



Social Housing: Made Mutual



By Cliff Mills and Gareth Swarbrick



Rochdale
Boroughwide Housing

About Mutuo

Since 2001, Mutuo has worked to promote new mutuals. This has led to renewed growth in the mutual sector, with public sector mutuals established in health, housing and education and new community based businesses ranging from football to childcare.

- Mutuo operates as a not-for-profit Society, committed to:
- Campaigning for a better understanding of the benefits of mutual businesses
- Conducting and publishing policy research on issues of importance to the mutual sector
- Developing innovative new mutual businesses for the delivery of public services

Acknowledgement

The authors would like to thank Rochdale Boroughwide Housing Chair, Noel Chambers, for his input and comments on the document and to all the employees and tenants who have played their part in the RBH journey so far.

Published by Mutuo

c/o Westminster Bridge Partnership Ltd

Kinetic Centre

Theobald Street

Borehamwood

WD6 4PJ

Tel: 0208 387 1256

Fax: 0208 387 1264

E-mail: enquiries@mutuo.co.uk

www.mutuo.co.uk

ISBN 0-9549161-2-3

October 2011

This pamphlet represents the authors' interpretations of the subject, not the collective view of the publishers.
This pamphlet, or any part of it, may not be reproduced without permission of the publishers.

Contents

1	Foreword	3
2	Executive Summary.....	4
3	Social Housing: Made Mutual	5
	3.1 Introduction	5
	3.2 Challenges.....	8
	3.3 An alternative option: Rochdale Boroughwide Housing Mutual	12
4	Rochdale Boroughwide Housing: the vision for the future.....	17
5	About the authors.....	22

“But the success of co-operatives is not simply a phenomenon to be admired for its impressive history. We should not forget that those original 28 weavers were the social and business innovators of their day”

1

Foreword

People know Rochdale for its proud heritage as the home of the co-operative movement.

From the original 28 Rochdale Pioneers, co-operatives globally now account for over 800 million members, with more than 100 million employees. These co-operatives play an important role in the economic and social development of countries around the world; the United Nations estimates that nearly 3 billion lives were made secure by co-operative enterprises.

But the success of co-operatives is not simply a phenomenon to be admired for its impressive history. We should not forget that those original 28 weavers were the social and business innovators of their day.

They saw a problem and designed a solution around the people that it mattered to. In their case, it was access to affordable and safe food. Today, the challenges are different, but the solutions have a lot in common.

Rochdale Council originally created Rochdale Boroughwide Housing (RBH) as an Arms Length Management Organisation (ALMO) in order to continue the Council's focus on providing high quality housing services to the people of Rochdale. The high tenant and employee satisfaction levels achieved today, point to the success of RBH as a valued part of our local life, and we should all recognise that it is a strong and respected body.

But institutions are merely the vehicles for our aspirations and not an end in themselves. The future challenges of housing finance and the ever-growing need to design services that retain the confidence of the people that they serve, are key factors in the

Council's decision to support the creation of the next generation housing body for Rochdale - a mutual that engages both tenants and employees.

At the heart of this is a desire to develop a relationship between managers and citizens that encourages mutual respect and a shared purpose. By establishing a new mutual for RBH, we will be able to hard-wire the rights and responsibilities that we know our people both want and deserve.

We will be able to capture the inherent solidarity of ordinary people, both tenants and workers, who are bound together by their shared community. The new mutual will blend together the best features of tenant and employee engagement to create a unique and progressive way of delivering high quality social housing services.

I believe that the work carried out in Rochdale will be of major significance to local authorities that are seeking new ways to co-produce their services with communities and staff. Its importance will go way beyond housing and will be of great interest to those who are seeking to develop more co-operative council services.

Rochdale has long been celebrated as a place of innovation and I am proud that this generation of Rochdale people has such an opportunity to lead the development of new people-based public services. I believe that the Pioneers would have approved.

Colin Lambert
Leader, Rochdale Metropolitan Borough Council

2

Executive summary

Over recent months, RBH has been working with tenants and employees to develop a new ownership and governance model for the future of council housing in Rochdale.

The vision is based on co-ownership, with tenants and employees as members, to build into the fabric of the organisation a sense of shared priorities and working together.

This concept emerged from the deliberations of an Investment and Involvement Commission set up by Rochdale Metropolitan Borough Council in 2009 to examine the future options for the Council's housing stock. The final recommendation of the Commission was to transfer the housing stock, which is currently owned by the Council and managed by RBH as an arms-length management organisation, to a new mutual model co-owned by tenants and employees. It saw this as the best way to secure long-term financial sustainability and to give tenants and employees a stronger sense of ownership in providing high quality housing service for the future. The transfer is subject to the approval of the tenants in a ballot and final Council and Ministerial consent.

This approach is put forward as a new form of public ownership. It is a community benefit society (industrial and provident society) with a legal commitment to public purpose, and retention of any surplus for the benefit of the community. Through democratic governance arrangements involving tenants, employees, the Council and other key local

interests, those responsible for delivering services are directly accountable to those most affected by them.

This new co-operative or collaborative approach, which is consistent with the co-regulatory approach followed by the Tenant Services Authority, has the potential to break down binary or dualistic relationships, and to get people, bodies and agencies working together much more effectively for the benefit of the community. It also forms a new basis for collaborative working with the Council itself.

It is a model which other ALMOs may be interested in exploring. For the reasons discussed below, it may also be a model which existing housing associations would like to explore.

“There are 1.8 million local authority owned homes in England - about 40% of the total number of social rented homes.”

3

Social Housing: Made Mutual

3.1 Introduction

In England almost 1 in 5 homes are in the social housing sector. “Social housing” is the term used today to describe a sector which essentially comprises housing owned by councils and by housing associations. It provides an alternative to private ownership of homes, or the privately-rented market.

There are 1.8 million local authority owned homes in England - about 40% of the total number of social rented homes. Of these, approximately 800,000 are managed by local authority owned arm’s length management organisations (“ALMOs”) under contractual arrangements. A further 2.5 million homes are owned and managed by housing associations.

As with other core public services such as health and education, the origins of social housing can be traced back to voluntary and philanthropic origins. Early examples of this were almshouses, which were provided for “poor, old and distressed folk”. In the nineteenth century, the industrial revolution and the associated migration of workers from a rural to urban environment created severe housing problems. The work of philanthropists who built villages or towns for their workers, such as New Lanark, Saltaire, Bournville and Port Sunlight, aimed to alleviate these problems.

Unlike other core public services however, social housing was not part of the post-War welfare state settlement. “Council housing” began in the late nineteenth century, following the Housing of the

Working Classes Act 1890, which encouraged local authorities to improve housing in their areas. This became an obligation for councils after the First World War, when the poor physical health of urban recruits had raised concerns, and led to the campaign known as “Homes fit for heroes”.

Nearly 4 million homes were destroyed in the Second World War, and although significant building of urban accommodation took place between the wars, this accelerated after 1945 to repair bomb damage, clear slums and undertake substantial redevelopment and the building of council estates. It was during this period that legislation removed the reference to providing housing for the working class, and introduced the concept of meeting general needs.

The following decades saw a range of styles and types of construction, including semi-detached, terraced, tenement (particularly in Scotland) and high rise, as both Conservative and Labour governments sought to provide as much new housing as possible. This was secured by providing subsidies to local authorities, and council housing was in its heyday.

There were two substantial changes in the final two decades of the twentieth century, which started the decline of council housing. First, the Thatcher government, as part of its aim to develop individual financial security and independence, encouraged the aspiration towards home ownership, and in 1980 introduced the Right to Buy scheme. This enabled tenants to buy their homes at a significant discount, and has resulted in over 3.3 million properties in



England transferring out of the social housing sector into private ownership.

The second major change concerned the financing of social housing. Restrictions were introduced on the ability of councils to subsidise housing from local taxes. Earlier legislation in 1974 had already provided a favourable grant regime for housing associations, which encouraged significant development by housing associations. The Housing Act 1988 took this a stage further by replacing government funding with private sector funding. These legislative changes encouraged the emergence of housing associations, at the expense of council housing.

The changes were consistent with an overarching aim to reduce the size of the state. This policy, which started in the early 1980s driven by a Conservative agenda, continued subsequently under the Labour administration, and now also under the Coalition Government, seeks to encourage public sector provision to be locally owned and controlled, rather than municipally or state-owned and controlled.

Prior to the 1980s, housing associations were already known and established as non-profit distributing organisations, committed to a public or social purpose. They had come into existence to meet particular needs such as homelessness, driven by philanthropic or religious aims. But at this stage they were relatively small.

The grant regime introduced by the Housing Act 1974 only made funds available to housing associations

which were registered with and supervised by the Housing Corporation, which was itself appointed by government. For registration, housing associations needed to comply with the Corporation's requirements (amongst other things) as to independence, and a commitment to social purpose.

These developments created a mechanism whereby government could provide financial incentives to encourage the transfer of dwellings out of local authority ownership (which the Conservative government at the time was keen to do) into a form of ownership which was not directly controlled by the state, but was nevertheless committed to a public purpose through regulation by the Housing Corporation. The result was a substantial number of "large scale voluntary transfers" of much council-owned property into the ownership of housing associations.¹

The required commitment to a social purpose meant that housing associations continued (and continue) to be part of the social housing sector, separate and apart from the private, for-profit sector. However, LSVT has not been universally popular, with groups such as Defend Council Housing mounting campaigns to oppose transfer. Consequently the required ballot of tenants (to evidence the "voluntary" nature of the transfer) does not always have a positive outcome.

¹ The subsequent Labour government was no more enthusiastic to encourage the ownership and management of housing by local authorities, and its approach was to make funding available to support stock transfer and for where arm's-length management organisations were established.

“A further significant development over recent years has been the expansion of the role of housing associations - arguably led by those created on stock transfers - beyond the role of providing and maintaining properties and collecting rents.”

Nevertheless, housing associations now account for more directly managed homes than councils, and this trend looks likely to continue.

A further significant development over recent years has been the expansion of the role of housing associations - arguably led by those created on stock transfers - beyond the role of providing and maintaining properties and collecting rents. There is an increased focus on providing broader support to tenants and communities, particularly in addressing wider social and quality of life issues such as anti-social behaviour, financial exclusion, and the need to support training and employment prospects.

The creation of new organisations on stock transfer, usually with the need to raise new finance, has also contributed to a growing need for commercial skills and awareness in managing these substantial businesses, whilst remaining true to the core purpose of serving the needs of the community.

But what are these housing associations or social landlords? If they are independent of the state, how are they owned and governed? How are they committed to public, rather than private benefit? These questions will be considered in the next section.

To summarise:

- **Social housing has its origins in philanthropic and voluntary provision for the vulnerable**
- **Council housing more recently set out to provide publicly-funded housing to meet general needs**
- **The Right to Buy scheme resulted in a substantial transfer of homes into private ownership**
- **Much council housing has been transferred through large-scale voluntary transfers to housing associations, which are regulated organisations committed to a social purpose rather than private profit, a further 800,000 council homes are managed by ALMOs**
- **Recent developments have seen an expansion of the role of housing associations beyond traditional landlord services, as well as the need to become more commercial and entrepreneurial**



3.2 Challenges

The traditional or perhaps the caricature of the traditional housing association was an organisation set up by the local solicitor, accountant and estate agent, concerned to provide housing for the needy and deserving cases in their local community.

A range of different legal structures was used, but following the establishment of the Housing Corporation in 1964 and the requirement to be committed to trading for a social purpose rather than for private profit, a favoured vehicle was the community benefit society.² This ensured that surpluses were retained and applied for the benefit of the community, and that the culture and ethos of the organisation was underpinned by a legal and constitutional commitment to the benefit of the community.

Those establishing such organisations did so on a voluntary basis; they became the (unpaid) board members or directors of the organisation, and they appointed their successors. They could appoint managers or staff to manage the properties where necessary, but generally such managers did not have a place on the board.

This sort of arrangement was familiar in the charitable sector. It worked well for relatively small organisations. It enabled those in charge to ensure that only appropriate individuals, with a shared vision, were involved in controlling the organisation, and that such control remained local.

The governance of housing associations has evolved over the years. In general, it remains the norm (including for new organisations created on a stock transfer) that executives do not serve on the board, though the chief executive and other relevant executives would normally attend board meetings; and they are hired and fired by the board.

As for the composition of the board itself, the basic model in which the board appoints its successors has evolved in a number of ways, in particular with the inclusion of tenants or representatives of tenants on the board. Such tenant board members may or may not have been chosen by the tenants themselves.

A common approach for new housing associations established on a stock transfer is a board comprising one-third tenants, one-third from the council (commonly councillors) and one-third “independents”. The latter generally comprise individuals with business experience, often from the housing sector, who ensure that necessary experience is available on the board.

With this background, it can be seen that such housing associations did not really fall within the established public sector, nor were they part of the investor-owned private sector. They were somewhere in-between, with their commitment to public benefit, and regulation by the Housing Corporation.

² The community benefit society is one of two types of industrial and provident societies, incorporated under the Industrial and Provident Societies Act 1965. The other type is the bona fide co-operative

“There is no internal governance mechanism within the association for any other constituency of interests (such as tenants) to be proactive in challenging the board on their performance.”

The democratic or accountability deficit

It is common, whether housing associations are established as community benefit societies or as companies limited by guarantee, to provide that the board of directors are also the members of the association. This model has always been acceptable to the Housing Corporation (and its successor for these purposes, the Tenant Services Authority).

The weakness of this arrangement is that the members of the board, wearing a different hat as members of the association, cannot credibly hold themselves to account. Without any real or effective accountability, this consequently means that the success of this form of governance relies upon the general competence and goodwill of the individuals who are currently in office (board members and executives), and the external regulator. There is no internal governance mechanism within the association for any other constituency of interests (such as tenants) to be proactive in challenging the board on their performance.

Whilst it might be argued that there has not been a disproportionately high level of corporate governance failures in this model, it nevertheless remains objectively a weakness because it does not provide an internal mechanism for self-correction. There is a basic lack of accountability.

But it goes further than that. Housing associations are carrying on business for a public purpose. But not only are they not owned by the state, which

is commonly regarded as the custodian of public interest and benefit; but there is a sense in which they are not really owned by anybody. There is effectively an ownership deficit, or as some would put it, a democratic deficit. Because there were no identifiable owners, this meant that there was nobody to whom those responsible for running the business were in practice accountable on a day to day basis. Some might argue that they were accountable to the regulator; whilst the role of a regulator is significant and establishes a basis for the maintenance of common standards across a regulated sector, external regulation does not provide a constitutional mechanism for the regular holding to account of those to whom power and authority has been entrusted, by those most affected by the service provided.

It was against this background that a new approach was developed and published, namely the Community Mutual model in Wales (2001), and the Community Gateway in England (2002). Both of these models sought to address this ownership and accountability deficit by opening up membership to tenants (and potentially other residents). The aim was for tenants to be able to be members and to become involved and engaged as owners of the new organisation, to create a sense of ownership, with an opportunity for democratic participation.

In the Community Mutual model, tenant members elect their representatives to the board, have a say in the appointment of independents, and can have a say in the appointment of council representatives. The



Community Gateway model is in some sense more ambitious, setting out to generate community pride, tenant democracy, and cultural change. This involves not only enshrining tenant membership and tenant elected board members in the constitution, but also establishing local community areas which undertake community options studies. A number of stock transfers have taken place using these models.

Whilst housing associations continue to be regulated to protect the public interest (the Tenants Services Authority is due to pass its functions to a reformed Homes and Communities Agency in 2012), the creation of a number of member-based housing associations supports the emergence of direct accountability and a new form of locally-based public ownership to underpin and protect the public interest. The Tenant Services Authority itself puts at the forefront of its regulatory approach the concept of “co-regulation”, by which it means robust self-regulation by those who govern the delivery of housing services, incorporating effective tenant involvement (including monitoring and scrutiny), subject to a ‘backbone’ of regulation by the TSA.³

Board issues

Aside from the issue raised above in organisations where the board members are also the members of association, there is a further governance weakness with the traditional approach.

A board of directors carries ultimate legal responsibility for the business and activities of the corporate entity. The law imposes strict duties on

directors of corporations including duties of care and competence (now codified for directors of companies). For a large and potentially complex business with responsibility for substantial assets, it is appropriate for directors to have appropriate levels of skill, experience and competence to enable them to discharge their duties adequately, and with minimum risk.

The traditional approach in social housing, as already explained, is for executives not to be board members⁴, and in the case of a large-scale voluntary transfer for the board to be composed of a mixture of tenants, council representatives and independents. There are essentially three main weaknesses in this arrangement.

First, the person likely to have the greatest knowledge of the organisation and its business, and also the person who is particularly qualified to understand and contribute to making decisions about issues facing the organisation - namely the chief executive - is not on the board. Although they attend the board meetings, they do not formally share in the decision-making process as one of those board members.

On the face of the constitution, not being one of the board members, the chief executive does not therefore owe the same legal duties and responsibilities as board members, even though they

³ http://www.tenantservicesauthority.org/upload/pdf/Regulatory_framework_from_2010.pdf

⁴ In recent years, there have been a number of departures from this where chief executives have become board members

“We do not question that tenants and the council have a clear interest in the governance of the organisation, that their voice should be heard and that they should be able to have significant influence.”

have been selected for their skills, background and experience to serve in the role of chief executive.

The second weakness is the composition of the board itself. At one level, it makes sense for representatives of tenants and the council to serve on the board, but as they are likely to be frequently reminded, their role is always to act and make decisions in what is in the best interests of the association itself. This means they must put to one side their interests as tenants, or councillors. In practice, this can be difficult: what is the point of having representatives of tenants and the council on the board if they are unable to act as representatives of those interests? The very design of the governance arrangements creates a conflict of interest for them and this can lead to real frustrations for councillors and tenants at their inability to represent the Council or tenants at Board meetings.

The third weakness is the question of qualification. As already pointed out, the person likely to have the best qualifications to serve on the board is the chief executive, but they are not on the board. Independent board members are specifically recruited and appointed because of their knowledge and experience in the sector, and/or of business and commerce in general. The intention is that they should bring to the board some general or specific competence relevant to the business.

In the case of those people nominated by the Council or elected by tenants, whilst they are likely to be individuals with a real and genuine interest in the organisation and its success, there is no requirement for them to have any particular skills or experience that is suitable for a governance role. They may, coincidentally, have such experience, and they may be particularly and suitably qualified for the role, but where this is the case it is not due to the design of the governance structures.

This is not intended to be disparaging of the individuals who serve in this role, or of the contribution they make. There are many excellent tenant and councillor board members. We are focussing specifically on the design of the governance arrangements. The point being made is that these governance arrangements rely too often for their success upon technical competence being provided by the chief executive who is not a board member, and independent board members who are in minority on the board.⁵ These structural weaknesses also apply to the traditional ALMO model.

Our central argument is that this is a weak design. We do not question that tenants and the council have a clear interest in the governance of the organisation, that their voice should be heard and that they should be able to have significant influence. Indeed we would assert that “representativeness” and the ability to hold those in power to account are essential features of good governance. But we question whether the current design of governance delivers this. Is there

⁵ Ironically, if the matter were ever tested in court, it may well be found that a chief executive in this model was a shadow or de facto director, given their actual role and influence over the board.



a better option – one which will deal with these governance design weaknesses and better enable social landlords to deliver the outcomes their tenants and stakeholders wish to see and face up to future challenges?

To summarise:

Housing associations have been committed to serving the public benefit for many years

- **The increasing use of member-based associations (Community Mutual and Community Gateway) points towards a new form of public ownership with direct democracy to protect the public interest**
- **Regulation continues to be part of this protection**

The current model of governance of housing associations and ALMOs is arguably in need of improvement

- **Chief executives and other executives not serving on the board means that they do not share important formal legal duties and responsibilities**
- **It is difficult for representatives of tenants and councils to fulfil their representative role whilst being board members**
- **Success often relies too much on the technical competence provided by a chief executive who is not on the board, and a minority of independent board members**

3.3 An alternative option: RBH Mutual

The previous chapter argued that there are some inherent weaknesses in the existing model of ownership and governance for housing associations. For the reasons explained, it does not seem to be a model designed to assure governance competence – insofar as a model can achieve that objective. Nor does it seem to empower representatives of tenants and councils (but particularly of tenants) to be tenants or councillors within the governance, and to seek to specifically influence the association to meet their needs.

But this was not the starting point for Rochdale Boroughwide Housing. RBH is an arm's length management organisation, established and wholly-owned by Rochdale MBC (the council) to manage the 13,700 dwellings it owns. It was established in 2002 in order to access funding to enable the completion of the Decent Homes programme, funding for which was not available if the management had remained within the council.

By 2009, it had become clear that serious financial challenges faced Rochdale within the next four or five years, and so an Investment and Involvement Commission was launched.⁶ A decision had to be made whether, in order to meet future financial needs,

⁶ Chaired by Professor Ian Cole, and including representatives from tenants, the council, and RBH management. The Commission issued an Interim Report in January 2010, and a final report in December 2010.

“Tenant involvement was already well-established in Rochdale with the authority having been well regarded for its approach to engaging with involving tenants in decision-making since the mid 1980s. ”

RBH should continue as an arm's length management organisation, whether the council should take back in-house the management of its stock, or whether the council should transfer the stock outside its ownership. From a financial point of view, only a transfer of stock seemed likely to enable homes to be maintained to an acceptable physical standard.

But there was more to it than just money and the provision of physical homes to an acceptable standard. For those living in those homes, equally important was the potential role of the landlord in dealing with anti-social behaviour, creating training and employment opportunities, and tackling financial exclusion. RBH had commenced a number of initiatives which were broadly and strongly supported by tenants.⁷ Whilst the landlord's ability to continue and develop such initiatives is significantly dependant on having the funds to do so, being able to work effectively alongside other agencies will also be important, to maximise impact and minimise duplication. In particular, having the right relationship with the council is important as is a genuine commitment to the locality and a clear recognition of the need to address deprivation and to support regeneration to create sustainable communities.

As well as looking at the future options for funding and the landlord role, the Commission was also tasked with considering how tenants could be more involved in decision-making. Currently, RBH has a board comprising six tenant members, four council members

and three independents. The choice of the future vehicle for the ownership of the housing-stock clearly has an impact on the level of tenant involvement.

Tenant involvement was already well-established in Rochdale with the authority having been well regarded for its approach to engaging with involving tenants in decision-making since the mid 1980s.

RBH currently supports and works with 41 tenant and resident associations and there are 19 community bases on estates which provide a valuable resource for community led activities and outreach work by a range of agencies. Three estates are directly managed by tenant management organisations, including Cloverhall, where a tenant management co-operative has been successfully operating for over 25 years. In addition tenant led Area Panels and Service Improvement Panels feed into the development of policy and practice.

In addition to established levels of tenant involvement, RBH has succeeded in delivering good services which have secured a high level of tenant satisfaction, recorded at 81% in 2009. This level of performance, which is not uncommon in ALMOs, has been secured by a high level of commitment from RBH staff, who are rightly valued by tenants and are key to the future success of the organisation. A high level of employee satisfaction has also been achieved (86% in 2010) with employees believing that the organisation has a clear vision and is delivering real improvement for communities.

⁷ See Interim Report page 18



Despite this RBH is concerned about the levels of active tenant and employee participation. Although there are well-developed structures in place the number of active tenants is actually quite small. An imaginative new approach is required to engender greater levels of active involvement. Simply trying harder using the existing approach will not work.

RBH also feels there is a need to find new ways of facilitating active front line employee engagement in developing the services of the future. Crucially it believes that the views of and knowledge held by both tenants and employees need to be captured and fully utilised if the organisation is to have a successful future.

The future vision for RBH is therefore based on a further development of close working between tenants and employees. This approach already works well in some areas and RBH believes that this “co-production” in which the traditional binary or polarised relationship between landlord and tenant, employer and employee no longer creates a barrier, and in which employees and tenants can both contribute working alongside each other to optimise the outcomes, is the key to future success. Difficult decisions will have to be faced in the future, affecting both tenants and staff, and providing a mechanism through which both groups could share in making some of those decisions is clearly important. But what was to be the ownership and governance model for this and could this act as a catalyst for the type of change RBH wants to see?

Neither of the existing member-based models (Community Mutual or Community Gateway) provided for employee membership although some such as Phoenix Community Housing offer employees non-voting associate membership. At the time these models were emerging, employee participation was not a pressing issue in the sector, whereas providing a means to engage and involve tenants most certainly was. However, even then the idea of both user and staff constituencies of membership was starting to become established in other sectors at this time.⁸ Since then it has developed further.⁹ The Coalition government’s Localism Bill and its support for employees to be proactive in the ownership and control of their services take this a stage further.

There are sound arguments for both users and staff having a role as members and owners. Both have a clear and valid interest in the organisation, the services it provides, and its success. Indeed they are the two main constituencies of interest which are critical to that success. However, they are distinctly different interests.

This means that they both have to be identified, recognised and given appropriate voice and influence so that they can be balanced against each other. It is to be expected that staff will want to have good terms and conditions of employment for their own benefit.

⁸ For example, the membership arrangements for NHS Foundation Trusts was introduced via the Health and Social Care (Community Health and Standards) Act 2003

⁹ E.g. Leisure services, Out-of-hours primary care services, Co-operative Trust Schools see further



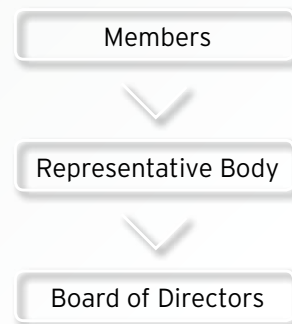
But clearly it is in the interests of tenants for rents to be kept as low as possible. So there is a tension on this basic issue, which has to be resolved. In reality tenants understand that unless staff are content and feel that they are fairly treated, they are unlikely in the long-term to work so effectively. So a mechanism is needed to resolve this, and other such tensions between different interests.

At the end of the day, the organisation exists to provide services to tenants for the benefit of the community, so it is important that no one interest can distort the organisation to operate in the interests of one group alone. Competing interests and therefore tensions exist, whatever the ownership and governance arrangements. Protecting the public interest effectively means balancing a range of competing private interests. Where those interests and tensions can be recognised and brought within the constitutional arrangements, those tensions can be resolved in a balanced and structured way, within the governance, rather than through the media, campaigning or less transparent ways.

The recommendation of the Commission in its final report was therefore to transfer to a new mutual organisation, to be fashioned by tenants and employees. This was seen as the best way to protect the investment already made, to offer the prospect of levering in private finance and provide a secure long-term future. It was also seen (amongst other things) as providing a mechanism for making tough decisions in the future on regeneration, increasing the motivation of staff, and leading to improved landlord

performance as a result of the new responsibility of ownership which tenants will have so that it becomes “their” service rather than one delivered to them by others.

In terms of addressing the governance weaknesses described above, the approach followed by RBH is to separate out from the board the “representative” function by creating a separate representative body; to build the composition of the board based around skills and experience, and then to ensure that the board operates within a clear framework of accountability to the members via the representative body. The structure is then:



This approach is designed to build on excellence, and to ensure insofar as possible that those serving at different levels of the organisation are those best qualified to do so. In particular, it seeks to provide a forum where representatives of tenants, staff and the Council can fully express the point of view of those they represent, and where all of the potentially competing views can be heard and balanced. In terms of the board of directors, it seeks to ensure that those carrying legal responsibility for taking

“At the end of the day, the organisation exists to provide services to tenants for the benefit of the community”

the major decisions about the organisation have the qualifications and skills to do so. By making the board of directors directly accountable to the representative body, this ensures that the directors operate within a framework which the representative body has helped to shape, and that they deliver.

The Commission's recommendations and the establishment of the new mutual organisation can only be implemented if the tenants vote for the transfer in a tenants' ballot, which will be conducted later this year. Subject to that, the outline of the proposed new mutual structure for RBH is as follows.

- There will be two membership constituencies, one open to tenants and one open to employees. Being a member is optional, and provides the right to attend and speak at members' meetings, to elect representatives (and stand for election) to the representative body, approve changes to the constitution, and receive certain information.
- There will be a representative body comprising 15 tenant representatives, 3 representatives from tenant management organisations, 8 employee representatives, 4 council representatives, and 3 representatives from external stakeholder organisations.¹⁰
 - The role of the representative body is to set the policy framework, to appoint (and remove) non-executive directors, monitor progress, feed into future plans and strategy, communicate with members and receive the annual report and accounts.

- The power to remove non-executive directors gives the representative body teeth: it is not just a talking shop.
- The board of directors will comprise 8 non-executive directors including the chair, and 2 executive directors. The board of directors will be legally responsible for running the organisation within the framework established by the representative body.

¹⁰ Slightly different arrangements will apply until the fifth anniversary, during which period the representative body will have 2, not 4 council representatives, but it will also have 2 non-executive directors.

4

Rochdale Boroughwide Housing: the vision for the future

We started this short publication by very briefly reviewing the background and evolution of social housing so far: from charitable and philanthropic, to mainstream municipal provision, and now to a substantial housing association sector outside direct government ownership and control, but still regulated.

The future for the sector comes back to a basic question: what is the purpose of a housing association today?

Clearly the starting point is to provide homes – decent homes for people to live in, for those who don't have access to the privately owned and rented market. The basic requirement is therefore the ownership and maintenance of homes to an adequate standard, which requires a clear business and financial strategy for the medium to long-term. This in turn requires an organisation and a management team with the necessary skills and competence, and with sufficient control, independence and certainty over its future to be able to make such long-term plans with the belief it can deliver them.

Equally clearly, whilst providing homes is the essential part of the role, of itself this is no longer sufficient. It is not enough to provide well-maintained homes if those living in them are unable to access other essential services, or to live safely within a community, or to have some prospect of economic independence.

This is not just a case of bolting on some additional services to those of a traditional landlord, though that

is how it may and frequently does start. It is more a case of transforming the organisation from being just a landlord, into becoming something rather different: a mechanism by which people in communities can meet their own needs for essential and basic living, and through which they can strive to face the challenges of their individual lives.

This goes back to the origins of the co-operative idea in Rochdale, a movement based on self-help (not philanthropy or external intervention), and of people working together to meet their common needs. It takes us away from the rather tired twentieth century model of public services delivered or “done” to consumers; it seeks to break down the barriers of a series of binary and sometimes polarised relationships (landlord and tenant, employer and employee, provider and customer, citizen and state); it aims to construct a new vision of contemporary co-operation based on a coalition between vital, core interests – those living in the properties, those working for the organisation, the local council, and other key statutory, voluntary and community bodies – and building a mechanism by which they can collaborate on a day to day basis.

The ultimate purpose of this new co-operation is to optimise the use of such financial resources as are available, for the benefit of the community; to link together the different interests in a dialogue to see how their particular activities and opportunities can work together to maximise the benefits available, and minimise inefficiency, duplication and overlap. It is a purpose which recognises that there are limited

“The vision of RBH builds on, but deliberately departs from housing models developed to date”

resources available, and that their impact is greatest when those with the key influence work together at a practical level to optimise them.

What does this mean in practice?

It means a transformation in the way that people think and behave - in other words, a transformation of culture, which needs to be underpinned by more permanent arrangements (organisational structure) which support a different way of thinking and behaving.

This is why RBH's plans start with a mechanism for engaging tenants and staff, so that they have a voice and a means of influence. Membership, which is voluntary, will have to be built over a period of months and years. People are not generally familiar today with active participation, and they will only engage if it offers something meaningful, if they see it actually achieving something, and if they think it could do something for them.

It means that the body representing the interests of members has to have real influence over the broader strategic aims of the organisation, and future services which it will provide. The representative body must become a melting pot, in which the interests, aspirations, frustrations and concerns of the relevant constituencies and organisations can come together; it needs to become the mechanism by which the best outcome is worked out, in an ordered and balanced way.

Those responsible for leading service-delivery - the board of directors and the management team immediately beneath them - must then use their skills to work out how to deliver the outcomes desired with the resources available. This is a continual dialogue with the representative body: the board of directors is legally and constitutionally responsible for managing the organisation, but they discharge this function on behalf of the wider community represented by the representative body. They are responsible, and they are accountable.

The vision of RBH builds on, but deliberately departs from housing models developed to date. As well as its role in providing its particular services, it is an employer of local people (85% of its workforce live locally), a participant in the local economy, supporting local businesses, community enterprise and self-help. It does not set out to deliver tenant control, or employee control; the vision is to provide a voice and a right to be heard, through a mutual format, to create a new form of community or public ownership which seeks to get people working together on agreed shared priorities.

Ultimately RBH's vision depends on some essential requirements.

- Being a successful business, financially competent and efficient, flexible and entrepreneurial and with the confidence to make the best of commercial opportunities
- Becoming the embodiment of the interests of



those living in its properties, and those working for it, co-operating on a day-to-day basis and through its mutual membership and governance arrangements to secure the best outcomes possible. These arrangements both support and drive the need to be a successful business, holding to account those in positions of responsibility, influencing future plans and sharing difficult decisions

- Being committed to serving the needs of the community, recognising the part RBH can play in wider regeneration, social and economic issues, by being the mechanism through which tenants, staff, and the partner organisations who are integrally involved in its services and the lives of tenants and staff can collaborate much more effectively for the common benefit. This is the means by which RBH can be a better business, make best use of resources and ultimately become a pioneer for a new way of working for the public benefit
- Remaining committed to Rochdale. This means a vision and business plan based upon a local focus, and not becoming part of a regional or national organisation in which the commitment to the local community would be diminished

RBH effectively has a vision for a new form of public ownership. Currently, as already observed, there can be some confusion about whether social landlords are publicly or privately owned. The commitment to retaining and using any surplus for the benefit of

the community, and the continuing role of external regulation to underpin that commitment, tend to suggest some form of public ownership. However, the lack of direct state or municipal control in the organisation itself (even where a council has appointed some board members) can suggest something closer to private ownership - or at least on a pathway towards private ownership.

The RBH vision confidently asserts the principal of public ownership, but does so not through the mechanism of state or municipal control, but through membership open to tenants¹¹ and staff, and a democratic form of governance which makes those ultimately in charge accountable to the community they serve. This should be the prime mechanism for driving the organisation to improve, to adhere to its commitment, and to carry on business for the benefit of the community - not external regulation. In addition, there continues to be a legal and constitutional obligation to carry on business for the benefit of the community, retaining surplus for the aims of the organisation.

While RBH, if transfer takes place, will be regulated as other social landlords, it is not that relationship which characterises its public ownership. It is the direct accountability of its board to the local community, through its democratic ownership and governance arrangements. These ownership and governance arrangements create a framework for real and effective co-regulation, embedding active tenant and employee involvement at all levels.

¹¹ Associate membership will be open to others including leaseholders and long-term lodgers in tenanted properties

“What about the role of the local authority? The transfer of housing stock by a local authority is an emotive subject.”

What about the role of the local authority? The transfer of housing stock by a local authority is an emotive subject. It is often a substantial component of the local authority's establishment, in terms of people employed, direct and support services provided, and time and energy spent by elected members. Losing all of those - and it inevitably feels like a loss - can be seen as the price that has to be paid for the ability to fund future plans from alternative sources.

The reality today is somewhat more complex than that. As described above, for nearly three decades now, policy has tended to drive a reduction in traditional municipal ownership and control of social housing. This is consistent with a much broader policy trend - for a variety of political and fiscal reasons - towards reducing the state-ownership of provision, including in a range of other local government services through externalisations, in health through the creation of NHS Foundation Trusts, the Right to Request and more recent Right to Provide programmes, and through a series of other high profile initiatives from the privatisations of utilities in the 1980s through to current Coalition plans to mutualise the Post Office.

The Coalition's Localism Bill, and its encouragement, through the Cabinet Office, of the emergence of mutual and co-operative organisations from the public sector continues this same trend. All of this poses challenges for local authorities. The “loss” of services can be seen as diminishing their significance, against

a background of a tendency towards low turn-out at local elections. In addition to that, the creation of local organisations with their own democratic arrangements can also seem to threaten the democratic authority of councils.

There is a sense in which not only does the housing provider need to be transformed from being a landlord into becoming a mechanism through which individual needs and aspirations can be met, but local authorities also need to be transformed from being providers of particular services into becoming the wider expression of their citizens' and communities' needs and aspirations, across a much broader spectrum, with elected members as community champions. This reflects the change referred to above of moving away from some of the historic and divisive two-way relationships of the past, and envisaging a much more collaborative environment between individuals, local organisations and businesses, and the council. Whether this is characterised as evolution through the localism agenda, or the development of a Co-operative Council (as in the case of Rochdale and a number of other councils), it is consistent with a new way of thinking about and attitude towards local authorities.

For RBH, Rochdale MBC continues to be a vital partner organisation, without whose continuing support and active engagement it simply cannot achieve the results to which it aspires for its tenants and staff, and the council's citizens. The council needs to be permanently embedded in the mutual governance

“Social housing provides an almost perfect case-study of this basic question: what form of ownership will replace state or municipal ownership as the public ownership for the future?”

arrangements, but in a way which really enables the council to influence thinking within RBH, and also to be influenced itself through a close working relationship. It is for this reason that the council has permanent long-term representation on the representative body.

Social housing provides an almost perfect case-study of this basic question: what form of ownership will replace state or municipal ownership as the public ownership for the future? Housing associations have pointed towards that for a number of years, but the ownership and democratic deficit has been a weakness, leaving the protection of the public interest in the hands of the regulator, when the board loses sight of it.

The proposed RBH Mutual points to a new approach, which seeks to create a sound basis for a new form of local public ownership to protect the public interest, to establish internal mechanisms to drive improvement and to embed a co-regulatory approach, and, at the same time, seek to assure business and commercial competence. In this way, it seeks to secure the future of social housing for the benefit of Rochdale in the decades to come.

About the authors

Cliff Mills

Cliff Mills is a practitioner in the law and governance of co-operative, mutual and membership-based organisations. He has written the constitutions of a number of the UK's leading co-operative retail societies including the Co-operative Group, established the constitution and governance of a substantial number of NHS Foundation Trusts, and played a significant part in the development of mutual society legislation in the UK.

He has worked extensively with Mutuo over the last decade in the development and application of mutual and co-operative models of ownership for public services. These have included healthcare, social housing, leisure services, education and children's services. He has also worked in the voluntary and charitable sector. The aim has been to create robust models for organisations which are trading for a public or community purpose, with an ownership and governance structure based on user, staff and local community membership.

Recent and current projects include the mutualisation of Post Office Limited, Co-operative Councils, library services and community health services.

As well as being Principal Associate with Mutuo, Cliff is a consultant with Capsticks Solicitors LLP and Cobbetts LLP.

Gareth Swarbrick

Gareth Swarbrick has been the Chief Executive of RBH since November 2009. Over the past 18 months he has led on the proposed mutual stock transfer for RBH.

Gareth has worked in social housing since 1989, starting his career as a Scale 1 Clerical Assistant for Oldham Council.

Since 1992 he has worked in Rochdale in a variety of housing management and then policy roles. In 2001/2 he led on the process of establishing RBH as one of the first eight housing ALMOs nationally.

Design and Print by Multi Image Ltd: 01727 848088