It should be noted that condition surveys have not been carried out by Housing Trusts against the Decent Homes Standard at this time.

Likewise, Housing Trusts have yet to carry out independent rent assessments on their properties.

- iii. Current sub-market rent levels have lead, inevitably, to a situation where the value of the existing portfolio is understated and insufficient rental income is generated to maintain the States portfolio whilst also maintaining the annual return.
- iv. In respect of new developments. The accepted means of assessing the viability of social housing developments and the capital value of the homes constructed is a calculation primarily arrived at from the potential rental yield, less necessary expenditure, over a specified period. In Jersey the practice has been to repay borrowing for social housing development over a maximum of 25 years.
- v. Even allowing for inflationary increases, debt repayment models based on the current sub-market rent levels demonstrate unequivocally that there is insufficient new rental income to develop new social housing without some form of development subsidy being provided.
- vi. Hitherto the States has addressed this lack of viability through the provision of development subsidies. In the Housing Trust sector in particular, it has been necessary for the States to support the development of new homes through a combination of the provision of land at nominal value, direct capital subsidy or more commonly through the provision of interest rate subsidy agreements where the States is required to meet the cost of Housing Trust borrowing if interest rates rise above pre-determined levels. This has been greatly assisted by the provision of re-zoned, (previously green zone), land where a significant uplift in land value has meant that homes can be acquired from developers at values consistent with sub-market social housing rents.
- vii. In its approval of the Island Plan 2011, the States has directed, inter alia, that further development of the green zone should be avoided and it is therefore anticipated that new affordable housing will have to come from the development of sites with existing uses and higher intrinsic values. The additional land cost will require higher levels of capital subsidy unless the yield from social housing rents can be increased to a level which will support both development costs and land acquisition.

As a matter of principle, the Minister for Housing considers it would be unacceptable to ask those Social Housing (current States and Housing Trust) Tenants currently receiving Income Support to meet the cost of returning to near market rents as the primary basis of Income Support is to provide a safety net for those in greatest need.

However, ensuring that all Social Housing Tenants are treated fairly and protected according to their means is also considered vital. The Minister for Housing recognised the concerns of fellow States Members, the Health, Social Security and Housing Scrutiny Sub-Panel and Housing Trusts about the potential impact on low earning Tenants. It is recognized that, while the impact on low income households may be affordable in the vast majority of cases, even a phased increase may be difficult for these households (particularly pensioners) to plan for in times of austerity.

Therefore, the proposed Fair Rental Level of 90% of market rents would only apply to those Tenants moving to new tenancies enabling them to plan for the increased rent as they do so. This would protect Tenants in receipt of the housing component of Income Support and for Tenants not in receipt of the housing component of Income Support it provides a balance between requiring those who can afford to pay more to do so and recognising that Tenants have entered in to tenancy agreements and planned their finances on the basis of the prevailing rent levels.

As approximately 7% of tenancies are re-let each year, and the achievement of Decent Homes Standards will require refurbishment of 578 properties during the 10 year period, the hidden rent subsidy will be progressively removed, but in a way that allows individual Tenants to plan for increases. It is expected that approximately 55% of new tenancies will be to tenants from the waiting list. Therefore, the Income Support paid for these tenancies will replace Income Support currently paid in the private sector.

The Housing Department and Social Security Department have reviewed what the financial, social and economic impact of returning to the 90% equivalent market Fair Rent Level and removing the hidden rent subsidy would be for Tenants, Social Housing Providers and the States. The social and economic impact assessment follows and the financial implications are set out at the end of this Report.

For the two-thirds of States tenants (and half of Housing Trust tenants) who receive any amount of the housing component of Income Support, rents charged will continue to be at a level that would be covered by the housing component of Income Support. Therefore, Tenants entitled to the full housing



component of Income Support will continue to have the full amount of their rent paid whilst they remain a Tenant and Tenants entitled to any lower amount of the housing component of Income Support will continue to receive the level of Income Support appropriate to their circumstances. In other words, tenants in receipt of any amount of the housing component of Income Support will not be directly financially impacted by the proposed rent policy in their current tenancies nor if they transfer to another property within the social housing stock provided their circumstances do not change. Given that States' tenants in receipt of the housing component of income support will be fully protected from the proposed rents policy, there is therefore no direct adverse economic or social impact on these tenants. It is recognized, that following the return to Fair Rent Levels, Tenant's earnings would need to increase to a greater extent in order for them to no longer require Income Support.

Existing tenants not in receipt of the housing component of Income Support (approximately one third of States tenants and half of Housing Trust tenants) will not be required to pay additional rent as a result of the proposed return to Fair Rent Levels (other than normal annual increases) whilst they remain in their current properties. Should these tenants transfer to another property within the social housing stock (thus creating a new tenancy), rent will be charged at 90% of market rent for the new property. Transferring tenants will be made aware of the rental of the new property before deciding whether to sign the tenancy, so will be fully aware of any impact that this may have on their financial circumstance. Tenants transfer for a variety of reasons, but over half of tenants transfer to smaller properties, which would generally command a lower rental than the larger property from which they are moving. Where Tenants are moving to properties that have been refurbished to Decent Homes Standards, there will be compensatory savings in energy costs that will also offset the return to Fair Rent Levels.

Work undertaken jointly between the Housing and Social Security Departments has looked at the Social and Economic Impact Assessment of the proposed rent policy (as set out within R.15/2013). Given that the proposed Fair Rent Level will only be implemented on new tenancies, the impact is considered to be very small. Full details of the analysis undertaken can be found in R.15/2013.

If the States approve this Report and Proposition, it is proposed that this rent policy be implemented from April 2014. To enable this to happen the Minister for Social Security will need to be asked to take such steps as necessary to adjust the rental component of Income Support through Regulations, including setting the appropriate level for the rent component of Income Support in the private

sector. A Regulatory Enabling Law and then Regulations would be developed during 2013 by the Strategic Housing Unit to enable the Minister for Housing to request that the States agree that rents in the social housing sector should be reset at the Fair Rent Level of 90% of the market rent, applicable for the equivalent home in the private rented sector from April 2014.

3.12.10. Proposing the criteria for eligibility for social housing in the Island through the Affordable Housing Gateway;

A new single application process and waiting list (the Affordable Housing Gateway) has now been implemented. Whilst operating the Gateway is largely an administrative function, overseeing its operating parameters and monitoring underlying demand would be a function of the Strategic Housing Unit.

In her review of Social Housing in Jersey (Green Paper, 2010), Professor Christine Whitehead highlighted how the current eligibility requirements for States Housing, which restrict housing to those with housing qualifications of limited financial means with young children, aged over 50 or with disabilities, are severely restricted and mean there is considerable unmet demand amongst other demographic groups for social housing provision.

The Strategic Housing Unit would have the role of reviewing qualifying criteria for the Affordable Housing Gateway as new supply becomes available. These criteria could be widened to include those who presently do not qualify for social housing such as single people and couples of limited means, under 50 years of age, who do not have children.

To fully answer the challenge presented by the Green Paper, the future housing strategy will need to look closer at the whole market and in particular the relationship between the residentially qualified and non-residentially qualified sectors. The Strategic Housing Unit once established will need to consider its role in respect of the related activities presently undertaken by the Population Office within the Chief Minister's Department, which include –

- Providing information on residential requirements
- Determining the residential status of Island residents
- Consideration of new migration policies
- Registration and regulation of lodging houses

- Collating and providing information on non-qualified accommodation

#### 3.12.11. Proposing standards for Tenant engagement and consultation

Currently there are no requirements for Social Housing Providers to engage their Tenants, either to gather views on the service being provided or to help shape that service into the future. The former Minister for Housing established the Tenant's Forum in 2007, which has successfully provided opportunities for Tenant representatives from each States Residents' and Tenants' Associations to meet, give voice to Tenant's views and to inform the policies of the Housing Department.

The Housing Department, as the largest provider, caters for those tenants with complex social needs, and also operates a Community Liaison Team to address matters of concern to residents such as anti-social behaviour and to encourage Tenant interest in optimizing the services provided to them. An Independent Living Team assesses Tenant's special needs in partnership with the Supported Housing Group – a cross agency body with responsibility for advocating appropriate care packages for those who need them. Housing Trusts do not provide any of these enhanced services.

Best practice elsewhere indicates that Tenants value their services more if they are actively engaged in shaping their delivery. Therefore, one of the likely regulations to be brought forwards by the Strategic Housing Unit under a future Regulatory Enabling Law if approved, are minimum requirements for all Social Housing Providers to observe relating to consultation, complaints and appeals relating to their services which can then be considered by the proposed Social Housing Regulator. Any such regulation will need to be proportionate to the needs of Tenants and the scale, scope and purpose of individual Social Housing Providers.

#### 3.12.12. Setting performance and probity standards for Social Housing Providers

The consultation response to the "Achieving Decent Homes" White Paper indicated concern amongst Tenants with regards to certain areas of customer service provided by current Social Housing Providers.

In the past some States Members have been concerned that Housing Trusts have not been perceived to always be acting in the Public and Tenant interests. This suggests that regulation of certain minimum performance standards may be in the interest of Tenants, and that minimum standards of good governance, probity and financial compliance should be

defined under regulation to ensure continuing public support for the integrity of Social Housing Providers.

Approval of this Report and Proposition would enable the Strategic Housing Unit to consult upon and recommend appropriate regulations for the Minister for Housing to bring forwards setting minimum performance, probity and financial compliance.

#### Resources for the Strategic Housing Unit

- 3.13. The Strategic Housing Unit will be led by the Director of Corporate Policy within the Chief Minister's Department. A budget for the appointment of a Senior Officer, to be responsible for the social housing elements of the Strategic Housing Unit's role, has been funded from the carry forward of the existing budget of the Housing Department together with the funding for developing a Housing Strategy Framework.
- 3.14. The function and staffing of the Affordable Housing Gateway would be transferred from the Housing Department to the Strategic Housing Unit during 2013. The administration of the Gateway may be best undertaken by the Social Security Department under agency to the Strategic Housing Unit, given its expertise in conducting means testing and the desire to maintain separation between operational functions and policy making within the Chief Minister's Department.

#### Implications for existing Housing Trusts

- 3.15. The Minister for Housing acknowledges the positive contribution that Housing Trusts have made towards providing those in need with good housing services in the past, supported in many cases by volunteers, and the introduction of regulation should not be taken as criticism of their good work. However, the challenges faced by the social housing sector in terms of demonstrating that best value is being obtained for public investment, the need for improving standards of performance and housing condition, the need for an enhanced social sector and rising expectations of Tenants, together mean that regulation is now essential.
- 3.16. Regulation will be limited to those providers of affordable housing who have had the benefit of States subsidy, whether that be in respect of the provision of capital, land or, more commonly, the underwriting by the States of the exposure of the Housing Trust to loan interest rates above defined levels.
- 3.17. Initially this will limit the Regulator's activities to the proposed new Housing Company managing States rental homes, and the 4 Housing Trusts who have received public assistance from the States of Jersey. They are –

- the Jersey Homes Trust;
  - the Christians Together in Jersey Housing Trust;
  - the Les Vaux Housing Trust, and;
  - the Florence Boot Cottages Housing Trust.
- 3.18. The other significant provider, the Clos du Paradis Housing Trust, has not benefited from States subsidy and will not therefore be regulated. One other provider the Scott Gibaut Homes Trust has only 7 units catering for a very specific client group and will fall below the minimum threshold considered appropriate in order to keep regulation proportionate.
- 3.19. The approach to regulation proposed is designed to be proportionate to the reasonable expectation of Tenants from their individual Social Housing Provider. That is, what will be expected in terms of Tenant engagement or compliance reporting will be in proportion to the size of the Social Housing Provider concerned and the amount of risk it represents in the view of the independent regulator.
- 3.20. However, all Providers would be required to comply with the adopted rents policy, employ the Affordable Housing Gateway when making allocations and achieve Decent Homes Standards as well as satisfying minimum standards of performance, probity and compliance. A culture of continuous improvement will be encouraged for all Social Housing Providers to ensure that the public can be assured that the sector is providing value for money with its public investment.
- 3.21. This will mean a change in approach for all existing Housing Trusts, mainly in the requirement to formally report on their business plans, but not one that need materially affect their independence, constitutional role, governance or their resources significantly. The positive response to the principle of regulation from the Housing Trusts confirms that they see the advantages of regulation in terms of public perception of their services.
- 3.22. Consultation responses to the “Achieving Decent Homes” White Paper from the Housing Trusts suggested a desire to ensure that any proposed regulator was distinctly independent from the policy making and landlord functions of the States and this desire has been respected in the form of regulation proposed.

#### Development of a Business Case for transformation

- 3.23. A Full Business Case explaining the assessment process undertaken to assess the best delivery organisation for the required transformation has been published as R.15/2013.
- 3.24. Sector Treasury Services Limited were appointed as financial advisers to the Housing Transformation Programme and to assist in the

development and assurance of a business case to consider the options for change. Sector Treasury Services recommended the use of the UK HM Treasury 5 Case Model for Public Sector Business Cases to evaluate the options for change and this was adopted by the Housing Transformation Programme.

Key assumptions within the proposed new Housing Company Business Case (R.15/2013)

3.25. Following significant financial modelling and sensitivity analysis, a preferred set of business modelling assumptions was agreed by the Political Steering Group for the Housing Transformation Programme as being –

- The English Decent Homes Standard achieved in 10 years and maintained for the duration of the Business Case (30 years).
- The annual return to the Treasury of the States of Jersey maintained in real terms (from 1 January 2016 after delivering the returns set out in the Medium Term Financial Plan including Comprehensive Spending Review savings in 2013).
- Refurbishment and new build plans with a net gain of 434 households (as more fully set out in Appendix B of R.15/2013). The Housing Trusts will also develop an additional 203 new properties.
- Continued sales of 300 properties (15 per annum) to enable re-alignment of the stock and encourage home ownership and affordable housing solution development.
- £40 million internal borrowing facility (as set out in R.15/2013 and below) to support the refurbishment of all stock to the Decent Homes Standard within 10 years.
- An external borrowing facility to fund new stock development and to provide cash flow balances (as set out in R.15/2013 and below).
- Return to the States Rent Policy of 90% of market equivalent levels, to remove rent subsidy from those who can afford to pay a Fair Rent Level and to track but not inflate market rents in the private sector.
- Protection of those in receipt of Income Support from the cost of rent subsidy removal.
- A return to 90% of equivalent near market Fair Rent Levels as envisaged within R.15/2013 for new tenancies.
- Retention of current Cottage Homes residents under their existing arrangements, but incorporation of new Cottage

Homes tenants within the standard Company tenancy arrangements.

- Additional Income Support costs (resulting from the protection of all existing recipients of Income Support from the cost of rent subsidy removal and the small number of new claimants) to be met by an additional budget allocation by the Treasury to the Social Security Department.
- The use of the States of Jersey Statistics Unit central scenario Retail Price Index projections and average earnings inflation of 0.75% in excess of Retail Price Index (which represents half of the long term expectation).
- Market rent inflation at Retail Price Index plus average earnings inflation.
- These assumptions are dependent upon the approval of an appropriate Social Housing Regulator and will need to be reflected in the rent policy and in the housing component of Income Support in associated regulations. Therefore, if these assumptions are accepted by the States, the Rent Policy and Income Support regulations brought to the States will reflect this position.

#### The Strategic Business Case for Change

- 3.26. The first of the 5 cases is the Strategic Business Case for change. R.15/2013 sets out the strategic context for the decision making process. Of key importance here is the alignment of the proposed transformation with the States' Strategic Plan 2012 (P.28/2012) and the corporate priority "House our Community".
- 3.27. The proposed business case enables resolution of the following key actions with the "House our Community" priority –
- Continue work on existing homes to meet the Decent Homes Standard.
  - Address the funding of the maintenance and reinvestment of the States owned social housing stock.
  - Complete the Housing Transformation Programme to allow more flexibility in tackling housing issues.
- 3.28. The proposed rent policy level (of 90% of equivalent market rates) would also enable the following actions to be met –
- Put in place schemes to generate affordable housing for social rental and purchase.
  - Bring forward schemes to support those who may qualify for assistance to purchase their own home.

## The Economic Business Case for Change

- 3.29. The second case for change is the Economic Business Case, which consists of an option appraisal process to identify the best delivery vehicle for the landlord services of the current Housing Department.
- 3.30. The Housing Transformation Programme Political Steering Group considered the 3 viable options for States housing suggested by Professor Whitehead and agreed that these and 4 others should be subject to further evaluation. The options considered within the business case options appraisal undertaken were therefore –
1. The status quo – A States Department with no access to borrowing
  2. A States Department, but with access to internal borrowing
  3. An Arms Length Management Organisation
  4. A Trading Operation (as defined within the Public Finance Law)
  5. A Hybrid Trading Company
  6. A Wholly States-owned Housing Company
  7. Freehold (or leasehold) sale to a new social housing landlord
- 3.31. The 7 options were each developed within a financial business model that expressed all of their balance sheet implications over a 30 year time period and allowed the consideration of a range of sensitivity analyses.
- 3.32. The 7 options were then assessed against 4 financial critical success factors for the Housing Transformation Programme, namely –
1. For the housing service to become a self-sustaining social housing services provider;
  2. For the service to become a flexible delivery organisation able to adapt to change;
  3. For the housing service to continue to provide a significant income stream to the States of Jersey; and
  4. To fully separate Regulatory, Policy and Service functions. Included in this appraisal is a review of the extent to which the delivery vehicle options would be governed independently.



- 3.33. Option 6 – transfer to a Wholly States-Owned Housing Company – ranked highest against 3 out of 4 of the critical success factors and ranked second on critical success factor 4. Option 6 resulted in the second highest Net Present Value and also was assessed as having the lowest risk. Option 6 allowed stock development plans to be delivered whilst ensuring the expected level of annual return to the States of Jersey. The separation of landlord functions and the availability of finance provide the required independence and autonomy sought by the Critical Success Factors. Option 6 – transfer to a Wholly States-Owned Housing Company – is therefore the preferred option from the Full Business Case assessment.

#### The Commercial Business Case for Change

- 3.34. The third case for change is the Commercial Business Case, the purpose of which is to summarise the commercial, partnering and personnel arrangements that will deliver the identified benefits and the key success factors for the Programme. It therefore considers the services to be transferred and how expected costs and benefits can be controlled through contractual arrangements.
- 3.35. The Commercial Business Case proposes that the contractual arrangement between the States of Jersey as whole owner and the proposed Housing Company would be through means of a formal Transfer Agreement, incorporating a funding agreement and a memorandum of understanding between the 2 organisations, in a similar way to previous precedents with other Strategic Investments. The draft Heads of Terms for the Transfer Agreement are set out within R.15/2013. These would be worked up into a formal agreement for approval by the States Assembly following any approval of this Enabling Law.
- 3.36. The proposed commercial risk allocation between the States of Jersey and the proposed Company is set out within Appendix F to R.15/2013. This reflects the management of risk by the party best able to do so in accordance with established public procurement principles.
- 3.37. Other sections of the Commercial Business Case (R.15/2013) go on to consider the contractual, governance, organisational and funding elements of the proposed transfer. Some of these matters are set out below.

#### Company form and States control of ownership of the new Company

- 3.38. Following a review of alternative company forms for the proposed Housing Company, supported by Trowers and Hamlins LLP (a leading legal adviser on housing matters), it is proposed to proceed by way of Company Limited by Guarantee. This underlines the fact that there is no intent to sell or trade the ownership of the proposed Housing Company, whilst preserving flexibility for the Company.

- 3.39. The annual return currently made by the Housing Department would be replaced by a covenanted payment made by the Housing Company to the States of Jersey (as sole Member and guarantor) acting through the Minister for Treasury and Resources, rather than for example by way of share dividend. The role of the Member would be set out within the draft Articles of Association for the Housing Company which will be lodged for approval by the States, and within the proposed Transfer Agreement.

#### Governance of the Proposed Company.

- 3.40. The need for an independent Board to govern the proposed Company is made clear within R.15/2013 and has been developed with the advice of Trowers and Hamlins LLP, Sector Treasury Services Limited and the Cambridge Centre for Housing and Planning Research as legal, financial and regulatory and governance advisers to the Housing Transformation Programme. The governance proposals were noted by the States Employment Board at their 31st January 2013 and 14th July 2011 meetings.
- 3.41. It is proposed that the Company Board would operate under a Constitution, Memorandum and Articles of Association developed by a “Shadow” Board, and lodged for approval by the States of Jersey by the Minister for Housing. The new Company’s Board would comprise a total of 6 Non Executive Directors; 3 of whom would be independent Directors, 2 Tenant Directors and one Director nominated by the Minister for Treasury and Resources. This Board structure appears to offer the right balance of business focus, accountability to the customer and operational flexibility and integrity.
- 3.42. The review of best practice housing organisations has shown that, in order to be successful as a business, it is vital that the proposed Company has the services of experienced independent Board Directors with wide and deep knowledge of the legal, financial, commercial, economic and social implications of managing social housing, and who can bring a commercial focus and value to the work of the Company whilst ensuring that the social business ideals of the existing Department are retained and enhanced.
- 3.43. It is proposed that the Appointments Commission will oversee an open appointment process in accordance with the Commission’s Code of Practice for Autonomous and Quasi-Autonomous Public Bodies and Tribunals. Initial appointment of the Chair and independent Directors of the Board would be by the States Assembly on the recommendation of the Minister for Housing. Subsequently, the appointment of Board Directors would be through an internal appointment process to the new Company.
- 3.44. It is also critical that the governance arrangements for the proposed Company meet the needs of the company structure, are clearly

defined, and flexible to change. It is therefore proposed that these governance arrangements should broadly reflect the good governance standards set out by the UK National Housing Federation, Independent Commission on Good Governance in Public Services and Financial Reporting Council.

- 3.45. It is proposed these should be developed by the “Shadow” Board supported by an external legal adviser, experienced in establishing successful social housing companies, and appointed to support the Law Officers in developing the most appropriate governance and company arrangements for the Company. This is thought likely to require proposals for audit and remuneration committees for the Company as a minimum. Therefore it is also proposed that the Comptroller and Auditor General would be formally consulted on the proposed governance arrangements to comment on their robustness and probity.
- 3.46. The best practice governance review also indicated that a further key feature of successful housing organisations elsewhere is the involvement of the customer – the Tenant – in all the activities of the company. Excellent organisations had Tenant representatives in every aspect of their work – from the development of policy to the overseeing of delivery.
- 3.47. It is therefore proposed that 2 Tenant Representatives would be nominated following an open application process defined in due course by the “Shadow” Board. These Tenants would be full Board Members and Directors of the new Housing Company and therefore would need to understand and be willing to meet their obligations to the Company whilst serving on the Board. The Chair of the Board would need to ensure that the roles for the Tenant Representatives sought have been clearly defined and that the nominated Tenant Representatives will be able to perform the roles needed.

#### Organisational development for the new Housing Company

- 3.48. Following a review of best practice organisational structures amongst newly created social landlords in England and Wales, Sector Treasury Services Limited confirmed that the current Housing Department performs well in relation to its service output for the resource input applied. The best practice organisations benchmarked against have similar organisational roles, but due to the greater resource applied to meet Decent Homes Standards, meet higher Tenant service expectations and regulatory requirements the number of staff employed is significantly higher than in Jersey.
- 3.49. A fundamental review of service delivery has been undertaken as part of the transformation and best practice reviews have been undertaken with other Strategic Investments and similar sized Associations in the UK. This identified areas where the new Company will need to enhance its service in order to meet best practice and to offer best value for money.

- 3.50. The areas requiring resource investment are identified within the Business Case (R.15/2013) and include asset management, long term maintenance planning and customer service and engagement. These investments will offer efficiencies through more commercial and cost-effective management of the housing stock as well as resulting in step-change improvements to the quality of service delivered to Tenants.
- 3.51. These proposed changes are in addition to those areas which the new Company would require replacement of functions currently provided by the States including governance, legal services and liquidity management. Where outsourcing services would offer no financial or operational advantages, States services will be retained, including those for insurance, payroll and financial and information technology systems. The business case includes for replacement of the current sub-optimal housing management I.T. system in the second year of Company operation. Existing Service Level Agreements with Transport and Technical Services will be honoured and contractualised.

#### Human resource arrangements for the proposed Company

- 3.52. While re-organisation of reporting lines and the overall efficiency review has resulted in some change to all roles, job roles will not be materially different under the proposed Housing Company. Instead a skills-matching exercise will be carried out to match current staff to the new roles required within the proposed Housing Company.
- 3.53. It is therefore envisaged that all members of current Housing Department staff, (excluding those identified who administer the Affordable Housing Gateway which will become functions of the Strategic Housing Unit)), would transfer to the proposed Company on their prevailing terms and conditions, in accordance with the prevailing States policy on alternative service provision which provide for the following –
- That the States of Jersey will incorporate adequate “business transfer” protections.
  - That the States of Jersey will seek to ensure that transferring staff enjoy terms and conditions not less favourable than those prevailing prior to transfer.
  - That employees within the existing Public Employees’ Contributory Retirement Scheme will retain prevailing pension rights and liabilities unaffected when transferring to the proposed Company and that new starters post-transfer will be offered that same prevailing pension scheme.

- That any necessary restructuring of staff roles in readiness for the new Company will be undertaken prior to the transfer taking place.
  - Transferring employees would not be subject to probationary periods, although they would be subject to the proposed Company's performance management processes.
  - That the proposed Company would recognize bona fide Trade Unions including Unite and Prospect which represent transferring staff at present.
- 3.54. If this Report and Proposition is approved, the proposed Transfer Enabling Law would therefore be drafted to reflect this position.

#### Pension provision for the proposed Company

- 3.55. To protect the pension rights of the transferring staff, it is intended that the proposed Company become an "Admitted Body" in the States Public Employees' Contributory Retirement Scheme (PECRS) and the retention of prevailing allowances. Consultations with the Employer, the States Employment Board, and representatives of the Committee of Management of PECRS have indicated that this would be an acceptable approach were the States to indicate its support for the proposals.
- 3.56. However, it will be necessary for the pre-1987 pension liability at the point of transfer to resolve the portion of that deficit in relation to the Housing Department staff. In order to establish the extent of the relevant deficit, an indicative actuarial valuation has been carried out. A further actuarial valuation of the pension fund as it relates to those staff will be carried out immediately prior to transfer to fix the deficit sum due.
- 3.57. The responsibility for meeting that deficit will then rest with the Company and it is envisaged that this would be achieved by means of a lump sum payment at the point of transfer. The actuarial valuation will also provide the proposed Company with information about its ongoing contribution rates. Provision for the purchase of pension debt of £2.135 million has therefore been included in the new Company's business model and the proposed Transfer Enabling Law would therefore be drafted to reflect this position.

#### Funding for the proposed Company

- 3.58. R.15/2013 makes clear that the proposed Housing Company would require both internal and external States supported finance in order to meet its objectives.
- 3.59. The Minister for Treasury and Resources has confirmed that, should the States Assembly support the proposed establishment of a

Company, a £40 million internal borrowing facility would be made available to the new Company. The basis for this facility is set out in States Investment Strategies (R.132/2011). The Treasury Department has indicated that this facility will attract fixed interest of 4% per annum, which exceeds the expected interest accruing from the currency fund from where this funding would be sourced. The internal borrowing facility would be formalized in the proposed Transfer Agreement between the States of Jersey and the new Company.

- 3.60. The States agreed P.40/2012 to permit the withdrawal of an additional £27.1 million from the consolidated fund to fund 6 Social Housing schemes, 3 of which already had expenditure approval in the 2012 Annual Business Plan,; and 3 of which were being brought forward from future years' capital programmes. This funding would be paid back from the Company's internal borrowing facility at the point of establishment of the proposed Company.
- 3.61. During development of the Business Case (R.15/2013), potential providers of external finance were approached to discuss providing funding facilities for the proposed Company. The outcome of this consultation is set out within R.15/2013, but, in summary, indicated that there was a general expectation that funding for the proposed Company could or should be approached as part of wider States of Jersey funding requirements. The meetings confirmed that no facility would be committed for more than 5 years and that no single Lender would be likely to wish to take on the entire lending portfolio envisaged as required for the proposed Company. As a result of the meetings, the Treasurer of the States was approached to consider whether the States were likely to want to take advantage of the pricing benefits which might be derived from a different approach.
- 3.62. The Minister for Treasury and Resources has subsequently indicated that the States of Jersey may, for major investments such as social housing, which have long term benefits and a defined income stream, decide to borrow in order to finance the project. The Minister for Treasury and Resources is therefore presently exploring a range of options to support such borrowing.
- 3.63. Work is underway to appoint a financial advisor initially to recommend options for the best financing options for such funding. Once a workable solution is identified, a proposition will be taken to the States to seek their approval for the proposed funding strategy, in compliance with Article 21 of the Public Finances (Jersey) Law 2005. The Minister for Treasury and Resources has indicated that borrowing of up to £200 million over a 20 year period could be made available to the Housing Company at a fixed interest rate assumption of 5% per annum.
- 3.64. The Business Case (R.15/2013) has therefore been developed reflecting this internal and external borrowing provision and assumptions.

### Taxation position of the new Housing Company

- 3.65. The tax position of the Housing Company in relation to the Income Tax (Jersey) Law 1961 has been discussed with the Income Tax Department. Representatives of the Income Tax Department have stated that as long as the Company was wholly owned by the States, it would benefit from a miscellaneous exemption under the Law as detailed in Article 115(c), namely “Exemption from income tax shall be granted in respect of any income derived by the States from their own property”. This exemption would apply to both rental income and other associated income generated from the ownership of the properties.
- 3.66. In addition, the new Company would need to register for Goods and Service Tax (G.S.T) and would become a “taxable person” in its own right (as opposed to being part of the States of Jersey’s registration). The Company would then be required to pay and collect G.S.T. on taxable supplies as now, but would be able to claim a credit back from the Comptroller on a 3 monthly basis.

### Efficient Procurement arrangements for the proposed Company

- 3.67. The new Housing Company will set targets to generate operating efficiencies which will be used to repay borrowing early. It will do so through being able to take a more commercial and focused approach in providing landlord functions and through measures such as investment in achieving the Decent Homes Standard thereby reducing the annual cost of reactive maintenance.
- 3.68. There will undoubtedly be further efficiencies derived from a move to Company status and enhanced focus on business objectives. However, it would be inappropriate to constrain the Board and the Minister for Treasury and Resources through setting binding efficiency requirements beyond these commitments in advance of the new Housing Company being established and the Board setting out its objectives.
- 3.69. Failing to adequately maintain States social housing is fundamentally inefficient, as it inevitably results in the need for large scale capital investment over a short term period, or homes which are not fit to be let with a potential loss of significant rental income. Homes which fail to meet appropriate standards for thermal efficiency impact on Tenants directly in respect of how expensive they are to run – particularly in terms of energy costs, thereby contributing to fuel poverty.
- 3.70. Further efficiencies can be achieved in the use of existing land resources. The ability to access additional capital funding will allow decisions to be made about the appropriate intensification of some existing sites rather than only carrying out refurbishments to achieve

the Decent Homes Standard. The new homes created will provide new rental streams which will be sufficient to service the borrowing.

- 3.71. The new Housing Company will inherit various service level agreements with other States' departments. These will need to be converted into contracts, but the current terms will be honoured. The new Housing Company will still be able to access services currently provided by the States to the Department, where it can be shown that in not doing so, this would increase costs to the proposed Company unnecessarily.

#### Assets proposed to be transferred to the new Company

- 3.72. All immovable assets owned by the States, but administered by the Housing Department for the purpose of providing social rented housing and associated services, will be transferred to the proposed Company under regulations brought to the States Assembly.
- 3.73. Details of boundaries, title descriptions and site plans would be included within regulations which would be lodged following registration of the proposed Social Housing (Transfer) (Jersey) Law.
- 3.74. The default basis for the proposed transfer would be to include all assets currently administered by the Housing Department. Each of these assets or collection of assets in the case of estates, are the subject of an ongoing review by the Conveyancing Division of the Law Officers' Department.
- 3.75. This process is to –
- Confirm ownership and title.
  - Identify any need for the States to retain direct ownership and to agree through consultation with Jersey Property Holdings the appropriate administering Department for such retained assets.
  - Identify the need for the States and the New Company to have reciprocal rights to facilitate access or maintenance, in respect of adjacent assets.
  - Establish unique property references linked to the States digital map system and property registry.
  - Prepare a site plan showing boundaries for each asset or collection of assets.
  - Prepare a schedule of asset transfers for inclusion in subsequent regulations for debate by the States following debate and approval of the proposed Transfer Law.
- 3.76. The assets to be transferred presently include some 4,539 social rented homes as set out in the table below as well as all associated estate



roads, common areas, private drainage systems owned by the States, street lighting installations and the other estate infrastructure necessary to operate the homes. In addition 3 shops, one at Dorset Street and 2 at Jardin du Soleil, which form part of social housing developments, shall also be transferred. The leases relating to those 3 shops would be assigned to the new Housing Company.

- 3.77. A list of the existing assets which it is proposed will be transferred will be set out in the draft Social Housing (Transfer) (Jersey) Law 201- and is summarised in the table below.

House type	Number of bedrooms							Total
	-	1	2	3	4	5	6	
Bedsit	298							<b>298</b>
Bungalow	8	39	6	2				<b>55</b>
Flat		1,664	1,125	91				<b>2,880</b>
House		26	239	724	118	7	2	<b>1,116</b>
Maisonette		3	144	41	2			<b>190</b>
	<b>306</b>	<b>1,732</b>	<b>1,514</b>	<b>858</b>	<b>120</b>	<b>7</b>	<b>2</b>	<b>4,539</b>

- 3.78. The Housing Department presently administers a number of properties which are occupied by charities (Shelter Trust, Women's Refuge, Jersey Council on Alcoholism, Caring Hands Charitable Trust, Les Amis and the Causeway Association). These properties are fundamentally residential in nature and provide Housing for vulnerable people as a core function. The operating Charities are all key partners of the present Housing Department with clients of these organisations regularly transferring on to be housed by the Department.
- 3.79. It is proposed that these assets will also be transferred to the new Housing Company and provision for their long term maintenance has been made within the business plan of the new Company.
- 3.80. The proposed Company business plan envisages the following stock changes –
- Build on new sites with a net gain of 434 units (20 of which will be sold for lifetime enjoyment as affordable housing).
  - Refurbishment of 578 units.
  - Sale of 300 units (projected at 15 per annum) to enable on-going re-alignment of the housing stock to meet the needs of

an ageing population and to enable those Tenants able to purchase and affordable home to continue to do so.

- 3.81. Appendix B of R.15/2013 has further details on the proposed new build and refurbishment programme. Additionally, the social Housing Trusts plan to develop 3 sites projected to generate 203 new units. Projected movements in Strategic Housing Units within the Business Plans can be summarised as follows:

	<b>Change in Units</b>	<b>Total Units</b>
Current social housing stock (2012)		4,539
Gained through new build projects (years 1 – 20) (including assets currently in development)	598	
Lost through demolition (years 1 – 20)	(164)	
Sold as part of a new build project (years 1 – 20)	(20)	
Sold as part of on-going sales (years 1 – 20)*	(330)	
Units held by the Company at year 20		4,623

\*The sale of 330 properties includes 30 sales prior to the commencement of the new Housing Company proposed for 1st July 2014. The proceeds from the sale of properties part funds the stock development up to year 20 when borrowing is repaid. Sales of properties after year 20 would create cash surpluses for the Housing Company but could alternatively be deferred or delayed if the demand for social rented accommodation was so required.

- 3.82. The proposed sales throughout the 30 year period and those that will take place prior to 2014 will all be classified as ‘Affordable’ in perpetuity and this will mean that the stock of affordable homes is increased by 414 units, albeit that these homes will be targeted at affordable home ownership. Overall the Islands’ stock of Affordable Housing will be augmented further by the addition of 203 units to the Housing Trusts.
- 3.83. However, the robustness of the business case of the proposed new Housing Company means that these sales and re-alignment of the stock will not prevent the Company from developing new social housing and affordable units, should the States, through approval of its Housing Strategy, wish to do so. Each project would need to be considered on its merits and in light of the borrowing necessary, but the new Company would have capacity and flexibility to react to changing requirements.

### Sites and Assets in Development

- 3.84. It is also proposed that sites presently under the administration of the Housing Department and awaiting development such as, Ann Court, Lesquende and the Le Coin site in Ann Street, will also be transferred to the new Company as will any assets in development but not complete at the time that the transfer takes place.

### Assets not Owned by the States

- 3.85. The States leases land at Le Parcq de la Belle Fontaine, St. Saviour from the Crown on a 99 year lease. 5 social rented homes have been constructed on that land. The homes are administered by the Housing Department and let to Social Housing tenants. It is proposed that as part of the stock transfer the lease between the Crown and the States will be assigned to the new Housing Company. The Crown has agreed to this and to being party to the necessary contract of assignment.

### Third Party Leases

- 3.86. Over the years the States has entered into a number of lease arrangements in respect of land administered by the Housing Department. Predominantly these relate to sites for equipment owned and operated by Utility Companies. It is proposed that these leases will be assigned to the new Housing Company.

### Jubilee Wharf

- 3.87. The Department is based at 24 Jubilee Wharf, Esplanade, St. Helier. It is envisaged that this building be retained by the States and administered by Jersey Property Holdings along with the remainder of the office estate and that the States will enter into a lease for the building with the Company. Lease terms are to be agreed, however, it is anticipated that this will be on a full repairing basis and that appropriate break and development clauses will be established
- 3.88. Non-property assets currently administered by the Housing Department will also be transferred to the Housing Company and these will be set out in a schedule under a forthcoming regulation for States consideration.

### Reporting and Accounting processes for the proposed Company

- 3.89. The proposed Housing Company would provide the States of Jersey with the following information –
- An annual business plan and report, setting out the objectives, policies and programmes of the Housing Company and

reporting on progress compared to the previously agreed business plan. The report will include review of the key performance indicators measure by the Housing Company.

- An annual report to be provided within 6 months of the end of each financial year. The report will include audited financial statements, auditor's report and a comparison of the figures contained in the business plan with actual results received.
- A half yearly report of operations to be provided within 2 months after the end of the first half year. The report will include a comparison of the figures contained within the business plan with actual results achieved in the period and a report concerning the key performance indicators measured by the Housing Company.
- Ad hoc reporting as required for the purpose of preparing the financial statements of the States of Jersey and information required to assist with the financial planning of the States of Jersey.

3.90. In the spirit of open dialogue and a “no surprises” policy, it is expected that the Housing Company will, unless specifically contemplated in the Business Plan, seek the consent of the States of Jersey before it makes any material changes to its Business Plan. For example, if the Housing Company –

- Makes any material change in the nature of its business or commences any new business.
- Sells, transfers, leases, licences or in any way disposes of all or a material part of its business or assets.
- Creates any material mortgage or security interest.
- Changes the financial year end.

3.91. The following minimum communications will take place each year –

- The Chairman, Chief Executive and Finance Director of the Housing Company will meet on a 6 monthly basis with the Minister for Treasury and Resources to discuss matters generally covered by the Transfer Agreement.
- Officers on behalf of the Minister will meet on a 6 monthly basis with senior management of the Company to discuss matters generally covered by the Transfer Agreement.
- Following the formal Annual General Meeting each year, the Board will meet with the Minister to review previous year performance.
- A record of matters discussed at such meetings will be made.

Financial Business Case for Change and risk assessment

3.92. The fourth business case for change within R.15/2013 is the financial case, which summarises the financial projections for the proposed Company as follows:

Income Statement	Years						
	1-5	6-10	11-15	16-20	21-25	26-30	Total
	£m	£m	£m	£m	£m	£m	£m
Rental income	240	340	430	530	655	812	3,007
Expenditure including depreciation	-183	-188	-221	-255	-335	-390	1,572
Net profit before finance costs	57	152	209	275	320	422	1,435
Interest on borrowing	-20	-46	-30	-6	-	-	-102
Profit after finance costs	37	106	179	269	320	422	1,333
Depreciation charge included in the above	89	116	129	142	157	175	808
Profit excluding depreciation charge	126	222	308	411	477	597	2,141
Return to States of Jersey	-153	-182	-216	-256	-304	-361	-1,472
Net profit excluding depreciation charge	-27	40	92	155	173	236	669

\* Peak external debt is forecast to be £160 million at Year 7.

3.93. Cash will be generated from operations and social housing sales. This cash will be used to –

- Fund the annual return to the States of Jersey and the stock development costs to the extent that it is available (to the extent that it is not available, borrowing is taken out).
- Repay borrowing.

3.94. Cash surpluses are not generated until year 18 of the business model when all borrowing is repaid. The net present value of cash surpluses generated at year 30 of the business model is £63.7 million.

3.95. When cash surpluses are generated, the Housing Company and the States of Jersey will agree the best use for those surpluses.

3.96. The following key financial risks were considered within the financial case of R.15/2013 –

1. External finance is not available.
  2. The proposed rent policy is not adopted in full and maintained.
  3. A change results in an increased level of annual return to the States of Jersey.
  4. The required capital proceeds from the sale of social housing stock are not achieved.
  5. Fluctuations occur above assumptions for rents increasing in line with Retail Price Index inflation +0.75%.
  6. Market rents increase at a lower rate than prevailing inflation.
  7. The stock development plans are not achieved.
  8. The required rents are not collected.
  9. Increased interest rates are incurred for borrowing.
  10. Unexpected costs incurred.
- 3.97. The resulting risk assessment identified that, with appropriate mitigations, the business case for the proposed Company can remain viable in the event that these risks were to occur and that the residual risk for the proposed Company is therefore considered manageable.

#### Management Business Case for change for the proposed Company

- 3.98. The fifth and final business case for change is the Management Case, which sets out the project, business change, benefit and contract management arrangements proposed to implement the new Company.
- 3.99. Should the States give approval to this Report, Proposition and Enabling Law, separate Delivery Teams will be established to implement the business change activity within the proposed new organisations to develop the requisite regulations relating to formal commencement of activity and recommend these to the States – this would be termed the “Shadow” activity phase.
- 3.100. The high level key contractual milestones can be summarised as follows:

<b>Milestone</b>	<b>Delivery Date</b>
States consideration of the Reform of Social Housing Report and Proposition	April 2013
Council of Ministers consideration of Enabling Laws. Commencement of Strategic Housing Unit in agreed setting.	May 2013
Health, Social Services and Housing Scrutiny Panel review of Enabling Laws	May – July 2013
States Assembly consideration of Social Housing and Social Housing (Transfer) (Jersey) Laws within Reports and Propositions.	July 2013
States Assembly consideration of Shadow Board appointments and terms of reference.	September 2013
Lodging of Enabling Laws in the Royal Court, Appointed Day Act considered by States Assembly.	November 2013
States Assembly consideration of Enacting Regulations (for Regulatory, Transfer and Social Security arrangements).	January 2014
Company registration completed. Tenancies, Staff and Stock transfers completed. Social Housing Regulator appointed.	March 2014
Rents uplifted to near market level.	April 2014
Company operation commenced.	July 2014

#### **4. Key Principles proposed for a draft Social Housing Regulatory Enabling Law**

##### Definition of Social Housing

- 4.1. For the first time a definition of Social Housing would be proposed under the Law, which would establish that “social housing” is accommodation made available, either for rent or for home ownership, that –
- (a) the Minister has designated as being subject to restrictions, specified in Regulations, in respect of the rent payable, the persons who are eligible to rent or acquire an interest in the accommodation or the standards that must be maintained in respect of the accommodation; or
  - (b) is accommodation resulting from a ‘housing project’ [*a project funded by the States or where lending for the project is guaranteed by the States*].
- 4.2. This broad definition is considered necessary to enable the Law to be employed for the variety of potential economic situations that may prevail in future and to enable the Strategic Housing Unit to

recommend subsequent regulations relating to affordable housing products.

#### The Social Housing Regulator

- 4.3. The Enabling Law would need to set out the proposed role and functions of the proposed Social Housing Regulator and to enshrine the independence of the Regulator as a Non-Ministerial States Funded Body.
- 4.4. The Chief Minister would appoint the Regulator after having sought and received the advice of the Appointments Commission.
- 4.5. The Regulator would be provided with resources by the Chief Minister and be able to delegate functions to relevant professionals, for example if a Chartered Surveyor or Valuation expert is required to inform a review of Social Housing Provider data.
- 4.6. Independence of the Regulator would be formalised. Such independence is considered essential to ensure public, Tenant, lender and Social Housing Provider confidence in the operations of the Regulator. During the “Achieving Decent Homes” White Paper consultation, lenders were keen to ensure that the regulator was at arms length and able to exercise his/her powers without ministerial ‘interference’. This independence if achieved, would be likely to afford greater efficiency in the lending to the sector over time.
- 4.7. The Regulator would be required to produce a business plan and an annual report on the activities of the Regulator and the performance of the Social Housing Sector to the Chief Minister who will then present the report to the States.

#### Registration of Social Housing Providers

- 4.8. The act of regulation requires registration of Social Housing Providers under the Law and the Enabling Law would set out the provisions for doing so.
- 4.9. As the Regulator will be limited to the affordable housing sector, which in Jersey is relatively small, a part time appointment is envisaged and it is proposed that, rather than burden the tax payer with the cost of regulation, which are anticipated to cost in the region of £160,000 per annum. The costs of establishing and operating the Regulator will be met by a levy on regulated landlords on a proportional basis.



#### Performance Measures for Social Housing Providers

- 4.10. The scope of performance standards envisaged for Social Housing Providers would be set out under the Law. These would be limited in scope but broadly defined to enable flexibility in subsequent issuing of regulations.
- 4.11. In addition to those key matters expanded upon when describing the role of the Strategic Housing Unit above, it is proposed that regulations could also be brought relating to such matters as the terms of social housing tenancies and policies for dealing with anti-social behaviour and for contributing to the wider environmental, social and economic well-being of the areas in which properties are situated. These provisions would reflect those established as necessary from time to time in other jurisdictions and which could enable the States to determine wider contributions for Social Housing Providers should such provisions be deemed necessary in future.
- 4.12. The Regulator would be able to issue Codes of Practice to give guidance on good practice to Social Housing Providers on those matters which may need clarification, but which do not require detailed regulation. This will enable the Regulator to take a proportionate approach to implementation of regulations across the range of Social Housing Providers.
- 4.13. Social Housing Providers would be required to provide accounts to demonstrate the state of its affairs in relation to its social housing activities and disposition of funds and assets. This is considered a crucial requirement to ensure that the Regulator can establish for the satisfaction of the States that the Social Housing Providers maintain prudent financial management to ensure the adherence of social housing with defined condition and standards over the long term.

#### Monitoring and Enforcement Powers

- 4.14. Whilst it is envisaged that enforcement provisions will be very much a last resort, and the proportionate approach adopted by the Regulator will encourage a culture of co-regulation (where Social Housing Providers should effectively self-regulate to a large degree), current shortfalls against Decent Homes Standards and the risk of imprudent action by Providers in future to the detriment of Tenants, means that meaningful enforcement powers are proposed for the Social Housing Regulator.
- 4.15. Those envisaged include powers to establish information from Providers or gain access to premises where concerns exist, to the agreement of voluntary undertakings for minor infringements or enforcement notices for more significant concerns. Where consistent poor performance exists, stronger powers such as imposing financial penalties are proposed, although the Regulator must always balance this having consideration to the benefit to Tenants. Similarly, financial compensation is proposed where it is clear that a Social Housing

Provider has acted against and to the demonstrable detriment of the interest of its Tenants. Such provisions are now common in other jurisdictions and reflect the desire to respect the human rights of Tenants who have little choice as to their Social Housing Provider.

- 4.16. Where serious failings have arisen, it is proposed that the Regulator should have powers to act in the interest of Tenants by replacing or part replacing management or transferring responsibility for management to another more suitable provider or transfer land or assets where absolutely necessary. The powers for the States to make regulations controlling the basis for any disposals of Social Housing land would need to be set out. These powers could only be employed by the Regulator with the consent of the Chief Minister to ensure they are always deployed in the Public interest.
- 4.17. Finally, powers to ensure that false information, obstruction or offences by individuals can be captured under the Law together with the power for authorized persons to request injunctions in severe circumstances.

#### Miscellaneous Provisions

- 4.18. Finally, the Enabling Law will need to make provision for the serving of notices under the Law, permit the regulator to nominate authorized persons and the process for appeal. An amendment to the *Dwelling-houses (Rent Control) (Jersey) Law (1946), as amended*, to permit the same exemptions from Rent Control for Social Housing Providers that are currently enjoyed, and which would otherwise be contradictory given the proposed regulation of social housing rent policy.

## **5. Financial and human resource implications**

### Affordable Housing Regulator

- 5.1. It is proposed that the Regulator will be limited to the affordable housing sector which in Jersey is relatively small and it is therefore proposed that rather than burden the tax payer with the cost of regulation, which could conceivably cost £160,000 per annum, the costs of establishing and operating the Regulator will be met by a levy on regulated landlords on a proportional basis.

### The Annual Return to the States

- 5.2. The rental income received by the Housing Department has always provided an income to the States. Prior to the implementation of Income Support this return was internalized within the Housing Department to fund the provision of rent abatement and rent rebate. Following the implementation of Income Support the return from rents has been made to the Treasury. In 2013, this return will be

£26.1 million, which more than covers the net cost of the housing element of Income Support.

5.3. The annual return made by the Housing Company to the States of Jersey will be maintained in real terms from 2016 (i.e. adjusted annually by RPI). This is after delivering the returns set out in the Medium Term Financial Plan including Comprehensive Spending Review savings. In years 2013 to 2015 the return will be adjusted to reflect agreed transitional costs. Therefore, increases in rental income above RPI will be retained by the Housing Company. Where increases in rental income are below RPI, i.e. in a weak rental market, the Housing Company will absorb this in to its operations.

5.4. The table below illustrates the returns up to 2015; thereafter the return will be adjusted annually by RPI.

Annual Return	2012	2013	2014	2015
	£000s	£000s	£000s	£000s
Near cash return as per Medium Term Financial Plan	24,559	26,798	27,972	29,339
One off set up costs of the new organisation	–	(706)	–	–
Transfer of costs to Chief Ministers Department for Strategic Housing Unit	–	–	182	182
<b>Annual Return</b>	<b>24,559</b>	<b>26,092</b>	<b>28,154</b>	<b>29,521</b>

#### Income Support Implications

5.5. The States of Jersey is responsible for additional Income Support costs as a result of the proposed rent policy. The table below quantifies the likely additional cost and includes forecasts for –

- The additional rental income received by the Housing Company as a result of the proposed rent policy being implemented (compared to the existing rent policy)
- The amount of the additional rent that will be paid by the Social Security Department. This is expected to be 67% of the additional rent because approximately 67% of the tenants of the Housing Department are entitled to an element of the housing component of Income Support
- This additional cost for Income Support will need to be funded by the Treasury by means of an additional budget allocation to the Social Security Department

<b>Date</b>	<b>Year of Company Operation</b>	<b>Additional rental income</b>	<b>Additional rent paid by Income Support</b>
		<b>£m</b>	<b>£m</b>
2014	1	0.5	0.3
2015	2	1.1	0.7
2016	3	1.1	0.7
2017	4	1.5	1.0
2018	5	1.6	1.1
2019	6	1.9	1.3
2020	7	2.2	1.5
2021	8	2.2	1.5
2022	9	2.2	1.5
2023	10	2.4	1.6
2024–2028	11–15 (annual average)	2.5	1.7
2029–2033	16–20 (annual average)	2.8	1.9
2034–2043	21–30 (annual average)	3.0	2.0

\*The amounts shown in the above table are in real terms, therefore, the impact of inflation has been removed

- 5.6. It is expected that approximately 55% of new tenancies will be to tenants from the waiting list. Therefore, the Income Support paid for these tenancies replaces Income Support paid in the private sector.
- 5.7. The additional units built by the Housing Company will provide growth to the social housing sector. This will change the proportion of Income Support payments made to social housing landlords (relative to private landlords) but the overall cost would be the same.
- 5.8. Likewise, there will also be an additional cost to Income Support as a result of the proposed rent policy for Housing Trust properties. Again, the costs will build over many years as new tenancies are created at a similar rate to those shown in the table above and will peak at £1 million in real terms once fully implemented. In year 1, the additional costs will be approximately £50,000, whilst at year 10 the additional cost will be £550,000.
- 5.9. The additional cost of Income Support payable in respect of Housing Trusts' properties will be funded by the Housing Trusts themselves, following implementation of the proposed rents policy, as this is additional income over and above the expected levels.

Convergence to 90% of market rents

5.10. The table below illustrates the modelled convergence of current rents to 90% of market under the proposed rent policy.

	<b>No. of units at 90% of market rent</b>	<b>No. of units below 90% of market rent</b>	<b>No. of units in stock</b>	<b>% of units at 90% of market rent</b>	<b>No. of units at below 90% of market value not in receipt of Income Support</b>
Year 1 – 2014	865	3,637	4,502	19%	1,218
Year 5 – 2018	2,449	2,324	4,773	51%	597
Year 10 – 2023	3,485	1,288	4,773	73%	328
Year 15 – 2028	3,869	829	4,698	82%	219
Year 20 – 2033	4,114	509	4,623	89%	134
Year 25 – 2038	4,269	354	4,623	92%	97
Year 30 – 2043	4,377	246	4,623	95%	61

5.11. In 2014, business modeling estimates that there will be 3,637 units for which rent is charged at below 90% (1,288 units at year 10). Of those units –

- 2,419 units are forecast to be occupied by tenants in receipt of the housing component of Income Support, reducing to 960 at year 10. Therefore any increases in rent would be paid by additional Income Support
- 1,218 units are forecast to be occupied by tenants who are not in receipt of the housing component of Income Support, reducing to 328 at year 10. This is analysed further below

5.12. The forecast units where the rent is below 90% of market rent and the tenant is not in receipt of the housing component of Income Support at year 1 and year 10 of the business model are noted below.

<b>Property size</b>	<b>Year 1 2012</b>	<b>Year 10 2023</b>
Bedsit	58	16
1 Bedroom	361	97
2 Bedroom	490	132
3 Bedroom	277	75
4 Bedroom	31	8
5 Bedroom	1	–
Total	1,218	328
% of total stock	27%	7%

5.13. This modeling is only an approximation based on previous years' averages. No account has been taken of increased mobility of those with higher incomes nor has any account been taken of opportunities to purchase properties contained within this business plan. The sales of 15 properties per annum that are forecast throughout the first 20 years of this business plan are likely to be targeted at those higher incomes within the social sector.

5.14. Work undertaken jointly between the Housing and Social Security Departments has looked at the income distribution of those States tenants not receiving income support. This analysis is given in the table below.

<b>Income in bands</b>	<b>Total</b>
£0k-£5k	58
£5k-£10k	74
£10k-£15k	77
£15k-£20k	167
£20k-£25k	200
£25k-£30k	215
£30k-£35k	163
£35k-£40k	92
£40k-£45k	73
£45k-£50k	33
£50k plus	72
Total	1,224

- 5.15. This table clearly indicates that even those States' tenants who do not claim Income Support, most have modest incomes, with only 178 tenants having a household income of over £40,000 per annum.

#### Implications for the Regulated Housing Trusts

- 5.16. The Minister of Housing has requested the Housing Trusts undertake independent stock condition surveys and rent assessments to inform long term business plans for their continued development. Indicative business models have been constructed from the limited information provided by the Housing Trusts and these have been used to inform the indicative figures in this report. When the formal rent policy is introduced under regulation, the Housing Trusts will be required to set out their long term development proposals and demonstrate how additional Income Support costs will be met within the requirements of existing funding agreements.

#### Explanation of financial implications

- 5.17. An allowance has been made for the enhanced governance costs required to enable establishment of a Board and company functions for the proposed Company which are estimated at £300,000.
- 5.18. There will be additional operating costs associated with the new Company and provision has been made within the Company's Business Plan (R.15/2013) for these. These largely relate to staff costs for improved asset management, planned maintenance, income management and the governance of the proposed Company.
- 5.19. An additional allowance has been made for licensing and contributing to the costs of regulation of £120,000. There are also one-off set up costs which, based on experience in other jurisdictions, are estimated at £685,000. An allowance of £500,000 has also been made within the business case for replacing existing sub-optimal housing management information technology systems.
- 5.20. Finally, the Public Sector as a whole has a significant pre 1987 past service liability pension debt and in common with other Strategic Investments such as Telecoms and Postal, the new Housing Company will take on responsibility for its proportion of that debt for which an allowance of £2.14 million has been made within R.15/2013). These costs are indicative for the purposes of the Full Business Case. They will be subject to review and confirmation within a Final Business Case at the point transfer is recommended to the States.

#### Human Resource Implications

- 5.21. The Human Resource implications of transfer to the proposed Company are set out within R.15/2013 as follows. The Housing Department currently employs a total of 47.6 Full Time Equivalents

(FTE) staff. Additionally, 2.6 Full Time Equivalent Customer Service staff transferred to the Housing Department during 2012 (as the customer service function moved from Cyril Le Marquand House to the Housing Department), as follows:

	<b>No. of FTEs</b>
Chief Officer and Personal Assistant	2
Strategic Development Directorate	13
Operations Directorate	24.6
Finance and Resources Directorate	10.6
<b>Total Housing Department Staff</b>	<b>50.2</b>

- 5.22. As already noted, this has been independently confirmed as representing a very lean establishment compared to equivalent housing organizations in the United Kingdom.
- 5.23. In preparation for the proposed move to the new Housing Company, the Housing Department has undertaken a number of service reviews to establish the appropriate organizational arrangements that will need to be put in place in order to affect a successful move to the new Housing Company. In addition, a number of site visits were arranged to other Strategic Investments and social housing providers to establish appropriate governance and financial management arrangements.
- 5.24. These reviews confirmed that the Housing Department performs well in relation to its service output for the resource input applied. The best practice organisations benchmarked against have similar organisational roles, but due to the greater resource applied to meet Decent Homes Standards, meet higher Tenant service expectations and regulatory requirements, the number of staff employed is significantly higher than in Jersey.
- 5.25. The reviews identified many of these areas of excellent current practice, but also that the new Company will want to implement further changes in areas such as asset management, customer services, governance and financial management to ensure that the new Housing Company is fully prepared to act in an efficient, flexible and commercially agile manner to provide tenants with the improved services intended.
- 5.26. These changes can be summarised in the following 8 themes –
- Ensure processes are fair and accountable to Tenants
  - Ensure resources remain focussed on those most in need



- Improve understanding of the standards Tenants can expect
- Ensure policies are in place to meet the needs of vulnerable customers
- Improve customer care and ensure customers are treated with dignity
- Ensure all Staff are motivated and accountable for their performance
- Identify new systems required to improve the business for customers
- Manage assets optimally for the customer

5.27. The overall effect of these changes identified above is summarized in the table below:

	<b>No. of FTEs</b>
Chief Executive and Personal Assistant	2
Strategic Development Business	13
Operations Business	26.6
Finance and Resources Business	14.6
<b>Total Housing Company Business</b>	<b>56.2</b>

5.28. The additional staff in the Strategic Development Business relate to the appointment of an Asset Management Team, which were confirmed as necessary by Ridge and Partners LLP to manage the implementation of the refurbishment and new build programmes envisaged within the Company Business Case, amounting to approximately £20 million per annum over the next 10 years. The additional roles within the Operations Business relate to a capital management trainee to assist oversight of the enhanced maintenance required to achieve the Decent Homes Standards. These roles are considered essential if the States accepts that investment to achieve and maintain Decent Homes Standards is to be made.

5.29. In addition, the Finance and Resource Business includes increased staff compliment to provide Board Support, Human Resource and Liquidity Management roles that are necessary if the States accepts that a new Company at arms length from the States is required.

Implications for existing States Services

5.30. The States services whose workloads could be affected by the proposed Company include the Chief Minister’s Department,

Treasury and Resources Department and Law Officers Conveyancing Division.

- 5.31. The establishment of a separate Company and associated Board will mean the Human Resource support to the Housing Department, currently paid for by the Department will be replaced by a role within the proposed Company.
- 5.32. Within the Treasury and Resources Department, the financial and treasury management functions currently supporting the Housing Department will have a change in reporting arrangements but as the new Company will remain a Strategic Investment and will be reported within the States finances this is not considered material. As the Company plans to retain Information Technology systems following transfer, the impact of this change cannot be fully quantified at present. Within the Property Holdings Department, there will be a marginal reduction from the number of sold property transactions no longer requiring Standing Order approvals, but this is not expected to be material.
- 5.32. The new Company will be required to seek its own legal advice on property matters and to conduct its own conveyancing. During the transformation process, external consultancy advice has been procured by both the Law Officers and Conveyancing Services to facilitate transformation and so no material reduction in work volumes is anticipated in these areas that would result in direct savings.

## **6. Conclusions**

### The Benefits of Transformation

- 6.1. The policy proposals set out in this Law provide solutions to the challenges presented in the earlier Green and White Papers. They provide a basis for a long term sustainable and financially viable social housing sector to meet the needs of existing Tenants and the population at large as Jersey seeks to come to terms with significant changes to its population and the global economy. Specific benefits are identifiable –
- 6.2. For Social Housing Tenants and Prospective Tenants
  - All Social Housing Tenants will have homes which meet the Decent Homes Standard within 10 years. Homes will be more efficient, cheaper to heat and run, combating issues such as fuel poverty;
  - All existing Social Housing Tenants, and prospective Tenants, will have access to a single application and allocation process. This increases choice and ensures that affordable homes are provided to those who need them most;

- All States Tenants will benefit from an improved mix of States social housing which will better meet demographic needs;
- Homes will be refurbished or developed to better meet the needs of the changing population particularly in respect of the need to meet the life-long and sheltered housing needs of the ageing population;
- All Social Housing Tenants in receipt of Income Support will be fully protected from the removal of the hidden rental subsidy;
- All Social Housing Tenants not in receipt of Income Support will be protected from any change to Fair Rent Levels until they take up new Tenancies. These Tenants will be able to know the financial impact of converting tenancy and plan accordingly.
- All Social Housing Tenants will have the benefit of the independently regulated social housing sector which will protect the rights of the Tenants across the sector, including the application process and standard of properties;
- All existing and prospective States Tenants will benefit from the new Housing Company which will be focused on the delivery of housing services to its customers;
- All States Tenants will benefit from increased customer focus and communication. The board of the new Housing Company will have real and meaningful representation from States Tenants and Tenant engagement will be promoted through the policies of the Strategic Housing Unit.

6.3. For the States –

- The establishment of the Strategic Housing Unit –
  - o Allows the States to focus on long term policy and strategy for housing across all tenures including rent policies, stock requirements and options for affordable housing;
  - o Allows the States to provide a clear set of performance standards which enable clear measurement and continuous improvement;
  - o Allows the States to ensure that allocations across the social housing sector are made from the Affordable Housing Gateway and so are targeted at those in need;

- o Allows the States to rely on an independent, fully accountable and regulated Sector to implement their policies and manage social housing;
  - o Provides a means of allocating responsibility for resource allocation including the reinvestment of financial surpluses;
  - A regulatory structure which generates confidence that social housing providers are contributing positively to its long term strategic objectives and that there is a focus on the Tenant and upon continuous improvement with powers to intervene where social housing providers fail to meet standards;
  - Increases in rent yield mean that the value of existing assets will increase and the development of new social housing, as and when it is needed, becomes viable without the need for large capital subsidy from the States;
  - Over time, the removal of the hidden rental subsidy will –
    - o provide transparency in respect of social housing provision and the cost of providing affordable housing;
    - o generate more income to improve the housing stock;
    - o allow the Housing Trusts to become less reliant on States subsidy in the event of interest rate rises;
    - o help in making new affordable housing schemes more viable;
  - Social housing is maintained in the long term without the need for capital allocation from the States;
  - The existing conflicts of interest for the Minister of Housing are removed;
- 6.4. For Social Housing Providers: (i.e. the proposed Housing Company and the regulated Housing Trusts)
- Strategies and policies set by the Strategic Housing Unit will give clear direction in respect of services and how these contribute to social policy generally;
  - Long term clarity of rental policy will make for better long term planning, allowing decisions to be made about reinvestment and development;
  - A single application and allocation process, through the Affordable Housing Gateway, will reduce duplication,

increase equity and efficiency and provide for a better measure of demand;

- The new Housing Company will have a clear remit to focus purely on landlord services including implementation of the policies set by the Strategic Housing Unit.

#### Role for the Minister for Housing following transformation

- 6.5. If the States approves the proposed transformation of social housing, the Minister for Housing's role will change significantly. The Minister for Housing would continue to lead the coordinated implementation of transformation until complete including bringing regulations to the States for consideration under the Enabling Laws established through transformation.
- 6.6. The establishment of the Strategic Housing Unit in the Chief Minister's Department effectively transfers responsibility for housing policy to the Assistant Minister to the Chief Minister. If the States approves this Report and Proposition, the role of regulating social housing will fall to the Social Housing Regulator in due course. If the States consents to the proposed establishment of the proposed wholly States-owned Housing Company the responsibility for delivery of States owned social housing will in due course fall to the Board of that Company. Added to this are changes arising from the *Control of Housing and Work (Jersey) Law 2012* which will mean a reduced responsibility for the Minister for Housing in this area.
- 6.7. These changes are consistent with the corporate priority to Reform Government and the Public Sector set out within the Strategic Plan (P.28/2012). If the States gives its consent to the proposed transformation, it is anticipated that the role of Minister for Housing should be reviewed as part of the current review of the machinery of Government and Public Sector Reform.