



Consultation Before Disposal to Private Sector Landlord **Statutory Guidance – A Consultation Paper**



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Consultation Before Disposal To Private Sector Landlord: Statutory Guidance – A consultation paper

| Scope of the consultation | |
|------------------------------------|---|
| Topic of this consultation: | Guidance to English local housing authorities on consultation with tenants prior to seeking consent to dispose of those tenants' homes to a private landlord. |
| Scope of this consultation: | We are seeking comments on the detail of that Guidance. |
| Geographical scope: | The Guidance relates to England only. |
| Impact Assessment: | The Guidance does not impose a new burden or remove any burdens. There is therefore no Impact Assessment. |

| Basic Information | |
|--|---|
| To: | Anyone with an interest, but specifically English stock holding local housing authorities, their tenants, and any Registered Social Landlords who might be the future landlords of such stock. |
| Body/bodies responsible for the consultation: | Decent Homes and Housing Finance Division Communities and Local Government |
| Duration: | From 26 February 2009 until 21 May 2009. |
| Enquiries: | Stephen Biddulph 020 7944 0060 stephen.biddulph@communities.gsi.gov.uk |
| How to respond: | Preferably electronically to: stephen.biddulph@communities.gsi.gov.uk Or by post to: Tenant Consultation: statutory guidance consultation Decent Homes and Housing Finance Zone 1/A1 Eland House Bressenden Place London SW1A 5DU |
| After the consultation: | Within three months of the consultation closing we will publish on the Department's website (www.communities.gov.uk) a summary of the responses and the Government's response to them. |

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| Compliance with the Code of Practice on Consultation: | The consultation complies with the Code of Practice on Consultation. |
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| Background | |
|-------------------------------|--|
| Getting to this stage: | The Guidance builds on the non-statutory Guidance already in place concerning stock transfers. |
| Previous engagement: | Statutory guidance was introduced by the Housing and Regeneration Act 2008. |

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Chapter 1

Introduction

Purpose of Consultation

1. This consultation seeks views on draft statutory Guidance to English local housing authorities on meeting the requirements imposed on them by paragraph 3 to Schedule 3A of the Housing Act 1985 – Consultation before disposal to private sector landlord (as amended by section 294 of the Housing and Regeneration Act 2008).
2. We would welcome responses to the specific questions posed at the end of this document as well as any general comments you may have. Please ensure your responses to the specific questions we pose, clearly identify the question number to assist us with the compilation and analysis of responses. It would also be helpful if you could respond electronically. This will help us reduce the time we need to compile and analyse the comments we receive.
3. The consultation will last for 12 weeks. We'd be grateful therefore for responses and comments by 21 May 2009, which you should send to:

Tenant Consultation: statutory guidance consultation
Communities and Local Government
Decent Homes and Housing Finance
Zone 1/A1, Eland House
Bressenden Place
London SW1E 5DU
E-mail: stephen.biddulph@communities.gsi.gov.uk

After the consultation period

4. We will publish a summary of responses to this consultation within three months of the end of the consultation period at www.communities.gov.uk

About this consultation

5. This consultation document and consultation process have been planned to adhere to the Code of Practice on Consultation issued by the Department for Business Enterprise and Regulatory Reform and is in line with the seven consultation criteria, which are:
 - formal consultation should take place at a stage when there is scope to influence the policy outcome
 - consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible
 - consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals
 - consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach
 - keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained
 - consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation
 - officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience
6. Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions when they respond.
7. Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).
8. If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you

regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the department.

9. The Department for Communities and Local Government will process your personal data in accordance with DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.
10. Individual responses will not be acknowledged unless specifically requested.
11. Your opinions are valuable to us. Thank you for taking the time to read this document and responding.
12. Are you satisfied that this consultation has followed these criteria? If not or you have any other observations about how we can improve the process please contact:

Albert Joyce
Consultation Co-ordinator
Communities and Local Government
Zone 6/H10
Eland House
London SW1E 5DU
E-mail: consultationcoordinator@communities.gsi.gov.uk

Chapter 2

Background

13. Local stock holding housing authorities need to consider how the homes in their ownership might best be managed in terms of both ensuring a quality service to tenants and value for money.
14. Such authorities have three options:
 - a) maintain the status quo (ie the local authority continues to own and manage the stock)
 - b) retain ownership but pass management (all or in part) to another body (this could be to an Arms Length Management Organisation, a Tenant Management Organisation, a Registered Social Landlord¹, or a private company as part of a Private Finance Initiative)
 - c) pass ownership (and therefore with it management) to a private landlord as part of a stock transfer (under current policy this must be to a Registered Social Landlord – this could be an existing Registered Social Landlord or a new one formed by the tenants themselves)
15. Where the local authority decides to pursue a stock transfer it must ensure that tenants are fully engaged in the process. The authority must consult tenants and explain to them clearly and unambiguously why the authority has chosen this option, and the consequences to the tenants should transfer proceed.
16. The statutory requirements on local authorities with regard to this consultation are set out in paragraph 3 of Schedule 3A of the Housing Act 1985.
17. Section 294 of the Housing and Regeneration Act 2008 amended paragraph 3 to require the holding of a ballot of tenants, and prescribed a period post-ballot when tenants might make further representations to the Secretary of State.
18. Section 294 also inserted a new sub-paragraph 5A into paragraph 3 requiring that the appropriate person (in England, the Secretary of State, and in Wales, Welsh Ministers) give guidance to local authorities about complying with the requirements of paragraph 3.

¹ in future, Registered Providers of Social Housing

19. A draft of this Guidance is attached and on which we would welcome your views

Question 1 Is the draft Guidance clear and unambiguous in the matters it covers? If not, how could we improve it?

Question 2 Are there any aspects of paragraph 3 to Schedule 3A of the Housing Act 1985 on which further guidance would be helpful? If so, what are they and what specific guidance is needed?

Question 3 Are there any matters in the draft Guidance on which it is unnecessary to give guidance. If so, why?

Annex A

The Housing Act 1985: Schedule 3A – Consultation Before Disposal to Private Sector Landlord

Statutory Guidance – Paragraph 3: Requirements as to consultation

Statutory Guidance to English local authorities on meeting their statutory obligations regarding consulting with tenants prior to seeking the Secretary of State’s consent to dispose of those tenants’ homes to a private landlord.

1. An English local authority may with the consent of the Secretary of State dispose of an interest in land as a result of which a secure tenant or an introductory tenant will become the tenant of a private landlord.
2. It is the policy of the Secretary of State that such consent will be granted only where the private landlord is a Registered Social Landlord or, in future, following provisions in the Housing and Regeneration Act 2008 (“the 2008 Act”), a Registered Provider of Social Housing.
3. However the Secretary of State will not consider granting consent unless the local authority can demonstrate that it has properly consulted tenants as required by paragraph 3 of Schedule 3A to the Housing Act 1985 (“paragraph 3”).
4. Paragraph 5A(1) of Schedule 3A (as inserted by section 294 of the 2008 Act) requires the Secretary of State to issue this guidance to English local authorities about complying with the requirements of paragraph 3.
5. Section 294 of the 2008 Act also amended paragraph 3 by making the holding of a ballot a statutory requirement of the consultation process.

Who should read this Guidance?

6. This guidance is for English local authorities proposing the transfer of ownership of tenanted homes to a private sector landlord. Paragraph 5A(3) to Schedule 3A requires that such authorities must, in complying with the requirements of paragraph 3, have regard to this guidance.

7. This guidance will however also be of interest to local authority tenants in England, their representatives, and any private sector landlords interested in such stock transfers.

Extent of the Guidance

8. This guidance relates only to the requirements imposed by paragraph 3.
9. It complements – and should be read in conjunction with – the more extensive non-statutory guidance on stock transfer (the Housing Transfer Manual – 2005 Programme (October 2004) and the Supplement to the Housing Transfer Manual (June 2006) – both published by this Department), and, in future, any non-statutory guidance produced by the Homes and Communities Agency.

Requirements as to consultation (paragraph 3)

10. The principle behind paragraph 3 is that tenants should be fully involved in any plans and decision making over the future ownership of their homes. The local authority must provide all affected tenants with sufficient information for each to express a fully informed opinion about the proposal in a statutory ballot.
11. In practice, the Secretary of State expects the formal consultation covered by paragraph 3 to be the conclusion of a longer process; ie it should follow an informal period of consultation when the authority introduces and explains its proposals.
12. The formal consultation process covered by paragraph 3 has two stages prior to ballot.

Stage 1 Notice

13. Paragraph 3(2) requires that the local authority first serve a notice on its secure tenants and those with an introductory tenancy setting out:
 - a. the details of the transfer proposal, including the identity of the prospective new landlord;
 - b. the likely consequences of the transfer for the tenant;
 - c. the effect of the provisions of Schedule 3A (i.e. the consultation requirements):
and
 - d. the provisions relevant to the Preserved Right to Buy.

14. This notice is usually referred to as the formal consultation or Offer Document. It must invite representations within a reasonable period, which the Secretary of State considers to be at least 28 days. The local authority must consider any representations made within that period and may wish to revise its proposals accordingly.
15. The local authority is not obliged to delay the consultation process by having to consider any representations made after this period. However it must consider any such representations before deciding whether to seek the consent of the Secretary of State to conclude the transfer should that be the wish of the tenants voting in the ballot.
16. The document should set out clearly the terms of the proposed transfer, including tenants' rights under the assured tenancy regime, and should compare those rights to the rights of secure tenants. The document should explain that, although transferring tenants will have broadly similar rights, some rights will be lost while others will be provided by contract rather than by statute. Any promises made by the local authority to tenants at the informal consultation stage should be incorporated into the formal consultation material.
17. Further guidance on the content of this document is at Annex 1.

Stage 2 Notice

18. Paragraph 3(3) requires the local authority to serve a further written notice:
 - a. describing any significant changes to the proposal;
 - b. saying that objections may be made to the Secretary of State within a period of at least 28 days; and
 - c. drawing attention to the fact that the Secretary of State shall not give consent to a transfer if the result of the statutory ballot shows that a majority of tenants voting are opposed.
19. The Secretary of State would normally expect the ballot to commence immediately after the issue of the Stage 2 notice, and for the 28 days (or other specified period) in which objections may be made to the Secretary of State to run concurrently with the ballot.
20. A local authority needs to work with stakeholders to decide on the length of the ballot period and how it is conducted. The period needs to be appropriate to the local circumstance; 28 days should be considered the norm (especially for transfers of 500 or more homes) but should in any case not be less than 21 days.
21. Both the Stage 1 and Stage 2 notices should give an indication of the likely timing of the statutory ballot and explain the consequences of a majority either way: ie a

vote against would mean that transfer could not proceed; whereas a vote in favour would simply permit – not compel – the local authority to seek the Secretary of State’s consent. Similarly the local authority would wish to make clear that the Secretary of State would not be obliged to grant consent simply because a majority had voted in favour (although such a vote is likely to be a strong influence).

Who should be consulted?

22. **Tenants.** The statutory consultation procedures covered by paragraph 3 are concerned solely with secure tenants or those with an introductory tenancy. This will include tenants against whom there is a suspended possession order, unless that tenant is not complying with the order and the authority has taken steps to have a date set for possession. There are likely to be occasions when someone takes up a new tenancy during the formal consultation period. Provided that they have taken up their tenancy before the Stage 2 notice has been issued, they should be included in the ballot.
23. **Leaseholders.** There are no statutory requirements for consulting long leaseholders (ie people who have exercised their Right to Buy on a long leasehold basis or have bought from those who have exercised their Right to Buy) as the terms of their lease would not change if the freehold transferred to a private landlord.
24. However, leaseholders should be kept informed of progress on the transfer proposal and told that they may make any objections to the transfer to the Secretary of State, who will take such objections into account when making a decision on the consent application. Although an authority may, in order to ascertain their views, ballot leaseholders about a transfer proposal, it is not obliged to do so and it should conduct such a ballot as a separate exercise to ensure that tenants’ views can be clearly demonstrated.

Reaching all sections of the community

25. Local authorities must ensure that all tenants are fully informed of the proposals, encouraged to vote, and are able to participate. Local authorities will therefore wish to be mindful – in particular, but not exclusively – of the needs of people for whom English is not their first language and people who have difficulty reading.
26. Local authorities will also wish to be mindful of other residents who might be affected by the proposals: for example, the proposal might be to transfer an estate on which live a number of freeholders. It is not necessary to consult such residents, but local authorities would wish to keep them informed.

Timing of formal consultation and ballot

27. It is important that the information given to tenants and promises made regarding future policies on rent and repairs and levels of service are well founded. Formal consultation should not start, therefore, until the authority is sure that this is the case.
28. In order to ensure that a ballot reflects the views of tenants resident at the time of the transfer, a local authority should seek to minimise the time between ballot and transfer. Ideally it should be between six to 12 months. The length of time and the number of new tenancies taken up during that period are matters the Secretary of State will consider before granting consent.

The statutory ballot

29. The ballot paper should be delivered to each tenant under separate cover from any consultation material. During the ballot period, a local authority should generally refrain from issuing any further material about the proposed transfer. However, there may be instances where the local authority considers it reasonable to clarify certain aspects; for example, where people have made inaccurate claims about the process, the local authority may wish to issue a statement addressing the points made. It should not, however, raise any new issue.
30. Ballots should normally run for at least 28 days to ensure maximum voter turnout and the Secretary of State would usually expect the ballot period to end at the same time as the period for objections. It is not acceptable for a ballot to close before the period for objections is over. All correspondence relating to the holding of the ballot must state clearly and unambiguously the date the ballot closes.
31. The question posed must be as unambiguous and direct as possible and reflect the terms in which the consultation material has been expressed. The Secretary of State would always wish to see tenants asked the following question:

'Are you in favour of the Council's proposal to transfer the ownership and management of your home to [proposed new landlord]?'

32. Tenants should then have the choice of ticking either a "yes" or a "no" box.

Post-ballot

33. Paragraph 3(6) requires the local authority at the end of the ballot to write to all tenants (whether or not they voted) informing them of the result. A majority vote against transfer would mean that transfer cannot proceed and the local authority should make this clear to tenants.
34. Where the majority vote in favour of transfer the local authority must inform tenants of how they now intend to proceed. If the local authority intends seeking the Secretary of State's consent to the transfer, then they must advise their tenants that they have up to 28 days to make further representations to the Secretary of State.
35. The Secretary of State may not consider any representations received after this 28 day period.

The Secretary of State for Communities and Local Government
[***] 2009**

Annex 1

Stage 1 Notice

1. The purpose of this Annex is to provide further guidance to local authorities on preparing a Stage 1 notice, more commonly known as the formal consultation, or Offer Document, such that it complies with the requirements imposed by paragraph 3.
2. Tenants should receive comprehensive information about the proposed transfer on a single occasion, presented in simple, concise language, without unnecessary repetition and with a clear explanation of why they are being sent the information. The document should provide complete information on why the transfer is being proposed and the terms of the offer presented clearly and accurately, while emphasising the consultative nature of the process at this, pre-ballot, stage.
3. Local authorities should ensure that the information provided gives a full, fair and objective picture of the proposed transfer so that they can demonstrate that tenants have been properly consulted and informed. They should tailor their consultation document according to specific local circumstances and with particular reference to the interests and needs of their tenants.

Covering letter

4. The local authority should include a covering letter, introducing the consultation document, which sets out the offer being made to its tenants. The Leader of the Council or the Chair of Housing should sign the letter or, at the very least, a senior officer such as the Chief Executive or Director of Housing.
5. The letter should make clear that the transfer is still at the stage of a proposal and that the detail could still change. An indication of the later stages of the process should be given ie that any amendments to the offer that are made as result of tenant comments, or other circumstances, will be included in a further (Stage 2) notice, which will be issued before a ballot is held.
6. A form on which tenants can express their views (with a pre-paid reply envelope) should be enclosed with the document or clearly flagged within it on a tear out page.

Language and tone

7. It is crucial that the consultation document be expressed in plain, jargon free English. If specialist language or unfamiliar terms have to be used, their meaning should be explained in simple words straightaway.
8. The document should be honest and open about the reasons for and implications of the proposals. It should avoid statements implying that decisions have already been taken when they have not, and throughout the document the future conditional tense (ie would, rather than will), should be used to describe the implications of a proposed transfer. Tenants should be left in no doubt that any undertakings being made about a proposed transfer are conditional on the majority of tenants who take part in the ballot voting in favour of the transfer.

Reasons for Proposing Transfer

9. Tenants need to understand why the local authority is proposing to transfer their housing, but should not feel that the main purpose of the consultation document is to sell the transfer; rather, it should give neutral information. A balanced and informative approach is needed, which provides brief information on all the options that have been considered.
10. If the transfer is being proposed to enable significant investment in the homes, tenants should be told why it is not possible for the local authority to make that investment. Housing finance is a complex area. But tenants should be made aware of the constraints under which local authorities operate and have the specifics of their local authority's position explained to them.
11. Other information that should be available is:
 - how the value (sale price) of the housing covered by the proposal has been calculated, and why this is different from the price a tenant would pay for the property under the Right to Buy
 - how the local authority proposes to use any proceeds from the sale and
 - information on the housing role the local authority would retain post transfer, and their continuing interest through the transfer contract

Basic facts about the Transfer

12. Information should be included on:
 - identification of housing to be transferred (eg whole stock, named estates)
 - identity and status of the proposed new landlord
 - summary of consultation requirements, stressing that tenants views are sought at this stage and can make a difference
 - details of the ballot, and the mandate required for transfer to go ahead
 - proposed timetable for consultation, ballot, consent application and transfer and
 - contacts for advice and further information, including named independent tenant adviser and local authority contact

Information about the proposed New Landlord

13. Tenants may not be familiar with the terms Registered Social Landlord, Registered Provider of Social Housing or non-profit distributing company so these concepts should be clearly explained.
14. Other information should include:
 - name and status of the proposed new landlord (whether registered or seeking registration with the Tenant Services Authority, intention with regard to charitable status, if applicable)
 - the regulatory framework within which it will operate, including information about the Tenant Services Authority's role and the Regulatory Code for Registered Social Landlords / Registered Providers of Social Housing
 - why the proposed new landlord would be able to borrow money when the local authority cannot
 - from whom it would borrow, and the length of the repayment period
 - what safeguards will exist if the proposed landlord cannot repay the money it has borrowed
 - composition of the voluntary Board or Shadow Board of Management, including information about relevant experience
 - an explanation of how tenants, independents and Councillors have been selected as Shadow Board Members (if a new Local Housing Company is proposed) and how this process will work in future, or, where a transfer is proposed to an existing Registered Social Landlord, details of the tenant representation structures that will be put in place

- objectives of the proposed new landlord and
- information on other properties managed by the same landlord, where appropriate, so that tenants have an idea of its track record

Capital Expenditure Programme

15. The prospective landlord might offer a programme of repairs and improvements. The consultation document should enable each tenant to identify the works that will be carried out to his / her home if the transfer goes ahead.

Rents and other Charges

16. Rents are one of the key issues for tenants. They should be presented in a clear and accessible way. Any likely changes to the financial cost to the tenant caused by any transfer must be very clearly spelled out.
17. Local authorities will need to consider in this section including information not only on rent, but service charges, rent increases necessary to effect improvements, arrangements for the payment of rent, the effect on Housing Benefit, and the future landlord's policy on rent arrears. This list however is not exclusive.

Management Standards

18. An equally important reason for proposing a transfer is to deliver improved housing management services to tenants. The document should explain the standards of service that will be offered by the proposed new landlord, making clear in precise terms where these differ from and improve upon the local authority's current standards.

Tenants' Rights after Transfer

19. The document should explain what rights tenants would have if the transfer were to go ahead. The proposed new tenancy agreement will incorporate the majority of statutory rights that secure tenants have, and tenants should be clear that, should the transfer go ahead, their rights would be based on contract (the tenancy agreement) rather than statute. Tenants should be made aware of those rights that would not be retained contractually should the transfer proceed.
20. The document needs to explain that, like the local authority, the proposed new landlord would be able to recover possession of a property only if it obtained a court order. There are additional grounds for possession available to the new landlord that

may be used against existing tenants in the event that the transfer goes ahead and these should be explained.

Right to Buy and Preserved Right to Buy

21. The document should explain the Right to Buy for local authority tenants and the Preserved Right to Buy (PRTB), including the fact that tenants would continue to qualify for discounts if they were to move to another local authority home or to another property owned by the proposed new landlord. An explanation of the cost floor should be provided, together with the maximum regional discount available under the cost floor rules.
22. The position in relation to introductory tenants should be covered. If the transfer goes ahead, they are given a contractual Right to Buy on the same terms as the PRTB for secure tenants.
23. In the case of commercial properties, the local authority has to decide whether it intends to transfer the freehold of the properties or retain it and lease any homes above to the proposed new landlord. Should the local authority decide to lease the properties, the tenants in these properties should be informed that, if the transfer goes ahead, and they decide to exercise the PRTB, they would be purchasing a long lease from the RSL or Registered Provider. In addition, the arrangements for insuring, improving and maintaining the building (interior and exterior) should be detailed.

Other Rights

24. The following further rights should be fully explained (explaining clearly which elements would be lost):
 - right to succession
 - right to exchange homes
 - right to sub-let
 - right to repair
 - right to be consulted and receive information
 - rent to mortgage
 - right to manage

Annex B

HOUSING ACT 1985 (as amended by the Housing and Regeneration Act 2008)

SCHEDULE 3A CONSULTATION BEFORE DISPOSAL TO PRIVATE SECTOR LANDLORD

Disposals to which this Schedule applies

1.—

(1) This Schedule applies to the disposal by a local authority of an interest in land as a result of which a secure tenant or an introductory tenant of the authority will become the tenant of a private sector landlord.

(2) For the purposes of this Schedule the grant of an option which if exercised would result in a secure tenant or an introductory tenant of a local authority becoming the tenant of a private sector landlord shall be treated as a disposal of the interest which is the subject of the option.

(3) Where a disposal of land by a local authority is in part a disposal to which this Schedule applies, the provisions of this Schedule apply to that part as to a separate disposal.

(4) In this paragraph “private sector landlord” means a person other than an authority or body within section 80 (the landlord condition for secure tenancies).

Application for Secretary of State's consent

2.—

(1) The Secretary of State shall not entertain an application for his consent to a disposal to which this Schedule applies unless the authority certify either—

(a) that the requirements of paragraph 3 as to consultation have been complied with, or

(b) that the requirements of that paragraph as to consultation have been complied with except in relation to tenants expected to have vacated the dwelling-house in question before the disposal; and the certificate shall be accompanied by a copy of the notices given by the authority in accordance with that paragraph.

- (2) Where the certificate is in the latter form, the Secretary of State shall not determine the application until the authority certify as regards the tenants nor originally consulted—
- (a) that they have vacated the dwelling-house in question, or
 - (b) that the requirements of paragraph 3 as to consultation have been complied with; and a certificate under sub-paragraph (b) shall be accompanied by a copy of the notices given by the authority in accordance with paragraph 3.
- (3) References in this Schedule to the Secretary of State's consent to a disposal are to the consent required by section 32 or 43 (general requirement of consent for disposal of houses or land held for housing purposes).

Requirements as to consultation

3.—

- (1) The requirements as to consultation referred to above are as follows.
- (2) The authority shall serve notice in writing on the tenant informing him of—
- (a) such details of their proposal as the authority consider appropriate, but including the identity of the person to whom the disposal is to be made,
 - (b) the likely consequences of the disposal for the tenant, and
 - (c) the effect of the provisions of this Schedule and, in the case of a secure tenant, of sections 171A to 171H (preservation of right to buy on disposal to private sector landlord), and informing him that he may, within such reasonable period as may be specified in the notice, make representations to the authority.
- (3) The authority shall consider any representations made to them within that period and shall serve a further written notice on the tenant informing him—
- (a) of any significant changes in their proposal, and
 - (b) that he may within such period as is specified (which must be at least 28 days after the service of the notice) communicate to the Secretary of State his objection to the proposal, and informing him of the effect of paragraph 5 (consent to be withheld if majority of tenants are opposed).
- (4) When a notice has been served under sub-paragraph (3) the authority shall arrange a ballot of the tenants in accordance with sub-paragraph (5) to establish whether or not the tenants wish the disposal to proceed.
- (5) The authority shall -
- (a) make arrangements for such person as they consider appropriate to conduct the ballot in such manner as that person considers appropriate; or
 - (b) conduct the ballot themselves.
- (6) After the ballot has been held the authority shall serve notice on each tenant (whether or not he voted in the ballot) informing him -
- (a) of the ballot result; and
 - (b) if the authority intend to proceed with the disposal, that he may within 28 days after the service of the notice make representations to the Secretary of State or (as the case may be) the Welsh Ministers.

*Power to require further consultation***4.**

The Secretary of State may require the authority to carry out such further consultation with their tenants, and to give him such information as to the results of that consultation, as he may direct.

*Consent to be withheld if majority of tenants are opposed***5. —**

(1) The Secretary of State shall not give his consent if the result of a ballot arranged under paragraph 3(4) shows that a majority of the tenants of the dwelling-houses to which the application relates who voted in the ballot do not wish the disposal to proceed; but this does not affect his general discretion to refuse consent on grounds relating to whether a disposal has the support of the tenants or on any other ground.

(2) In making his decision the Secretary of State may have regard to any information available to him; and the local authority shall give him such information as to the representations made to them by tenants and others, and other relevant matters, as he may require.

*Guidance***5A -**

(1) The appropriate person must give guidance to local authorities about complying with the requirements of paragraph 3 as to consultation.

(2) The appropriate person must publish guidance given under this paragraph as soon as reasonably practicable after giving it.

(3) Local authorities must, in complying with the requirements of paragraph 3 as to consultation, have regard to the guidance for the time being in force under this paragraph.

(4) The appropriate person may revoke guidance given under this paragraph.

(5) References in this paragraph to giving guidance include references to giving guidance by varying existing guidance.

(6) In this paragraph “the appropriate person” means -

- (a) in relation to England, the Secretary of State, and
- (b) in relation to Wales, the Welsh Ministers.

*Protection of purchasers***6.**

The Secretary of State's consent to a disposal is not invalidated by a failure on his part or that of the local authority to comply with the requirements of this Schedule.

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