BILLET D'ÉTAT

II
2001

WEDNESDAY, 28th FEBRUARY, 2001

STATES HOUSING AUTHORITY

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BILLET D'ÉTAT

TO THE MEMBERS OF THE STATES OF

THE ISLAND OF GUERNSEY

I have the honour to inform you that a Meeting of the States of Deliberation will be held at **THE ROYAL COURT HOUSE, on WEDNESDAY,** the **28th FEBRUARY 2001,** at 10.00 a.m.

(**NB –** Without prejudice to the right of any member of the States to propose a change in the order of business, I propose to take this Billet d'État immediately after any draft legislation for approval and any Committee elections contained in the main February Billet d'État.)

STATES HOUSING AUTHORITY

THE INTRODUCTION OF HOUSING ASSOCIATIONS IN GUERNSEY

The President,
States of Guernsey,
Royal Court House,
St. Peter Port,
Guernsey.

29th December, 2000.

Sir,

The Introduction of Housing Associations in Guernsey

INTRODUCTION

In considering the Island's housing situation, there have been frequent calls for the Authority to promote the development of Housing Associations and Shared Ownership Schemes (also known as "Shared Equity" or "Joint Equity"). The Authority has now investigated these matters in some detail and although there is sometimes a linkage between the two, the Authority considers that it is important that the fundamental principles of Housing Associations and "Shared Ownership" schemes are considered separately.

This letter, which I have the honour to present for the States' consideration, therefore deals only with the Authority's investigations into **Housing Associations, whose prime function is to provide social rented housing. Shared ownership schemes, which extend the range of home ownership options,** are dealt with in a separate report which is submitted concurrently, but to avoid repetition, the background to both investigations is included in this report.

BACKGROUND

Following consideration of a report from the Island Development Committee on the "The Housing Need of the Island" (Billet d'État XIII, July 1989), the States resolved:

> "To direct the States Housing Authority as a matter of priority and in consultation with relevant States Committees, to present to the States detailed proposals with adequate safeguards for the implementation of a Housing Need Strategy."

The Authority responded to this direction by bringing forward a "green paper" discussion document (Billet d'État III, February 1990), in which brief mention was made of "shared ownership". This noted that Shared Ownership would be a novel form of housing tenure in Guernsey and, as such, it was difficult to predict the level of interest that would be shown by persons in housing need.

These remarks were repeated in the Authority's Housing Strategy Report, considered by the States in February 1991 (Billet d'État V), which also included the following specific recommendations approved by the States:

> "(xii) to direct the States Housing Authority to continue its investigations into alternative forms of tenure;
>
> (xiii) to approve the principle that participants in 'shared ownership' schemes, that may in future be approved by the States, should be able to increase their proportion of equity interest up to the maximum 100% ownership."

Even though Shared Ownership Schemes are often thought to be synonymous with Housing Association provision, in neither of the aforementioned reports was mention made of Housing Associations. This is probably because both then as now, there are no Housing Associations operating in Guernsey. (The Sarnia Housing Association provides a very useful service particularly through the provision of emergency accommodation but is **not** a Housing Association in the terms used to define Housing Associations in this report.)

Nevertheless, following acceptance of the Housing Strategy report, preliminary investigations into Housing Associations were carried out by the Housing Authority. This research also included investigations into Shared Ownership Schemes.

In 1993, the Housing Authority concluded that to establish Housing Associations in Guernsey would need a significant injection of States' capital and would require ongoing financial support from the States thereafter. The Authority also believed that the existing method for subsidising house purchase through the Home Loans Scheme made it practically impossible to devise a sufficiently attractive Shared Ownership Scheme.

On 1 October 1998, the States considered the Housing Authority's proposals for the sale of land for residential development at the former Amherst Maternity Hospital and at Bulwer Avenue (part of Housing Target Area 9), subject to conditions designed to place the dwellings constructed in the "affordable" bracket for first- and last-time buyers (Billet d'État XXI, September 1998). During that debate, Conseiller Berry placed an amendment before the States as follows:

> "(i) To instruct the Housing Authority and the Advisory and Finance Committee to produce an equity share scheme or any other scheme which enables moderately priced housing to be offered in Guernsey to persons of moderate or limited income;
>
> (ii) To authorise the Housing Authority to operate such schemes for either Amherst or Grandes Maisons Road/Bulwer Avenue site or any other future States' owned housing site."

This amendment was debated, but subsequently withdrawn with the agreement of the States, when an undertaking was given that the Authority would report back to the States on the various matters which it had raised including, although not specifically mentioned in the amendment, the operation of Housing Associations.

The purpose of this report is, therefore, to comply with that undertaking and to advise the States on:

(i) the structure, operation and regulation of Housing Associations;

(ii) how Housing Associations could work in Guernsey;

while a separate policy letter on Shared or Partial Ownerships reports on:

(iii) the history of Shared Ownership Schemes in the UK;

(iv) how possible Shared Ownership Schemes could work in Guernsey.

The Authority had intended to include detailed reference to these matters as part of its forthcoming comprehensive report to the States on the Island's housing situation and the measures that could be introduced to alleviate the issues and problems identified, but in view of the importance of these matters in their own right, the Authority considered it appropriate to bring forward these reports separately.

The Authority would, however, emphasise that the establishment of Housing Associations and/or Shared Ownership Schemes should be seen as individual elements in a far more wide ranging housing strategy, on which the Authority will bring forward recommendations when the results of the Housing Needs Survey are known.

SUMMARY OF REPORT

In the paragraphs that follow, the Authority demonstrates that for Housing Associations to become established in Guernsey, there will need to be ongoing financial investment by the States; this is likely to be substantial, at least in the initial stages. In addition, at some point there will be a need to introduce a specific legislative and regulatory regime for which there is no precedent locally.

Primarily for these reasons, this report takes the form of a "green paper" describing how Housing Associations operate, outlining the implications of following similar models in Guernsey, and seeking an "in principle" decision that the Authority should promote, facilitate and establish one or more Housing Associations in Guernsey as soon as possible.

In reporting to the States at this juncture, the Authority is of the view that before further detailed investigations are carried out the States must be made aware of the likely funding implications and be asked to give a clear indication that they wish Housing Associations to become an integral part of Guernsey's housing market. Without the commitment of the States, the Authority considers that it would be difficult for the Authority to facilitate the establishment of Housing Associations in Guernsey.

It follows from the above that the Authority is firmly of the view that Housing Associations can make a significant contribution to the provision of social rented housing in Guernsey. The Authority has concluded that Housing Associations can provide more housing, more quickly, and at lower cost, than if the Housing Authority is responsible for meeting the full requirement of additional social rented housing in the Island.

The reasons for this are as follows:

- The boards of Housing Associations are comprised of individuals who are committed to meeting housing needs in the most effective and cost-efficient manner. Typically they include a range of professionals familiar with housing matters who, for no personal gain, give of their expertise freely as a contribution to the local community.

- Housing Associations are non-profit making organisations who invest surplus income into the maintenance of existing properties or the development of new dwellings.

- While Housing Association developments are predominantly grant-funded by government, Housing Associations also borrow from private finance sources: as a consequence, the call on the public purse would be less than if sites were developed using States' capital alone.

- Unlike the Authority, Housing Associations would not be bound by States' procedures in respect of tendering or the approval of capital projects; they could achieve best value by other means and in a shorter timescale.
- Housing Associations would have greater freedom to employ Architects and other professionals of their choice, again potentially speeding up the process of development.

A further advantage is that the day-to-day administration of Housing Association properties would be provided either through the direct employment of professional housing staff or, as in Jersey, by contracting out these services to managing agents. If the Authority were to build substantially more units of accommodation then this would require it to have more staff to oversee the development phases and subsequently to manage the additional properties, almost certainly breaking the Staff Number Limitation Policy.

The Authority also recommends the formation of Housing Associations on the basis of extending housing choice. Currently Islanders' housing choices are very limited, whereas Housing Associations would provide another alternative for those Islanders who are unable to afford to purchase properties. They would also provide an alternative for Islanders who might otherwise have no choice but to be accommodated as States' tenants.

In addition, as explained below, Housing Associations often provide housing for particular groups of tenants; for example, those with special health or social needs, including retirement housing, sheltered housing and other forms of supported living. These groups of individuals are not well catered for in the current housing market and, therefore, there is an opportunity for Housing Associations to use their expertise to meet particular housing needs.

The Authority would, however, stress that Housing Associations do not, as a general rule, provide housing for purchase; their prime function is to provide social rented housing. However, as is explained in the Authority's companion report on partial ownership schemes, Housing Associations are often the vehicle by which shared equity and shared ownership schemes are made available to persons who would otherwise be unable to own their own home.

Finally, the Authority is convinced that Guernsey should seek to establish Housing Associations because it is evident that they have been successful in Jersey in accelerating the programme of house building to meet housing need. Over the past nine years, four Housing Associations have been established in Jersey; of these, Les Vaux Housing Trust currently has 300 properties and, upon completion of its development programme in approximately two years, the Jersey Housing Trust will have over 500 properties under its management. Clearly having four Housing Trusts to supplement the Jersey Housing Committee's own building programme means more houses can be provided in a shorter period of time than if the Jersey Housing Committee was solely responsible for the provision of Jersey's social rented housing.[1]

For all the above reasons, the Authority concludes that the States must take the bold decision to support the establishment of Housing Associations in Guernsey. This report, therefore, ensures that the States has sufficient facts and background information to make that decision, and outlines the further steps that will need to be taken to bring that decision into effect.

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1 The Jersey experience of Housing Trusts is detailed in Appendix 5 to this report.

HOUSING ASSOCIATIONS IN THE UK

Background and history

Housing Associations are primarily non-profit making bodies run by voluntary committees. In Appendix 1, the Authority sets out the detailed research that has been undertaken into the background and history of Housing Associations, particularly in the United Kingdom, where they are major providers of social rented housing.

In the United Kingdom, Housing Associations receive financial support both from Local Authorities and from central government; in the latter case through funding from the Housing Corporation, which is a non-governmental body sponsored by the Department of Environment, Transport and the Regions. Housing Associations also have to be registered with the Corporation and comply with its regulations.

Appendix 1, therefore, also sets out the important role played by the Housing Corporation both in regulation and funding.

In Guernsey, it is likely that the roles played by the Housing Corporation and Local Authorities would all have to be performed by the States of Guernsey, acting via the Housing Authority.

Housing Association and Social Landlord Finance - including Private Finance Initiatives

Appendix 2 sets out the finance issues and financing arrangements, through the Housing Corporation, which have been commonplace over recent years. In summary, Housing Associations bid for grant funding from the Housing Corporation to cover a proportion of capital and revenue costs for specific social housing projects, with the remainder being raised through borrowing from financial institutions and/or from the Housing Association's reserves. Part of the grant funding may include the provision of "free" land in the ownership of the Local Authority.

Disposal of Local Authority Property to Housing Associations

UK Local Authorities may assist Housing Associations by transferring property to them. This property can either be untenanted (to enable an Association to develop its own scheme) or tenanted (so that an Association takes over the Local Authority's existing housing stock). Government policy is to encourage the transfer of tenanted stock from Local Authorities to Housing Associations.

These arrangements are set out in full in Appendix 3.

However at this point it is important to note that the wholesale transfer of stock to Housing Associations is seen as a useful means of creating an asset base against which the Association can secure private funding.

It is also a means by which the Local Authority may raise capital and transfer responsibility for the ongoing costs of maintaining its social housing stock.

Housing Associations' Tenure and Tenants' Rights

These matters are set out in detail in Appendix 4.

The Authority's conclusion is that if Housing Associations were introduced in Guernsey, there is no reason why their tenants should have less security of tenure than Housing Authority tenants. There may even be a case for ensuring that they have greater security.

HOUSING ASSOCIATIONS -– THE JERSEY EXPERIENCE

In addition to carrying out research into Housing Associations in the United Kingdom, the Authority has consulted the Jersey Housing Committee, which has assisted in the formation of Housing Associations or Trusts in Jersey. The Authority is grateful to the Committee for its permission to include, as Appendix 5, a resume of the Jersey experience prepared by the Jersey Housing Committee's Chief Officer, which covers all the issues relevant to the establishment of Housing Associations in Guernsey.

In particular, while the numbers on the Authority's waiting list are considerably smaller, the following quotation from that appendix has relevance to the current situation in Guernsey:

> "In 1990, the States rental waiting list stood at over 900 and the annual capital request by the Committee to fund new-build projects was over £20M. It was evident that States capital funds were not going to be available to match the Committee's requests, not only for 1991, but for several years to come. A fresh approach was needed and, from this situation, an alternative method was devised to provide secure, affordable accommodation to rent, using a combination of interest subsidies to Housing Associations, private sector funding and an improved version of the Private Sector Rent Rebate Scheme."

The Authority has reached similar conclusions and considers that the manner in which Housing Trusts have been established and funded in Jersey provides a successful model that is capable of being followed in Guernsey.

Indeed, it is particularly interesting to note that, to date, four Housing Trusts have been established and have operated successfully under existing trust law and without a specific "Housing Association Law". However, in view of the current extent of involvement with trusts, the Jersey Committee is now considering the introduction of specific regulatory legislation, which will be of considerable assistance to the Authority in providing a model legislative framework in Guernsey's similar jurisdiction. In the short term the initial use of existing trust legislation as the element of control in the establishment of a Housing Association is something which the Authority is currently investigating.

PRICEWATERHOUSECOOPERS – REPORT ON FINANCING THE PROVISION OF SOCIAL RENTED HOUSING IN JERSEY

In 1998, PriceWaterhouseCoopers produced a report on financing for the provision of social rented housing in Jersey. The report is very complex and it is unreasonable to attempt to use it as a basis for decisions regarding the introduction of Housing Associations in Guernsey.

Nevertheless, the report does raise some interesting points and suggests that there could be merit in commissioning a similar expert report for Guernsey.

The States of Jersey had identified a need for an additional 900 rented dwellings over a four year period. It was evident that, due to financial and manpower limitations, the dwellings could not be provided as States' houses. The report by PriceWaterhouseCoopers looked at how the dwellings could be provided by a Housing Association or Trust.

After reviewing capital and revenue subsidy options the report favoured the former, but considered that the only practical means of providing a sufficient grant to subsidise the major programme of house building envisaged, was by means of a large scale transfer of States housing stock to Associations or Trusts.

The Jersey Housing Committee decided that it was inappropriate to transfer housing stock to provide the equivalent of a capital grant and has, therefore, decided to opt to continue with a simple interest subsidy as the principal form of assistance, although a capital grant may be needed in some instances to cover exceptional development costs.

Fuller detail on the PriceWaterhouseCoopers report is included in Appendix 6.

FINANCIAL ISSUES - A GUERNSEY PERSPECTIVE

The PriceWaterhouseCoopers report refers to developments and funding on a scale that is difficult to contemplate for Guernsey. Nevertheless, the clearest message is that the cost of funding new construction through Housing Associations in Guernsey will require a significant financial commitment from the States.

The degree to which this investment would be ongoing would depend upon the nature of that investment, the related funding mechanisms put in place, and the success of an Association in securing sources of private finance. The number of units in the possession of an Association is likely to have significant influence on these factors.

The objective in establishing a Housing Association is to ensure that the various elements of the financial model enable the Association to operate to create a surplus to clear borrowing in a reasonable period of time (ie before further major borrowing becomes necessary) while still providing accommodation at affordable levels, ie at reasonable rent levels.

FINANCIAL MODELS

The Authority has considered a number of financial models for Housing Associations which have been prepared based on a model for financing Housing Associations obtained from the Royal Bank of Scotland - a major lender of finance to U K Housing Associations - and information from the States of Jersey on its method of funding Housing Trusts. These two sources of information have been adapted to reflect the Guernsey situation.

Three forms of financial assistance have been examined as follows:

- Capital Grant;
- Interest Subsidy; and
- A combination of capital grant and interest subsidy.

"Normal" management costs were included and allowance was made for inflation over a 25 year period which is the normal period for repayment of any commercial borrowing.

The management costs also allowed for an amount to be set aside to build a "Sinking Fund" to contribute to the costs of major repair and refurbishment works in the long term. In the U K it is common for the Sinking Fund to receive, from rent payments, an amount calculated at 0.8% of the construction cost. The Sinking Fund provision may be deferred for the first five years when the Association's financial position is likely to be most critical. Thereafter the amount transferred to the Sinking Fund has been calculated with a 2% inflation rate. It is, however, stressed that these allowances are for financial modelling only; the Association is free to decide to set aside a larger or smaller amount based on its individual assessment of the likely requirement.

It should also be noted that the Sinking Fund is not to be regarded as a self-financing means of protecting against the need for additional borrowing in the long-term, but simply as a means of limiting additional borrowing to the bare minimum.

When the initial loan has been fully repaid (usually after 25 years), the Association will enjoy a substantial surplus from rental income to cover further borrowing.

It is interesting to note that in financial models based on yardsticks set down by the Housing Corporation in the U K, the allowance for management costs (including voids[2], administration, routine maintenance and allocation to the Sinking Fund) is set at approximately 33% of the gross rental income.

However, in Jersey the allowance for these costs is calculated at 20% of gross rental income.

Therefore, for illustrative purposes, the Authority has examined financial models incorporating costs at both 33% and 20%, although it has no reason to believe that any greater costs should be experienced in Guernsey than in Jersey.

The financial models had other variables. For example, some allowed for rents at £120 per week, while others set rents at £95 per week. All assume that the Association’s borrowing will be subject to an interest rate of 7.5% throughout a 25 year period.

COMMENTS ON THE VARIOUS MODELS

Both the capital grant models and interest subsidy models have their merits.

The capital grant model has the benefit that the States will know the limit of their contribution from day one - but that contribution has also to be paid at the outset (or at least in the construction period).

The interest subsidy model has the advantage that it enables the States to spread its financial commitment over several years. Furthermore, there is a degree to which the States can modify its assistance as time goes by. It is understood that it is customary for the commitment to be made in 5 year stages. Thus at the end of any five year period the Authority, on behalf of the States, could review and modify the rate at which interest support is provided or, in the extreme, it could be decided that the scheme no longer needed or warranted financial support.

However, it can also be argued that the level of commitment is not completely within the States’ control. Any increase in interest rates, beyond the arbitrary 7.5% allowed, would be a direct cost to the States. Conversely, of course, if interest rates reduce below 7.5% the cost to the States would decrease.

The capital grant model leaves the Association to bear the cost or to gain the benefits of any variation in interest rates, and the Association could be vulnerable (or need to increase rents) if interest rates increased substantially.

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2 Voids means rent lost due to vacant dwellings.

On the other hand, the capital grant model enables the Association to accumulate greater surpluses over the commercial borrowing period.

The level of grant is established principally to make the Association viable in the early, high cost, years. However, in view of the Association's accumulated surpluses, it might be argued that the States' contribution should be recoverable, but this overlooks the fact that the Association can only use surpluses to fund housing projects. The Association cannot distribute any profits, and so potentially its surpluses could reduce its dependency on States' assistance for future projects.

Nevertheless, as in Jersey, it seems likely that the payment of a revenue interest subsidy rather than a capital grant would be more palatable to the States as the revenue budget could more readily be adjusted on an annual basis to pay the interest subsidy.

The alternative of a capital grant would require provision to be made either in the States Capital Programme or through the establishment of special funding.

If Housing Associations seek funding for several or larger projects, then a larger amount of capital would need to be provided upfront and the revenue subsidy option would then appear even more preferable from a budgetary point of view.

While it appears to the Authority that an interest subsidy arrangement is preferable to a capital grant, it is possible to mix the two forms of assistance, ie a smaller capital grant combined with a lesser interest subsidy.

This method reduces the amount of capital funding which the States contributes but also benefits from the degree of control that is inherent in the interest subsidy scheme.

Furthermore, it should be noted that, even if interest subsidy is the preferred model, there are likely to be some building schemes that will require both forms of assistance. For example, the Authority understands that it is customary for there to be a capital grant in addition to interest subsidy in cases where there are exceptional development costs.

FINANCIAL MODELS: CONCLUSIONS

It would be inappropriate for the Authority to make a firm recommendation on which financial model should be used to support a Guernsey Housing Association on the basis of an initial analysis of their application to a theoretical development.

Whichever model is chosen, a Housing Association will require substantial assistance from the States until it is well established. The capital subsidy method could require the States to provide up to 75% of the capital cost whereas the interest subsidy method would require ongoing support for a number of years.

The Authority will, therefore, recommend the States to agree the principle of supporting Housing Association projects, but leave a recommendation on the form of financial assistance for decision at a later date after further investigations have been carried out. Alternatively, the Authority may consider that the form of financial assistance should be decided on a case by case basis, recognising that development costs will vary from site to site.

SHARED OWNERSHIP

Each of the models examined assumed that all the dwellings would be retained in the full ownership of the Housing Association. However, there is no reason in principle why the Association should not enter into joint ownership arrangements with occupants.

It is probably undesirable that the full equity of any dwelling should be sold for reasons set out elsewhere in this report, but if, for example the Association sold say 50% of the equity that would:

(a) enable some reduction in the loan debt and consequently vary the financial model;

(b) give the occupant a foot on the home ownership ladder perhaps simplifying his eventual move into full home ownership; and

(c) enable the Association to retain overall control so that the dwelling remains in the social housing category.

The full sale of any stock could, however, delay the growth of the Association which should aim to hold a sufficient stock to become relatively self-sufficient financially.

HOUSING ASSOCIATION RENTS

By specific agreement the Jersey Housing Trust sets rents at the same level as States House Rents[3], which are substantially higher than in Guernsey. However, in Jersey, there is a Private Sector Rent Rebate Scheme which is available to tenants of Housing Association Schemes.

In Guernsey Rent Rebates currently only apply to States Houses. Private sector tenants receive no assistance with rental costs, unless they qualify for the payment of Supplementary Benefit.

In the absence of any private sector rent rebate scheme or Housing Benefit[4], it is likely that the creation of Housing Association rented housing could require the States to decide that the current Rent Rebate Scheme should be extended at least to those dwellings covered by Housing Authority nominations[5].

However, there are further differences between the schemes, in that the Jersey Private Sector Rebate Scheme represents a cost to the States, whereas the current Rent Rebate Scheme in Guernsey for States House tenants represents a loss of income. Therefore, if the current Rent Rebate Scheme was extended to Association tenants, it would involve payment by the States rather than the current foregoing of income.

Extending the current Rent Rebate Scheme to cover dwellings owned by a Housing Association yet leased to Housing Authority nominated tenants could also lead to further stratification of the housing market as follows:

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3 Housing Associations in the U K set rents at a level higher than Local Authority rents.

4 Housing Benefit – for which there is no Guernsey equivalent – is a social welfare benefit that helps to ensure that households in Great Britain are able to pay the rent for their homes. It enables people on low incomes to afford reasonable accommodation and is paid taking into account the marked variations in rent levels across the different parts of the country.

5 Where Government funding is involved it is commonplace for the Government to have tenancy nomination rights. For example, in Jersey, 80% of the units are available for Housing Committee nominations.

- States House tenants are charged less than market rents and would receive rebates under the current Rent Rebate Scheme;

- Those Housing Association tenants nominated by the Housing Authority could possibly be charged less than market rents and could receive rebates under the Rent Rebate Scheme;

- Other Housing Association tenants (i.e. not nominated by the Authority) could possibly be charged less than market rents but not be eligible to receive a rent rebate;

- Private sector tenants would be charged market rents and not receive any rebate on that rent under the current scheme.

The Authority will, therefore, bear these points in mind in its further investigations into Housing Associations. It will also take them into consideration in its general investigations into the introduction of a Housing Allowance or Housing Benefit, arising from the States' acceptance of the Social Policy Working Group's report on measures that may, either individually or collectively, address relative poverty experienced by low income households (Billet d'État XII, 2000).

HOUSING ASSOCIATIONS IN GUERNSEY: CONCLUSIONS

As noted above, in the UK, Housing Associations - not Local Authorities - provide the majority of social housing. They are subject to extensive regulation from the Housing Corporation and receive considerable funding by way of grants to ensure that the accommodation provided is affordable and remains in the social housing sector.

This report and its appendices only consider the main issues regarding Housing Associations; namely, regulation and financing. Other issues such as winding up, diversification, or specific tenures, have not been considered.

Nevertheless, from the research carried out to compile this report, it appears that establishing a legislative and regulatory framework is a key issue. Housing Associations and the regulatory role of the Housing Corporation have evolved over many years in the UK and are subject to numerous sections of various Housing and Planning Acts. Guernsey does not have similar legislation, in particular there is no equivalent to the UK Housing Act.

Consequently, specific legislation to regulate Housing Associations would be required eventually but the Authority is investigating whether, in the short term: (i) existing trust legislation could be utilised to set up associations; and (ii) other controls could be provided through covenants or contractual agreements, as has been the case in Jersey.

Furthermore, if the Housing Authority was to undertake the regulatory role implicit in the establishment of Housing Associations, this might have staffing and other resource implications for the Authority and could result in a breach of the Staff Number Limitation Policy.

However, the major issue facing Guernsey, should it wish Housing Associations to be established, is the financing of such schemes.

At this stage it is impossible to predict the extent to which the States would be required to provide financial assistance in respect of Housing Associations, but examples quoted earlier in this report indicate that the level of States' funding would have to be high - the actual levels of funding would depend on the number of Housing Association dwellings to be provided and the funding arrangements to be agreed. Further research will, therefore, be necessary to measure the comparative effect on States' finances of assisting Housing Associations or continuing with direct States' development and management of housing.

However, before predicting the level of States' financial commitment and considering how this commitment could be funded, it would be necessary to establish the volume of housing which it is desirable to provide through Housing Associations. Research has shown that for an Association to be self-sufficient in terms of administration, and to provide a firm base so that government funding can be reduced, it needs to hold a stock of around 500 dwellings. Unless there was some element of stock transfer from the Authority to an Association, it could take several years for a new Association to reach this level.

The requirement for grant funding from the States should, however, reduce for established Associations once they have a sufficient asset base to secure a higher proportion of private sector finance for their developments. On the other hand, should new Associations continue to be set up, the States could be required to commit to a schedule of grant funding on a long-term basis. The States might, therefore, have to decide whether the volume of social housing in Guernsey could only support one Housing Association.

SUMMARY OF KEY POINTS

Prior to finalising this report the Authority had detailed discussions with the Jersey Housing Committee and an active Housing Association in the United Kingdom. A number of key questions were asked and the following points confirmed:

- An Association needs to build up a property portfolio in order to become viable;
- There will be no real benefit if an Association acts as a developer and simply sells on its housing stock;
- The principal benefit of an Association will be to provide social rented housing;
- Shared equity sales of a small proportion of the stock would be acceptable;
- In the early stages Guernsey should concentrate its support for one Housing Association so that it achieves a strong viable position through building up an adequate housing stock. However, other Associations, particularly those that may have a particular target area such as special needs, should not be discouraged.
- Several small Associations would be likely to require ongoing financial support for longer than one Association with an adequate housing portfolio;
- Specific regulatory legislation may not be needed in order to establish a programme of housing provision through Housing Associations with States' support, if use of trust laws coupled with covenants and or contractual agreements is possible (as in Jersey);
- There could be merit in seeking to attract an existing Association from outside Guernsey to provide expertise either on a consultancy basis or through the establishment of a local subsidiary;
- The appointment of trustees or board members with relevant professional expertise, enthusiasm and drive, would be crucial.

"SEALED CELL HOUSING ASSOCIATION" WITHIN THE HOUSING AUTHORITY

It has been suggested that, as an alternative to creating an independent Housing Association, the Housing Authority should consider the creation of a "sealed cell housing association" within its current structure, particularly if there was an initial difficulty in attracting persons to act as trustees or Board members for a fully independent Housing Association.

In considering this proposal, it is appropriate to repeat what the Authority sees as the principal advantages in establishing an independent Housing Association, which are the following:

1. Relieving the States of a substantial proportion of the cost of providing social rented housing;

2. Relieving the States of the cost of administering and maintaining part of the social rented housing stock; and

3. Creating an additional tier in the housing market which can provide rented accommodation for groups of people who are currently not catered for under States' housing policies.

A "sealed cell housing association" within the Authority could operate in either of the following ways:

- Option A - The Authority could completely change its method of operation so that the whole of its housing stock, together with the related administration, and all its future developments could be managed in a manner akin to a Housing Association; or

- Option B - It could arrange funding for future developments of social rented housing through "housing association" style borrowing, rather than through capital allocations granted by the States.

Neither option is favoured by the Authority.

Option A would effectively be the "commercialisation" of States' housing for little obvious gain, other than to relieve the States of the need to provide all the capital before development commences. Option B would stop short of full "commercialisation" but would result in the Authority managing two forms of "social housing", with different funding arrangements.

Although, under either option, there would be some initial benefit if the funding of future social housing developments, and the expansion of the social rented housing stock, was provided through commercial borrowing, the Authority considers that benefit to be inferior to the benefits which can be gained by the establishment of an independent Housing Association.

For example, existing and prospective tenants would be deprived of the choice to be housed either by the States or by an independent Housing Association which, in time, might adopt different policies and cater for different groups of people in housing need.

Furthermore, a "sealed cell association" would not create an additional tier of housing, because there is little doubt that the general perception would be that any housing administered by the Authority would, or should, be subject to the rules applicable to the existing States' housing stock.

However, one of the main drawbacks of a "sealed cell" operation is financial. Even if the Authority used commercial borrowing to finance additional house construction, the States would end up having to pay the whole cost. That is, the States would pay the full amount of interest charged on the whole of the borrowing **and** eventually would have to repay the full amount borrowed.

Although such borrowing would free the States from funding the whole cost of the development upfront, it is clear that the States would have to finance the whole cost of the development in the long term. Furthermore it would have to maintain the stock in the long term.

In the case of an independent Housing Association, while the States may have to pay a capital grant upfront and provide some interest subsidy, the States will be meeting only a proportion of these costs **not** the full cost.

In addition, the Authority will not have to meet administration costs nor fund the maintenance (or long term replacement) of the dwellings. For example, Housing Trusts in Jersey administer their housing stock using agents. Therefore, all administration and maintenance services are directly contracted out and the Jersey Housing Committee does not provide them with any administrative support[6].

While the Authority does not, therefore, dismiss the idea of a "sealed cell housing association" within the Authority, it would only give the matter further consideration if it proves impossible to establish an independent Housing Association. However, if the States agree to the principles set out in this report, the Authority is confident that appropriately qualified and experienced individuals can be attracted to form an independent Housing Association.

CONCLUSIONS

For the reasons outlined earlier in this report, the Authority has concluded that the establishment of Housing Associations on the Island would, in the medium- to long-term, increase the social housing stock to the overall benefit of the community. This would enable the Authority and Association(s) to share the burden of provision and management of social rented housing, at a lower cost to the States, and allow the Authority to concentrate on those persons with most modest means. At the same time it will provide Islanders with a greater choice in the selection of affordable housing.

Consequently, in the light of the above, the Authority strongly recommends that the States makes an "in principle" decision to support the establishment of one or more Housing Associations in Guernsey, and directs the Authority to undertake further research into the funding, administrative and regulatory mechanisms required, and to report back to the States with those further details as soon as possible.

However, in order for the financial elements of such a report to be meaningful, they should be linked to an agreed programme of social housing provision over the next five years. Ideally, therefore, these elements of the report should be linked to the results of the Housing Needs Survey currently being undertaken. However, the Authority gives an assurance that this will not delay investigations into the regulatory requirements which are already in progress with bodies such as the Housing Corporation and UK Housing Associations; the Jersey Housing Committee; and the Law Officers.

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6 Trusts in Jersey have relatively small housing stocks which means that it is not financially viable to have dedicated staff i.e. the revenue and income stream cannot support direct employees of the Trust or additional premises.

The Jersey Housing Committee expects that Trusts will begin to appoint staff when their property portfolio reaches approximately 500 units. Until such time, the Chairman, and often other Trustees, will carry out administrative duties as well as their Trustees duties i.e the Chairman often acts as both Chair and Chief Executive.

RECOMMENDATIONS

The States is recommended:

(i) to agree to the principle of the establishment of Housing Associations in Guernsey;

(ii) to direct the Housing Authority to continue to undertake further research into the establishment of Housing Associations and to report back to the States with further details, including the following:

(a) whether an association or trust could be established and regulated under existing legislation or whether new regulatory legislation would be a prerequisite;

(b) the funding implications of providing a substantial amount of social housing through Housing Associations over the next five to ten years;

(c) whether or not there would be a need to transfer some States' houses to an Association to assist its growth and funding;

(d) the comparative effects on States' Capital and Revenue expenditure of providing a specified amount of social housing through Housing Associations or through direct States' provision and management.

I have the honour to request that you will be good to place this matter before the States with appropriate propositions.

I am, Sir,
Your obedient Servant,
J. E. LANGLOIS,
President,
States Housing Authority.

APPENDIX 1

HOUSING ASSOCIATIONS IN THE UK

Background and History

In the UK, Housing Associations, also known as "Registered Social Landlords" (RSLs), provide "social housing"[7] and are primarily non-profit making bodies run by voluntary committees. They are major providers of homes for people in housing need, who generally renovate existing properties (often transferred from Local Authority ownership) or build new homes, primarily for rent.

The term Housing Association is not protected by law; anyone can call themselves a Housing Association, but any legal consequences would be determined by their activities.

Government funding is provided through the Housing Corporation. The Housing Corporation is a non-departmental public body, sponsored by the Department of Environment, Transport and the Regions. Its role is to fund and regulate RSLs in England (see below).

Housing Associations are a diverse group of bodies ranging from Alms Houses to very large RSLs with thousands of homes in their management.

A Housing Association can also take the form of a Charitable Trust. In order to qualify for Housing Corporation registration, a Trust must be registered with the Charity Commissioners. A Trust is more appropriate where a capital sum has been endowed for charitable purposes. Setting up a Trust is less appropriate for an enterprise that is dependent upon many forms of funding and where the purposes of the enterprise are likely to change.

Definitions

The term "Housing Association" first appeared in the Housing Act 1935.

The 1985 Housing Association Act defines Housing Associations and Trusts as follows:

> "Housing Association means a society, body of trustees or company:
>
> a) which is established for the purpose of, or amongst whose objects or powers are included those of providing, constructing, improving or managing, or facilitating or encouraging the construction or improvement of, housing accommodation; and
>
> b) which does not trade for profit or whose constitution or rules prohibit the issue of capital with interest or dividend exceeding such rate as may be prescribed by the Treasury, whether with or without differentiation as between share and loan capital.

Housing Trust means a corporation or body of persons which:

> a) is required by the terms of its constituent instrument to use the whole of its funds, including any surplus which may arise from its operations, for the purpose of providing housing accommodation, or
>
> b) is required by the terms of its constituent instrument to devote the whole, or substantially the whole, of its funds to charitable purposes and in fact uses the whole or substantially the whole, of its funds for the purpose of providing housing accommodation."

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[7] The Housing Corporation's definition of "social housing" is as follows:

> "Homes for letting (except tied accommodation), and associated amenities and services, for people whose personal circumstances make it difficult for them to meet their housing needs in the open market."

Historical origins

The concept of charitable/social housing dates back as far as the 12th Century (Alms Houses) when accommodation was provided for the dependants of wealthy landowners and churches/colleges. Alms Houses still exist and are operated by Alms House Trusts, often with the aid of public money, as a distinctive kind of Housing Association. There are currently around 25,000 Alms Houses in the UK, usually in groups of 10 dwellings.

From the middle of the 19th Century until the First World War many charitable bodies were endowed by philanthropic industrialists to provide housing for people on low incomes (labouring classes). The spirit of these charitable bodies can be seen in the following quotation from the trust deed of the Joseph Rowntree Village Trust (1904) where the donor expressed his desire to alleviate:

> "the evils which arise from unsanitary and insufficient housing accommodation available for large numbers of the working classes and to secure to workers and persons of limited means in cities and towns the advantages of outdoor village life."
>
> *Housing Associations and the Law of Social Landlords, J. Alder & C. Handley, (1997).*

Prior to the Housing and Town Planning Act 1909, public subsidy was not available for housing purposes, although loans were made by the Public Works Commissioners (Labouring Classes Dwellings Act 1866). From 1830 onwards, when the Society for the Improvement of the Labouring Classes was formed, housing was provided with rents set at less than cost for the urban working classes by attracting investment from private sources at a low rate of return.

Co-operative Housing Associations were inspired by the ideas of Robert Owen (1771-1858) and were based on the principles of self help and mutuality. Unlike other Housing Associations, the occupiers of Co-operative dwellings form the membership of their Association and, in theory, manage their affairs along democratic lines. Co-operative housing has never played a major role in the provision of social housing in Britain, but is considerably more important in European countries.

The notion of Housing Associations was introduced by the Housing Act 1935. This Act extended public finance to all Housing Associations and provided for joint central and local government schemes for the provision or improvement of Housing Association dwellings. However, powers contained in the Act were limited to dwellings for the working classes. The 1935 Act also provided official recognition and government finance for the then National Federation of Housing Associations.

The Housing Act 1974 introduced a complete new system of grants to Housing Associations which increased the potential of the voluntary housing movement. The same Act conferred powers on to the Housing Corporation (created in 1964 and given the power to make loans to "housing societies") to supervise and control Housing Associations.

The 1974 Act represented a watershed in the history of the voluntary housing movement. Developments since have involved an increase in the powers of the Housing Corporation and an increased subjection of Housing Associations to central political policies. This has been coupled with a general decrease in support for Local Authority housing and an increased emphasis on private sector funding and market principles. Apart from special provisions regarding preserved rights, the Housing Corporation's funding and supervisory powers extend only to registered Housing Associations.

The Housing Act 1966 introduced provisions regulating the allocation of housing by Local Authorities and, as a result of this, approximately 40% of all Housing Association tenants are nominated by Local Authorities.

The Housing Corporation exercises considerable influence over Housing Associations and, as such, a significant part of this report is devoted to describing the Corporation and its powers.

THE HOUSING CORPORATION

Introduction

The Housing Corporation was created by the Housing Act in 1964. Its original function was to promote the development of co-ownership and cost rent societies through the provision of mortgage loans. These mortgage loans were a relatively small "pump-priming" operation which resulted in the provision of 38,000 units of accommodation.

The 1974 Housing Act extended the powers and responsibilities of the Housing Corporation by requiring the Corporation to promote, finance and supervise the voluntary housing movement following the introduction of a range of regulatory powers to enable it to do so. The 1988 Housing Act extended these powers to include regulation of Local Authorities as well as solely Housing Associations.

The 1996 Housing Act further consolidated and strengthened the Housing Corporation's regulatory powers but significantly reduced its promotional powers, except in relation to unregistered self-build societies.

The Housing Corporation's role in Central Government

The Housing Corporation could be seen as a constitutional anomaly as it is not formally part of the UK Government; however, it has wide discretionary powers to interfere with the rights of individuals. It has a peculiar mix of functions i.e. it acts as promoter, banker, policeman, judge and executioner and contradicts the normally accepted principle of the separation of powers (see below).

Housing Corporation decisions are not generally subject to the right of appeal and the Corporation has no general statutory duty to publicise its policies, consult interested parties or give reasons for its decisions. The Corporation is subject to the ordinary law of judicial review, but in the absence of reliance upon established practice, or a specific undertaking, this does not require prior consultation in relation to the formation or alteration of policy nor the giving of reasons.

The majority of the Housing Corporation's powers are in a general discretionary form with little statutory guidance as to the range of factors that the Corporation should take into account. The Corporation's general principles, policies and rules can only be established by looking at the entire range of relevant literature, including Corporation circulars, annual reports and circulars issued by the Department of the Environment (now known as the Department of the Environment, Transport and the Regions).

The Housing Corporation is subject to a limited amount of Parliamentary scrutiny in that the Secretary of State must lay its annual reports and accounts before Parliament and its accounts are subject to normal Parliamentary supervision. Nevertheless, the Corporation is not a Government servant, or agent, and, therefore, Ministers are not directly responsible for its activities. The Corporation exercises most powers in its own right, while others are exercised as an agent or delegate of the Secretary of State.

The Housing Corporation's liability is the same as a public body exercising statutory functions and it can be sued just like any private individual. (The Corporation becomes liable if it acts in excess or abuse of power measured by a public law standard. The Corporation is **not** answerable for the negligence of its client Housing Associations.)

The Powers of the Housing Corporation

The powers and duties of the Housing Corporation derive from the Housing Associations Act 1985. These are classified as follows:

1. Promotional and advisory functions;

   Before the 1996 Housing Act, the Corporation had a duty to promote and assist registered Housing Associations and un-registered self-build societies. This duty only now applies to un-registered self-build societies[8].

   The Corporation's general power to "facilitate the proper performance of the functions of Registered Social Landlords" is wide enough to include advisory functions.

2. Registering social landlords;

3. Providing loans or channelling grants to Registered Social Landlords and unregistered self-build societies.

4. Regulating Registered Social Landlords;

5. Providing housing itself (a function which has not been exercised on any significant scale).

The Housing Corporation Board has three committees: a Programme Committee concerned with grant rates and the drawing up of the Approved Development Programme; a Registration and Supervision Committee; and a Finance and Audit Committee.

Day to day activities are carried out in eight regional offices, each divided into investment, regulation and supervision divisions. General support services are located centrally along with the Tenants' Ombudsman Service and the registration function. Central Office also deals with Housing Associations in difficulties. The Corporation has approximately 700 full-time staff.

Advisory and Promotional Functions

The Housing Corporation's functions are as follows:

- to facilitate the proper performance of the functions of RSLs;
- to promote and assist the development of self-build societies (other than RSLs) and to publicise the aims and principles of such societies. The Corporation can, therefore, provide advisory training and research services to registered associations but cannot publicise or promote their interests beyond what is reasonably incidental or conducive to the proper performance of their functions.

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8 A self-build society has as its sole objective the provision of dwellings for sale to, or occupation by, its members which must have been built or improved "principally" with the members' own labour.

Under the Housing Associations Act 1985 the Corporation has the power to give financial assistance to any person to facilitate the proper functions of RSLs or co-operative Housing Associations.

The Corporation can also provide an advisory service relating to legal, architectural and other technical matters. This advice is not solely confined to registered Housing Associations, but extends to any Housing Association and any person who is forming an Association or interested in the possibility of doing so. The Corporation exercises its advisory powers mainly in connection with special initiatives i.e tenant participation, care in the community, and training programmes.

Registration

According to the 1985 Housing Associations Act, a register of Housing Associations shall be maintained by the Housing Corporation. This register has to be open to inspection at the head office of the Corporation at all reasonable times.

A Housing Association is eligible for registration if it is:

a) a registered charity; or

b) a society registered under the 1965 Housing Act which fulfils the following conditions:

   the Association does not trade for profit and is established for the purpose of, or has among its objects and powers, the provision, construction, improvement or management of:

   ❍ houses to be kept available for letting;

   ❍ houses for occupation by members of the Association - where the Association restricts membership;

   ❍ hostels.

In 1993, the Housing Corporation revised its registration criteria with emphasis being placed on the following four key matters in addition to those outlined above:

- the Association must be subject to effective and experienced internal controls and must be independent of other bodies;
- the Association must have a sound financial basis and its financial affairs must be adequately controlled and accounted;
- the social role of the Association and the scope of its activities are subject to Corporation examination. Evidence of specific un-met housing need must be shown and the Corporation looks for “diversity of social ownership and mixed tenure in new development areas”;
- registered Associations are required to undertake to comply with the Housing Corporation’s requirements regarding management, maintenance and the treatment of tenants.

In addition, any registered Associations must have equal opportunity policies in place.

Regulatory Functions

The regulatory powers of the Housing Corporation under the Housing Associations Act 1985 are as follows:

- powers relating to the development of scheme-work (i.e. investigations into the capacity of associations to obtain private finance, general performance and its use of public money);
- general regulation of management.

The Housing Corporation has wide ranging powers to regulate the activities and management of Housing Associations. The main aims of these powers are to facilitate the proper performance of the functions of a RSL and to maintain a register of RSLs.

The 1996 Housing Act extended the Corporation's regulatory powers. Other than its statutory powers, the Housing Corporation can exercise its influence backed (albeit informally) by its general funding powers and its power to consent to important transactions i.e. with regard to the creation of charges. The Corporation can, therefore, cut off a Housing Association's access to private funding[9].

The specific statutory powers of the Housing Corporation are as follows:

- to hold inquiries into misconduct or mismanagement and to impose sanctions including the removal of personnel and the transfer of land;
- various powers to consent and give directions in respect of important transactions i.e. disposal of land, voluntary winding up, changes of rules, amalgamations and reconstructions. (Therefore, the Corporation assumes the role of "owner".)

The Corporation's powers are supported by wide ranging powers to require information.

9. However, whilst researching this report it has not been possible to establish whether the Housing Corporation does, or has ever, cut off an Association's access to private funding. It appears that the Corporation would be more likely to step in and assist a struggling Association or transfer assets to another Association rather than cut off a funding supply.

APPENDIX 2

FINANCIAL ISSUES

Housing Association and Social Landlord Finance – including Private Finance Initiatives

The 1988 Housing Act introduced a financial framework that required Housing Associations to raise funding from the private sector to supplement public subsidy.

Prior to this, Housing Associations received grant and loan funding from the Housing Corporation to meet the costs of new housing projects and/or improvement and redevelopment schemes. For some Associations, grant funding could be equal to 100% of a project's total capital costs and, if the costs increased whilst under development, the grant system met any extra expenditure. Housing Associations were also eligible for deficit grants for revenue losses. Therefore, there was little by way of incentive to reduce costs and increase efficiency.

The 1988 Act revolutionised the financial regime for Associations by requiring the input of private finance, thus passing some of the risk on to the Associations.

Housing Association Grant (HAG) is payable in order to meet predetermined costs of housing activities. Section 50 of the 1988 Housing Act states that the Housing Corporation may pay HAG to registered Housing Associations in respect of expenditure incurred, or to be incurred by them, in connection with housing activities.

HAG was re-defined by the 1988 Act to apply not only to housing projects but to cover "housing activities" and no longer met residual costs. The amount of HAG funding is fixed at the time the subsidy is agreed.

Mixed Funding (i.e. the funding of developments through a mix of Government grants and private finance), part of the Government's Private Finance Initiative, has been highly successful and has enabled Associations' Annual Development Programmes (ADP) to grow whilst saving expenditure from the public purse. The funding of social housing is seen as one of the most successful programmes in the Private Finance Initiative.

Following the introduction of the 1988 Housing Act, grant funding reduced from 75% of total scheme costs to as low as 40-45% in some regions. Competition, increased rents, low interest rates and government policy have had the combined effect of driving down the average grant rate.

During the period 1991-1997, £6 billion was borrowed by Housing Associations from the private sector. At the end of 1997, it was predicted that an additional £7 billion of private sector funding would be required to deliver the proposed development programme up to the year 2000. The record regarding private sector funding is remarkable, in that no lender has lost money to the Housing Association sector.

Mixed Funding coupled with detailed financial regulations, prescribed forms of accounting, and the allocation of resources through a competitive bidding process requiring value for money, has led to a unique financial set up within the Housing Association sector. Measures are now being taken to widen the sector to include other social landlords e.g. local housing companies[10]. Changes to Social Housing Grant (see below) and allowing private developers to compete for grant will increase competition and strengthen market conditions.

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10 A Local Housing Company is a Housing Association sponsored by a Local Authority under its general powers to promote or finance Registered Social Landlords - its members must comprise a balance of Local Authority representatives, tenant representatives, and people with suitable expertise or who are representatives of community interests. No one single group can hold the balance of power.

FINANCING ARRANGEMENTS

Capital

There are two forms of capital funding available in the U K:

- grant by way of Social Housing Grant (SHG) which was introduced after the 1998 Housing Act and, effectively, replaced Housing Association Grant (HAG); and
- private finance.

SHG is paid by the Housing Corporation to Registered Social Landlords, such as Housing Associations, in connection with the provision of social housing and other housing activities.

HAG (for developments agreed prior to October 1996) or SHG are only available through the Housing Corporation or Local Authorities acting as the Corporation's agent.

Sources of private sector finance are available from high street or merchant banks, building societies, insurance and pension companies, and the capital markets.

Capital and Revenue Funding

Payment of grants either through HAG or SHG provides the key to the mechanics of the funding process.

Grants provide part of the capital funding for housing projects with the remainder being found through loan finance from the private sector or other forms of subsidy i.e. "free" land provided by Local Authorities or contributions from Housing Association reserves.

When HAG was first introduced, the amount of grant for a particular project was calculated on the basis of the difference between the amount of mortgage loan payable which could be serviced from rental income and the overall cost of the project. Rental income was calculated after outgoings such as maintenance, management costs and rent losses were taken into account.

SHG is now calculated using very different principles. Since 1 April 1989, although still heavily reliant on grant funding, Housing Associations have become more reliant on private sector loans. In addition, private sector loans pass the development risks on to Housing Associations by applying fixed rates of grant i.e. a case would have to be made to the private sector lender for a loan to meet a deficit. SHG operates on the basis of mixed funding and social landlords carrying out development risk. Central Government, therefore, has decreased its overall subsidy contributions to the sector whilst maintaining a reasonable level of output of new homes.

Housing Associations bid for grant funding on an annually competitive basis. In theory, Associations should work out (from intended rents, management, mortgage, capital reserve fund etc.) what net rent is available to service loan costs on private sector finance. This will then indicate how much of the capital costs, including an element for on-costs, remains unfunded and is needed by way of a grant.

However, some Housing Associations bid for less grant than required and make contributions from their own resources in order to be competitive in the bidding process.

Rent levels can have a significant impact on the amount of loan requested. High rents will service a higher level of loan. Since the introduction of reduced Government funding, the competitive process has driven rent levels upwards and has also impacted on Housing Benefit, the overall cost of which has risen considerably since 1989[11].

The impact on Housing Benefit caused by the competitive bidding process i.e. higher rents service a higher level of private sector loan, has, therefore, been counter productive as it has merely changed the funding stream from a capped allocation from the Housing Corporation to increased Government expenditure through Housing Benefit. This is an issue that will need to be considered should comparable funding arrangements be put in place in respect of Housing Associations in Guernsey.

Allocation of grants

The Housing Corporation's Approved Development Programme (ADP) represents the overall limit on Government funding for the provision of social housing. The ADP was introduced in 1980 by the Housing Act. It was dropped from statutory references in 1988 but is still used as a policy tool.

The ADP is drawn up by the Housing Corporation in August/September for the following year and the Secretary of State announces the size of the programme at the time of the Budget in December.

Each year the Corporation receives bids from Housing Associations and other social landlords. Bids have to be submitted to meet Government objectives for social rented housing, special needs housing and low cost housing for sale. The ADP also has votes for improvements and major repairs for existing Association properties and short-life improvements i.e. to cover the cost of works to bring a void property into use for a short period (usually up to 10 years).

Within the overall expenditure of the ADP, the Government aims to address the needs of the homeless, the elderly and, in particular, those with special needs. Objectives are usually agreed on a Local Authority basis to ensure that priorities meet local needs.

Bidding under the ADP is competitive and Housing Associations compete for resources on the basis of meeting agreed priority needs and representing value for money.

Associations also have to agree to meet minimum development standards.

As part of the bidding process, the Secretary of State announces grant rates for different areas of the country, different types of property and the costs of building homes on an annual basis. These are set out in a cost matrix "Total Cost Indicators" (TCI) which is based on actual acquisition and development costs of different types of property for different geographical areas. The TCI is agreed through consultation between the Housing Corporation, the DETR and the National Housing Federation. In addition, the Housing Corporation undertakes a consultation exercise in various regions to ensure costs are as accurate as possible.

Money that is made available under the ADP is allocated to the various regions of the country and there is a large amount of discretion. To try and make allocations as objective as possible, the Housing Corporation's assessments are based on two principles:

- the allocations will reflect the distribution of housing need across the country;
- it is recognised that in certain inner city areas housing need is further compounded by other forms of social deprivation i.e poor environment, low income and high unemployment.

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11 Housing Benefit - for which there is no Guernsey equivalent - is a social welfare benefit that helps to ensure that households in Great Britain are able to pay the rent for their homes. It enables people on low incomes to afford reasonable accommodation and is paid taking into account the marked variations in rent levels across the different parts of the country.

APPENDIX 3

DISPOSAL OF LOCAL AUTHORITY PROPERTY TO HOUSING ASSOCIATIONS

UK Local Authorities may assist Housing Associations by transferring property to them. This property can either be untenanted (to enable an Association to develop its own scheme) or tenanted (so that an Association takes over the Authority's existing housing stock). Government policy is to encourage the transfer of tenanted stock from Local Authorities to Housing Associations.

Local Authority housing stock may be sold to, or managed by, a Housing Association. Section 6 of the Housing and Planning Act 1986 states that, when considering the transfer of tenanted land, tenants must first be consulted and the Secretary of State must take their views into account. Tenants must be consulted individually by means of a notice in writing and the Secretary of State has to refuse consent to the transfer if it appears that the majority of secure tenants to which the application relates do not wish the disposal to occur.

Large Scale Voluntary Transfer Scheme (LSVT)

Voluntary Transfers (as described in the paragraph above) have been formalised and regulated under the Large Scale Voluntary Transfer Scheme. Under this scheme approximately 45 new Housing Associations have been created. LSVTs must be funded entirely from the private sector and, so far, have comprised mainly of high quality stock in prosperous areas.

Under the LSVT scheme there is a statutory requirement that any proposed disposals of more than 499 properties in a five year period must be included within a central programme of disposals for the current year. This is designed to ration access to private funding since grants are not available for transfers of Local Authority stock.

LSVTs are attractive to Local Authorities as a means of raising capital. However, a levy (currently 20%) is payable to compensate the Treasury for the loss of Housing Benefit rebate which it obtains from Local Authorities.

One of the perceived problems of LSVTs is that, from a tenant's point of view, rents are likely to increase in the long-term and there is no reason to believe that management will necessarily be better or worse. Housing Association management costs are believed to be 20% higher than those of Local Authorities. It is also believed that Local Authorities will be left with a core of hard to manage properties, while Housing Associations and other landlords compete to manage the better dwellings.

Nevertheless, LSVTs are seen by Local Authorities as a way of freeing up an Authority's resources to concentrate on its strategic housing role i.e. strategy and policy formation.

APPENDIX 4

HOUSING ASSOCIATIONS' TENURE AND TENANTS' RIGHTS

The Housing Act 1988 attempted:

- to stimulate private sector renting by the relaxing of rent controls;
- to remove the responsibility for the provision of social housing from the Local Authority to the private sector.

Its introduction saw a change in the rights of new tenants, referred to as the "new regime".

As far as Housing Association tenancies are concerned the main principles of the Act are:

1. The "old regime" i.e. secure tenant status (see below), cannot apply to a tenancy created after 15 January 1989, except in special cases.
2. Most Housing Association tenancies granted on or after that date are "assured tenancies".
3. In a few cases, tenancies granted before that date are also assured tenancies, these mainly concern tenancies transferred from public to private landlords.
4. Certain tenancies are outside the assured tenancy regime, including tenancies at low rent and fully mutual tenancies of which there two kinds: "par value" where the tenant has no economic stake in the dwelling; and "co-ownership" tenancies where the tenant has an "equity stake" calculated using the value of the dwelling.
5. In all cases the lease can contain its own rent review provisions.
6. Assured tenants have security of tenure but can be evicted on grounds broadly similar to, but less restrictive than, those that previously applied to private sector tenants.

A Housing Association tenancy granted after 15 January 1989 is either an **assured tenancy** or has no statutory protection. To qualify as an assured tenancy the following general requirements must be fulfilled:

1. The dwelling must be let as a separate dwelling.
2. The tenant must be an individual, as opposed to a corporation.

There are various exceptions, the most important for Housing Associations are: tenancies at a low rent; pre-15 January 1989 tenancies; and new tenancies to which the old regime applies.

An assured tenancy may only be altered by agreement. There is no statutory right for the landlord to alter it after consultation as in the case of secure tenants.

Secure tenant status carries a range of rights in addition to security of tenure. These are similar to the rights of UK Local Authority tenants, collectively known as the "tenants charter". This includes:

1. Rights relating to sub-letting and the taking in of lodgers;
2. A right to buy;

3. Rights to information and consultation about the right to buy, housing management and allocation policies;

4. Rights in respect of variations of the tenancy agreement.

These rights do not apply to tenants of Co-Operative Housing Associations.

Secure tenant status gives the tenant the right to remain in the dwelling house subject to the landlord's right to apply to the court for possession on prescribed grounds.

The Housing Act 1996, strengthens the landlord's power to evict on grounds related to disruptive behaviour by tenants. This applies to secure and assured tenants but is aimed particularly at tenants of social landlords.

The standard assured tenancy agreement allows the landlord to alter the rent subject to at least one month's notice and provides the tenant with a right of appeal. Water charges, where payable, can also be altered in line with the actual amount payable for the premises.

Consideration would, therefore, need to be given to the impact of any new tenants' rights as set down by a Housing Association in Guernsey, on existing States' tenants whose properties were to be transferred from the Housing Authority to an Association.

APPENDIX 5

HOUSING ASSOCIATIONS IN JERSEY

Until 1987, with the exception of the F.B. Cottages, Clos de Paradis and Haig Homes, Housing Associations played little part in providing social rented housing for the Island. This changed when the late John Le Fondre formed a new Housing Association, the Les Vaux Housing Trust, to purchase Troy Court. Within a few years the possibility was raised of Housing Associations, in partnership with the Housing Committee and local banks, playing a more important role in providing secure affordable accommodation for Jersey residents.

The first few property purchases by the Les Vaux Trust did not involve private sector funding - the funds were provided by the States in the form of a low interest fixed rate loan. However, it became clear that if Housing Associations were to develop further and make a real impact in assisting the Housing Committee to reduce rental waiting lists, funding from the private sector would be required.

The provision of private sector rental accommodation has steadily decreased in real terms over recent decades. In 1971 the private rental stock, excluding lodgings, represented 38.7% of the total housing stock of the Island but by 1996 this had decreased to 15%[12]. In the same period the Committee's rental stock had increased from 9% to 15% of the total stock. Providing private sector rental accommodation is at present not generally seen as a good investment and will continue to decline while high capital investment generates a limited return.

One of the principal aims of the Housing Committee is "to ensure that all Island residents are adequately housed in secure and affordable accommodation with priority given to those with residential qualifications".

Up until 1991 the approach had been for the Committee to build and own all the rental accommodation for those who could not afford to buy or rent privately. This policy was not sustainable as more and more people found they could not obtain suitable accommodation in the private sector, and, if they could, it was barely affordable.

In 1990 the States rental waiting list stood at over 900 and the annual capital request by the Committee to fund new-build projects was over £20M. It was evident that States capital funds were not going to be available to match the Committee's requests, not only for 1991, but for several years to come. A fresh approach was needed and, from this situation, an alternative method was devised to provide secure, affordable accommodation to rent, using a combination of interest subsidies to Housing Associations, private sector funding and an improved version of the Private Sector Rent Rebate Scheme. The Rebate Scheme ensures that the accommodation is affordable and the Housing Association offers tenants security of tenure equal to that offered by the Housing Committee.

A Housing Association, which may also be called a Trust, is a non-profit making body made up of volunteers dedicated to the task of providing secure rental accommodation to persons in need. The Trustees of an Association shall not normally be less than five or more than nine and they are responsible for managing the affairs of the Association. To be recognised by the Committee as eligible to be considered for financial assistance an Association must:

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12 Jersey Statistical Digest 1997

(a) submit its Constitution for approval by the Housing and Finance and Economics Committees;

(b) submit the names of all the proposed Trustees of the Association to the Housing Committee for approval, and notify and seek the approval of the Committee for any proposed changes;

(c) register in the Royal Court under the "Loi (1862) sur les teneures en fidéicommis et l'incorporation d'associations" (the Trust Law).

Housing Association policy has been developed by the Housing and Finance and Economics Committees, following endorsement by the States in the 1991 States Strategic Policy Report of the objective "to encourage the development of private rental accommodation through the fostering of Housing Associations". Both Committees thoroughly vet the proposed Constitution of an Association/Trust, with assistance and advice from H.M. Attorney General, to ensure that its objectives and mode of operation are in line with Housing and States' policies. The Trusts are required to provide both Committees with an annual financial report and audited accounts.

The two Committees have agreed that, subject to their approval of a housing project, the Housing Committee will provide an interest subsidy to Housing Associations on their borrowings from private sources to fund the project. The standard rate of interest subsidy at present requires the Association to pay up to 4% per annum interest and the balance is met by the Committee, e.g. if the Association is borrowing £1M at 8% the Association will pay about £40,000 interest in the first year and the Committee will pay about £40,000. Subject to the approval of both Committees the subsidy may be increased or decreased, depending on fluctuations in interest rates, the cost of individual projects and achievable rental levels. The principal Banks have agreed to lend Associations up to 100% of the value of a development, at competitive rates of interest, over periods of up to twenty-five years, subject to periodic review, and confirmation of support for the project by the Housing and Finance and Economics Committees as well as the Banks approval of the applicant Association.

The Housing Associations agree to accept nominations from the Housing Committee for 80% of the first lettings of all dwellings created with States interest subsidy assistance, and this nomination right will remain for any vacancies arising. The balance of the vacancies are let by the Housing Association to residentially qualified persons in need, who may or may not be registered on the Committee's waiting list. The policy of all Housing Associations is to help people in housing need by providing secure, affordable rental accommodation.

The rents charged by Associations will be set at a level no higher than Housing Committee rents, thus ensuring that all tenants are eligible to receive rent rebate. As Housing Committee rentals are intentionally set at below market levels this means that when purchasing land and property from the States a correspondingly lower price will be paid, based on achievable rental income, than could be achieved from an open market sale. For similar reasons, when purchasing from the private sector, a greater interest subsidy than standard may be required to overcome the price differential between what the Association can afford to pay and open market value, or alternatively a capital grant may be paid. Between 80 and 82% of all rental income is used for repayment of capital and interest, leaving 18-20% to cover all the Association's other outgoings, including repairs and maintenance, management, rates, service charges and bad debts.

The Association policy on deposits payable by tenants at the start of a tenancy varies slightly from Association to Association but a golden rule applies – that no prospective tenant should be prevented from taking up an Association tenancy because they have no funds for a deposit. Any prospective tenant who has difficulty finding the deposit is given plenty of time to make the payment in instalments. The maximum deposit charged by any Association is £300 and this is returnable at the end of the tenancy subject to there being no damage caused by the tenant to the dwelling and rent payments being up to date.

The main reasons why a deposit is charged are first to ensure that the tenant takes care of the dwelling, including fixtures and fittings, and secondly because the new Associations operate at present on extremely tight budgets with nearly 100% borrowings on all assets, and cannot afford to pay for repairs which are not due to fair wear and tear. The new Associations are starting from a nil capital and nil asset base and are not in a position financially to absorb losses from tenants who do not pay their rent or do not take reasonable care of their accommodation.

Associations, bound by their Constitution, are non-profit making and the Trustees, who are all volunteers, receive no financial reward for the considerable time and effort spent on Association activities. Should an Association make profits in the longer term these are bound by the Association's Constitution to be used for housing purposes and to meet housing need.

Since 1992 three new Housing Associations have been formed the Jersey Homes Trust, which has schemes for over 200 new dwellings in its development programme; the F.B. Cottages Housing Trust (replacing the original F.B. Trust) which is concentrating on the F.B. Cottages redevelopment to provide 44 new homes; and the Christians Together in Jersey Housing Trust which is starting with the refurbishment of houses in Lempriere Street.

Housing Trust policy has evolved over the last ten years and both the Trusts and the Housing Committee wish to place some matters of policy and good practice on a more formal footing. Some criticisms have been levelled at Housing Trusts and fears expressed by prospective tenants that by becoming tenants of a Trust they will in some way be less well treated than if they were a States' tenant. The introduction of some form of regulation of Housing Trusts is seen as the appropriate way to deal with these problems.

The Housing Committee, in April 1999, held a one day Seminar in association with PricewaterhouseCoopers, to discuss the future regulation of Housing Trusts. Following the Seminar the Committee has decided to set up a small Working Party to develop proposals to introduce new Housing Trust regulations which will safeguard the interests of tenants, Trustees and the States, as well as being acceptable to the private lending institutions on which Trusts depend. A Report and Proposition on this subject will be brought to the States in due course, but the main aims will be to:–

(a) safeguard the financial interests of the States;

(b) ensure the social housing target is met;

(c) safeguard the interests of tenants;

(d) safeguard the position of Trustees;

(e) ensure funds are used prudently and cost effectively;

(f) ensure the probity of Trusts;

(g) appoint a Regulatory body to oversee/enforce regulations.

The preparation of new legislation is a lengthy process and in the meantime the Committee does not wish to delay important housing projects. It has therefore been decided that, unless already covered by a previous agreement, a legal agreement will be entered into by the Committee and each Trust, whenever a property transaction takes place between the two parties, or where the Committee is subsidising a transaction. Such legal agreements will cover the following:

1. maximum rents chargeable;
2. nomination rights – 80% Committee 20% Trust;
3. arrangements for tenant consultation;
4. restrictions on future use of land/property for social rented (or in some cases first-time buyer) housing;
5. onward sale of land/property;
6. repayment to the States of any net surplus income from the land/property should there be no requirement to reinvest in the provision of more social housing.

While it does not intend to transfer any of its existing stock to Housing Trusts, the Committee believes that Trusts, operating under clearly defined Regulations, offer the opportunity to provide the Island with additional affordable rental accommodation for those on modest incomes. Although 80% of vacancies will go to persons registered on the Committee’s waiting lists, it should not be forgotten that the balance will be allocated to other needy cases from the private sector. As pointed out by the Islands Tenants Association there are many private sector tenants who despite being ineligible for consideration by the Committee have real difficulties in finding secure and affordable accommodation.

Housing Trusts have an important role to play which complements the Committee’s own activities and the Committee will continue to foster this partnership.

Chief Officer, Jersey Housing Committee

APPENDIX 6

PRICEWATERHOUSECOOPERS – REPORT ON FINANCING THE PROVISION OF SOCIAL RENTED HOUSING IN JERSEY

In 1998, PriceWaterhouseCoopers produced a report on financing for the provision of social rented housing in Jersey. The report is very complex and it is unreasonable to attempt to use it as a basis for decisions regarding the introduction of Housing Associations in Guernsey.

Nevertheless, the report does raise some interesting points and suggests that there could be merit in commissioning a similar expert report for Guernsey.

The States of Jersey had identified a need for an additional 900 rented dwellings over a four year period. It was evident that, due to financial and manpower limitations, the dwellings could not be provided as States houses. The report by PriceWaterhouseCoopers looked at how the dwellings could be provided by a Housing Association or Trust.

A cost of £142 millions (including land acquisition) was estimated for the dwellings required. (It was assumed that the dwellings would warrant a gross rental of nearly £7 million {£149 average per unit per week} but that 60% of the rent would be rebated under the Jersey Rent Rebate Scheme {i.e. £90 rebate per unit per week or a total rebate of £4.2 million in the year}.)

The report concluded that no Trust could fund a programme of £142 million without a subsidy. PriceWaterhouseCoopers estimated that the debt would rise to £600 million in 30 years without a subsidy.

The report considered two forms of assistance: (i) capital subsidy or grant; and (ii) revenue or interest subsidy. It recommended a capital subsidy on the grounds that it would save £5 million compared with a revenue or interest subsidy. However, the capital subsidy required would be £64.5 million (paid at £55.4 million in year 1 and £9.1 million in year 2).

It was evident that the only practical means of providing such a large capital subsidy was by way of a transfer of housing stock from the States to the Trust, but it would have required a transfer of over 1,700 dwellings to produce the necessary £64.5 millions.

The Jersey Housing Committee decided that it was inappropriate to transfer housing stock in this way and has therefore decided to opt to continue with a simple interest subsidy as the principal form of assistance, although a capital grant may be needed in some instances to cover exceptional development costs.

The President,
States of Guernsey,
Royal Court House,
St. Peter Port,
Guernsey.

11th January, 2001.

Sir,

I have the honour to refer to the letter dated 29 December 2000 addressed to you by the President of the States Housing Authority on the subject of the introduction of housing associations in Guernsey.

Guernsey's Strategic and Corporate Plan acknowledges the need for the provision of an adequate supply of well designed, affordable housing. The proposals put forward by the Housing Authority, if carried through to the setting up of housing associations, would go some way to addressing this need. The Advisory and Finance Committee, therefore, supports the principle of establishing one or more housing associations in Guernsey and the Authority's further research into this method of provising additional housing.

I am, Sir,
Your obedient Servant,
R. C. Berry,
Senior Member,
States Advisory and Finance Committee.

The States are asked to decide:–

I.– Whether, after consideration of the Report dated the 29th December, 2000, of the States Housing Authority, they are of opinion:–

1. To agree to the principle of the establishment of Housing Associations in Guernsey.

2. To direct the States Housing Authority to continue to undertake further research into the establishment of Housing Associations and to report back to the States with further details, including the following:

   (a) whether an association or trust could be established and regulated under existing legislation or whether new regulatory legislation would be a prerequisite;

   (b) the funding implications of providing a substantial amount of social housing through Housing Associations over the next five to ten years;

   (c) whether or not there would be a need to transfer some States' houses to an Association to assist its growth and funding;

   (d) the comparative effects on States' Capital and Revenue expenditure of providing a specified amount of social housing through Housing Associations or through direct States' provision and management.

STATES HOUSING AUTHORITY

PARTIAL OWNERSHIP SCHEMES

The President,
States of Guernsey,
Royal Court House,
St. Peter Port,
Guernsey.

29th December, 2000.

Sir,

PARTIAL OWNERSHIP SCHEMES

Introduction

I have the honour to present the following report for consideration by the States on forms of housing tenure where the purchaser does not acquire the full equity of the property.

The term "shared ownership" is commonly used to cover the whole range of schemes through which persons acquire an interest in property ownership without being outright owners. However, it is also used for specific types of tenure and to avoid confusion this report uses the umbrella term "partial ownerships".

The report makes reference to a number of variations on this theme but concentrates mainly on two such schemes which are known as "**shared equity**" and "**shared ownership**".

In the UK "shared ownership" schemes are partially funded by the UK Government through the Housing Corporation, whereas "shared equity" schemes operate commercially and receive no Government funding. Both are designed to help people who cannot afford to buy a property outright, and are usually available through Housing Associations.

The principal difference between the two schemes is that in a "shared ownership" scheme the purchaser pays a mortgage **and** a rent, but in a "shared equity" scheme the purchaser pays **no** rent. A "shared equity" scheme is therefore more advantageous to a person who cannot afford to purchase the full equity in a property. This is explained in more detail below.

Summary of Report

The various forms of "shared ownership" and "shared equity" schemes constitute a small proportion of tenures available in the UK, but were given increasing prominence in the Housing Corporation's programme during the lifetime of the former Conservative Government as part of its commitment to expanding owner occupation.

Recognising that there is a strong culture of owner occupation in Guernsey, this report provides details of the types of scheme available in the UK and outlines the Authority's initial appraisal of their usefulness in the Guernsey context. The report concludes that while partial ownership schemes may extend the range of options for potential house purchasers, further detailed work is necessary before the Authority is in a position to recommend a particular scheme for adoption in Guernsey.

Accordingly, the States is asked to agree that, based on the information contained in this report, the Authority should carry out further research into the means of introducing partial ownership schemes in Guernsey.

Shared Equity

With a "shared equity" scheme the purchaser generally acquires 75% of the equity in the property and **no rent is paid on the remaining 25% of equity**. "Shared equity" therefore represents true low cost home ownership.

The purchasers also pay maintenance and service charges in addition to the mortgage on their share of the property.

Under these schemes there is generally no provision for "staircasing", i e the purchase of additional shares in the equity. This means that the purchaser generally cannot become the outright owner. However, in exceptional cases, provided that the Housing Association has reserved funding for the purpose, the equity share can be reduced if a purchaser"s circumstances change so that he is unable to afford the original commitment.

The inability to staircase ensures that the properties remain in the social housing sector of the market.

No grant assistance is available in the UK for "shared equity" schemes but it is particularly important to note that, in the UK, land is made available for shared equity schemes as part of a special planning permission whereby developers have to provide a proportion of a development site to a Housing Association for social housing. Under the scheme the Association acquires the land at no cost.

Consequently, Housing Associations can afford to sell only 75% of the equity in a property because the land is free and because "developer's profit" is reduced or excluded from the scheme.

While the ability of the purchaser to move into the unrestricted housing market may be limited, it is usual for "shared equity" schemes to include a range of dwelling sizes so that if a householder needs to move to a larger dwelling this can be achieved by a variation in their agreement.

Shared equity transactions are conducted on a leasehold rather than freehold basis. This may cause difficulties in Guernsey because leasehold interest in property is regarded as personal estate not real estate and as such cannot be charged (i.e. mortgaged). This means that without a change in legislation a mortgage could only be provided by the freeholder who would have security through the ownership of the land.

The reforms needed to enable leaseholds to be capable of being charged are understood to be complex but would be necessary if "shared equity" was to play a full part in Guernsey housing.

Shared Ownership Schemes

The term "shared ownership" covers a range of low cost home ownership options which exist to assist households who would not be able to afford to buy their homes on the open housing market. It typically involves a partnership between the occupier of the property and a Housing Association.

Simple “shared ownership” schemes generally do not provide the purchaser with a substantial advantage over full (100% equity) purchases because the purchaser will pay a mortgage at commercial rates on the portion purchased and a rent on the portion not purchased. If the rental charge is not subsidised there is, therefore, no substantial reduction in the householder”s weekly expenditure on housing compared with a mortgage on the full equity, even though he has a smaller stake in the ownership of the property. The Authority has been advised that “shared ownership” schemes are less well favoured for this reason.

Housing Associations receive government subsidy for “shared ownership” schemes through a Housing Corporation grant and finance the remainder of the capital cost by private borrowing or from capital reserves

“Shared ownership” schemes convey property on a leasehold basis. Occupiers have a long lease – usually 99 years – from the Housing Association, which retains the freehold. Owners may “staircase” i.e. purchase additional shares in the equity up to full ownership, by buying additional shares at current market value. Owners wishing to move give the Housing Association the opportunity to nominate a new buyer. Alternatively they can staircase to full ownership and sell on the open market.

In the UK, the main variants of shared ownership are “Conventional Shared Ownership”, where a Housing Association develops the properties specifically for sale on a shared ownership basis; and “Do It Yourself Shared Ownership” (DIYSO), where the buyer finds a property on the open market for purchase on a shared ownership basis. DIYSO is specifically targeted at tenants in the social rented sector and has the aim of freeing up rental units for households in housing need.

Both schemes are described in more detail in the appendix to this report, along with other low cost home ownership options.

As referred to above, the principle differences between “shared ownership” and “shared equity” schemes are that grant assistance is available from the Housing Corporation for “shared ownership” schemes, which also allow “staircasing” up to full ownership by the purchase of additional equity shares.

The role of shared ownership within the UK housing system

In the UK, five key policy objectives have been suggested for shared ownership:

- Extending access to owner occupation
- Meeting housing need at a lower subsidy cost than social renting
- Meeting housing need indirectly by freeing up social rented housing
- Promoting mixed tenure estates and diversity within the housing system
- Extending or supporting the market for new house building.

Prior to the UK General Election of 1997, it was argued that the first of these objectives had been dominant over the previous ten years. The genuine commitment of the Conservative Government to the other four objectives was questionable, although they were seen as important spin-off benefits of shared ownership, varying in their significance according to the state of the housing market at the time.

The Housing Association perspective

Many UK Housing Associations question the emphasis on shared ownership and argue that a return to a larger rented programme is a more appropriate method of meeting housing need. However, the UK Government's emphasis on the tenure means that it has become a significant element of the work of Housing Associations.

More recent research into DIYSO suggests that, in addition to meeting the objectives set out above, there may be additional motivations to becoming involved in this particular variant of shared ownership. Associations see DIYSO as a means of increasing their development activity and rate of growth at a lower risk to themselves than mainstream shared ownership. It also allows Associations to establish a presence relatively easily in new areas and to increase their shared ownership role in areas where they are already active.

From the point of view of the consumer, by far the most important motivation for Associations to provide shared ownership is that it starts people on the home ownership ladder. Other motivations include the provision of choice and flexibility within the housing system.

Housing Associations view shared ownership as having a particular role in meeting the housing needs of certain key groups. Most important are first-time buyers, existing tenants and people on the waiting list. Beyond these broad categories, Associations see shared ownership as having a role in providing for particular household types. Most frequently mentioned are new households formed as the result of divorce or relationship breakdown. It is also seen as important to meet the needs of local residents and to assist people in making employment related moves.

In addition, some Associations participating in DIYSO specifically target people with disabilities, health problems or other special needs. DIYSO providers also claim that they are playing an important role in assisting people from black and minority ethnic communities into home ownership.

Participation in Shared Ownership Schemes

Shared ownership is designed for people who can afford to buy part of the value of a property but not buy outright on the open market. As a rough guide, to enter a shared ownership arrangement in London, a single person needs an annual income of at least £15,000; or £16,500 per year for a couple. This is approximately half the level of earnings required for outright purchase.

In Guernsey the Lower Quartile of the House Price Index was £139,100 for the third quarter of 2000. A single person would, therefore, require an annual income of £34,775 to purchase the full equity of a property of this value with a commercial mortgage based on four times gross earnings. An individual wishing to purchase a property of this value with a States Loan would require an income of around £20,000 to borrow the maximum States Loan (currently £130,000) and additional borrowing/savings to meet the balance. It could be assumed, therefore, that to enter a shared ownership arrangement in Guernsey, individuals would need to have annual income levels similar to those wishing to purchase a property in London.

Funding of Shared Ownership Schemes

In the UK, shared ownership schemes are funded mainly by Housing Associations who rely on the Social Housing Grant (SHG) from the Housing Corporation to fund the majority of new build projects. The system works on an annual cycle of bids and allocations. Housing Associations are also allowed to borrow money from private lenders and these borrowings are not counted as part of public sector net borrowing.

Shared Ownership in Guernsey

As a matter of policy, in Guernsey there is no Government borrowing by the States; therefore, all Revenue expenditure is paid for out of annual taxation, both direct and indirect. Capital expenditure by the States is funded by transfers from Revenue income into a capital fund from which Committees are allocated a capital allocation as part of the annual Policy and Resource Planning cycle.

The one exception to this general policy of non-Government borrowing is the Housing Development and Loans Fund. The creation of the Housing Development Fund was proposed by the Advisory and Finance Committee in a report to the States in March 1990 (Billet d'État VII), and subsequently approved as part of that year's Policy Planning debate (Billet d'État XIII, 1990).

Paragraph 2.5 of the 1990 report stated that:

> "The Fund could also be used, subject to detailed proposals being approved by the States, for new housing initiatives such as joint equity schemes."

Therefore the issue of loans to individuals wishing to purchase a joint share of a property from a Housing Association could be accommodated within the existing HDLF arrangements, but this would clearly have financial implications for the Fund, which require further investigation.

It is doubtful, however, whether the HDLF could be further adapted to offer capital grants to Housing Associations in order for them to build new properties for either social letting or shared ownership.

It would be more appropriate that a separate grant scheme be instituted similar to the Housing Corporation's Social Housing Grant. This could be funded from General Revenue and would be subject to States' approval as part of the annual Policy and Resource Planning Report.

Alternatively the States could use the DIYSO scheme, whereby the buyer finds a property on the open market for purchase on a shared ownership basis. In this case the States would act as both the lender and the landlord.

While the Housing Authority could administer such a scheme it is likely that it would require additional staff to do so, thereby breaching the Staff Number Limitation Policy.

It is also questionable what would be the level of take up of such a scheme when it is compared with the existing Home Loan Scheme, which allows borrowers to purchase the full equity of their homes. In general it is likely to cost the States more to operate a DIYSO shared ownership scheme than to grant a States Loan. Not only would there be additional administrative costs but a further disadvantage as compared with States Loans would be that part of the capital sum provided by the States would not be repayable. If the scheme was set up in Guernsey, it would, therefore, be preferable for it to be under the umbrella of a Housing Association.

However, the main problem with "shared ownership" would be to assess the level at which to set rents for the proportion of the property that is being let. Under the existing Home Loan Scheme individuals are effectively means tested so that they only pay a maximum of 25% of their gross income as loan payments. This means that as their income increases over time then the rate of interest that they pay will rise until it is more advantageous for the borrowers to switch their commitment to the private sector. By doing this, the capital is repaid and the loan effectively recycled for further lending.

In the UK the rent in "shared ownership" is set so as to ensure the costs of providing the property and running the service break even. If a similar scheme were applied in the Island, then the Housing Authority, or a Housing Association, would either purchase or build the property and then convey the relevant interest to the purchaser. At the same time, a separate rent agreement would be created for the outstanding portion of the property.

The rental amount could be based on the market value of the remaining share of the property multiplied by an acceptable level of return, say 6%. If the amount of rent charged was then in excess of the individual's total income then a rebate scheme could be enacted. However, such a scheme could lead to the situation whereby individuals would receive a subsidised loan and a rent subsidy.

It should also be noted that due to the current tax incentives given to encourage individuals to purchase their own homes it is normally more advantageous to the individual to take out a mortgage to purchase property rather then to rent, as the borrower would receive 100% tax relief on the interest paid.

Therefore, even with subsidised rent, the majority of purchasers would be better served by purchasing the full equity of their property (under the Home Loans Scheme and/or commercial borrowing) as opposed to entering a shared ownership scheme.

PARTIAL OWNERSHIP: CONCLUSIONS AND RECOMMENDATIONS

For those persons wishing to buy their own property, there are clear advantages available through the States Home Loans Scheme which allows preferential borrowing on the full equity of the property. However, even at subsidised interest rates not all would-be purchasers can afford to purchase the full equity. For example, middle-aged people with only a limited number of years to repay a loan could benefit from a shared equity scheme, as could persons on modest incomes with young families who have suffered a marriage breakdown.

In principle, therefore, partial ownership in its many variants offers an alternative route to home ownership to those individuals who, due to their limited levels of income, would find it extremely difficult to afford to purchase the full equity of a property.

Shared equity or shared ownership schemes could also perform a useful role in Guernsey housing if the funds available for States Loans become oversubscribed, as smaller amounts would enable a larger number of persons to be assisted.

However, it is hard to gauge the level of take-up of such schemes in Guernsey before the results of the Housing Needs Survey are available as this will not only identify the numbers of people interested in participating, but also enable the Authority to analyse whether their financial circumstances can be catered for in such schemes.

Ideally, the schemes would be operated by others e.g. Housing Associations or developers, so that the States did not have to retain the balance of the equity. However, this is only likely to be possible with a change in Guernsey's Leasehold Law.

Acknowledging that shared equity or shared ownership schemes have the potential to extend the range of options for persons seeking to purchase their own property, the Authority proposes to undertake further analysis of the means of introducing partial ownership schemes in parallel with its continuing research into Housing Associations.

This analysis will need to include research into any necessary legislation, and compare in more detail the advantages of the various forms of partial ownerships. The Authority will also investigate more fully the funding and other implications, taking into account the results of the current Housing Needs Survey.

Accordingly, the States is recommended to agree:

i. that the Authority should undertake further analysis of the means of introducing partial ownership schemes in Guernsey; and

ii. that the Authority should report back to the States with its findings including full details of the following:

   (a) any legislation that may be required to enact such schemes;

   (b) comparisons of the advantages and disadvantages of the various forms of partial ownership;

   (c) the funding and other implications.

I have the honour to request that you will be good enough to place this matter before the States with appropriate propositions.

I am, Sir,
Your obedient Servant,
J. E. LANGLOIS,
President,
States Housing Authority.

APPENDIX

LOW COST HOME OWNERSHIP IN THE UK

A number of schemes have been introduced in the UK in recent years to assist those in housing need and who are less able to compete in the housing market.

Housing need at its basic level is the need for secure accommodation of a suitable size. A person may have secure accommodation but still be in housing need due to a lack of facilities, overcrowding, under-occupation, disrepair, or the inability to afford their present accommodation.

The schemes introduced to combat this need include:

- **Conventional Shared Ownership;**
- **Do-It-Yourself Shared Ownership;**
- **Homebuy;**
- **Cash Incentive Scheme.**

Each scheme offers a different route to low cost home ownership and, in many cases, frees up much needed Local Authority rented accommodation.

CONVENTIONAL SHARED OWNERSHIP

Conventional Shared Ownership schemes allow individuals to purchase a share of a property from a Housing Association and to pay rent on the remaining share. The amount of equity purchased depends on individual circumstances but is normally between 25% and 75%.

When financial circumstances improve and after a specified time, generally not less than a year, the share owner may buy further shares until eventually they own the property outright.

Monthly outgoings will include repayments on any mortgage taken out plus rent on the part of the property retained by the Housing Association.

Who it benefits: Shared ownership schemes are intended to help those in housing need who would otherwise be unable to purchase a property.

Priority is given to Local Authority or Housing Association tenants, those on the waiting list for such properties, and first-time buyers. In addition, the scheme is open to essential workers who are joining an area where properties are more expensive than those in the area they have moved from and, consequently, they are unable to bridge the price gap.

Applicants must be employed or have sufficient funds to finance commercial borrowing, but be unable to afford a 100% mortgage to cover the full purchase price of a suitable dwelling. However, unless the rental charge on the equity share not purchased is less that the mortgage payment on that share, little benefit would be gained.

How the scheme is administered: Housing Associations and other Registered Social Landlords build or purchase and renovate existing dwellings for sale to purchasers on a shared ownership basis. The respective organisation retains full control of the rented share of the dwelling.

DO-IT-YOURSELF SHARED OWNERSHIP (DIYSO)

In many respects this scheme is the same as a Conventional Shared Ownership scheme in that it allows individuals to purchase a share in a property and rent the remaining share.

Share owners are then able to "staircase" in the conventional way.

However, the scheme differs to Conventional Shared Ownership in that prospective buyers are able to choose any property that is on the market instead of purchasing property owned by a Housing Association. This is subject to the purchase price of the property being within the limit of the scheme and the dwelling providing suitable accommodation for the applicant.

Who it benefits and how it is administered: The Do-It-Yourself Shared Ownership scheme is intended to assist the same group of people as the Conventional Scheme and is administered in the same way by Registered Social Landlords or Housing Associations.

CASH INCENTIVE SCHEME

The scheme works by the payment of a grant to a tenant of a Local Authority to assist them in buying a property in the private sector.

The prime objective of this scheme is to release Local Authority accommodation for letting to those in need of housing; the second objective is to encourage home ownership.

Who it benefits: The scheme benefits Local Authority tenants, by assisting them to own their own home, thereby freeing up properties for persons on the waiting list for Local Authority housing.

As well as providing the financial means to purchase a property, the scheme encourages existing tenants who, with minimal assistance and commercial borrowing, are able to purchase a property on the open housing market.

How the scheme is administered: Local Authorities can administer the scheme in such a way that properties in areas where there is a shortage of social housing are vacated, or properties of a certain size released, e.g. family dwellings.

The size of the grant is set by the individual Authority with all grants being means tested. Tenants have no mandatory right to a grant.

HOMEBUY

Homebuy replaces the Cash Incentive Scheme and D-I-Y Shared Ownership and was introduced in England in April 2000. As with the Cash Incentive Scheme its key objective is to release existing social tenancies, which can then be re-let.

By assisting some people to buy, the scheme frees up their homes for rent by others in housing need. This helps to reduce waiting lists in areas where there is a shortage of social housing.

The scheme works by awarding interest free equity loans equal to 25% of the purchase price of a dwelling. This loan is not subject to monthly payment but is repaid in full when the property is re-sold. The applicant funds the remaining balance with a conventional mortgage.

This allows those who ordinarily would be unable to purchase a suitable dwelling to buy, as payments are only made on the 75% borrowed from a commercial lender.

Who it benefits: There are no statutory rights to Homebuy; acceptance is based on whether funding is available in a particular area and the suitability of the home that is being vacated.

To be accepted for the scheme the Local Authority must be able to identify a household from its waiting list which needs the rented home that is to be freed. In addition the applicant must:

– be a tenant of a Housing Association, Local Authority or be on the waiting list;

– not be in rent arrears or in receipt of Housing Benefit;

– be able to finance the 75% balance through a commercial lender;

– provide evidence that they cannot buy a suitable dwelling without the aid of the scheme.

A recent report indicated that a purchaser needs a substantially higher income to utilise Homebuy as compared with DIYSO.

How the scheme is administered: Homebuy is a government-backed scheme, which is funded and supervised by the Housing Corporation.

The 25% free equity loan is generally cleared when the property is sold. The amount repaid is 25% of the value of the dwelling at the time it is sold and will, therefore, be higher than the amount of the original loan if the property value has increased.

If an applicant's financial situation improves they can repay the loan before they sell. In these cases the amount repaid is based on the value of the dwelling when the loan is repaid.

CO-OWNERSHIP EQUITY SHARING HOUSING

This scheme enables an individual to take up a small share (£5) and sign a Tenancy Agreement giving them the right to occupy a dwelling from a Equity Sharing Housing Association. Individuals then pay rent on the property, which covers the capital cost of the building and a contribution towards the costs of management and maintenance.

When an individual ceases to occupy the dwelling (after a period of at least 1 year), and if they are not in arrears with their rent, they are entitled to receive an equity share of the gain in capital value of the property. This share is based on 50% of the increase in the value of the property during the period of their residency (or 80% after 8 years residency). Should the value of the property decrease, the tenant is not liable to bear the loss.

This scheme enables an individual to receive the gain in capital value of a property during their tenancy. However, on the information available, this does not appear to give the individual any significant ownership of a property.

[N.B. The States Advisory and Finance Committee supports the proposals.]

The States are asked to decide:–

II.– Whether, after consideration of the Report dated the 29th December, 2000, of the States Housing Authority, they are of Opinion:–

1. That the States Housing Authority shall undertake further analysis of the means of introducing partial ownership schemes in Guernsey.

2. That the States Housing Authority shall report back to the States with its findings including full details of the following:

   (a) any legislation that may be required to enact such schemes;

   (b) comparisons of the advantages and disadvantages of the various forms of partial ownership;

   (c) the funding and other implications.

DE V. G. CAREY
Bailiff and President of the States

The Royal Court House,
Guernsey.
The 26th January, 2001.

IN THE STATES OF THE ISLAND OF GUERNSEY

ON THE 28TH DAY OF FEBRUARY, 2001

The States resolved as follows concerning Billet d'Etat No. II
dated 26th January, 2001

STATES HOUSING AUTHORITY

THE INTRODUCTION OF HOUSING ASSOCIATIONS IN GUERNSEY

I. After consideration of the Report dated the 29th December, 2000, of the States Housing Authority:-

1. To agree to the principle of the establishment of Housing Associations in Guernsey.

2. To direct the States Housing Authority to continue to undertake further research into the establishment of Housing Associations and to report back to the States with further details, including the following:

   (a) whether an association or trust could be established and regulated under existing legislation or whether new regulatory legislation would be a prerequisite;

   (b) the funding implications of providing a substantial amount of social housing through Housing Associations over the next five to ten years;

   (c) whether or not there would be a need to transfer some States' houses to an Association to assist its growth and funding;

   (d) the comparative effects on States' Capital and Revenue expenditure of providing a specified amount of social housing through Housing Associations or through direct States' provision and management.

STATES HOUSING AUTHORITY

PARTIAL OWNERSHIP SCHEMES

II. After consideration of the Report dated the 29th December, 2000, of the States Housing Authority:-

1. That the States Housing Authority shall undertake further analysis of the means of introducing partial ownership schemes in Guernsey.

2. That the States Housing Authority shall report back to the States with its findings including full details of the following:

   (a) any legislation that may be required to enact such schemes;

   (b) comparisons of the advantages and disadvantages of the various forms of partial ownership;

   (c) the funding and other implications.

K.H. TOUGH,
HER MAJESTY'S GREFFIER.