

26 September 2016

Wards: Citywide

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| Use of Right to Buy Receipts |
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Report of the City Neighbourhoods and Housing Manager

This is a Key Decision

This is a key decision. The matter is in the Forward Plan
0051/16

1. Purpose of the Report and Summary

1.1 The report sets out how the receipts from the sale of Council homes can be used to maximise the provision of new social housing in Hull and minimise the capital returned to national Government. The report recommends that any receipts surplus to the Council's needs should be made available to groups who are able to deliver affordable housing in the City.

2. Recommendations
Cabinet agrees;

2.1 To develop a framework arrangement comprising social housing providers who may be considered for the receipt of grant funding where the Council is not able to make direct use of surplus right to buy receipts, in line with the terms of the Department of Communities and Local Government (DCLG) grant conditions.

2.2 That the City Manager for Neighbourhoods in consultation with the s.151 Officer, Town Clerk and Portfolio Holder is provided with delegated authority to establish the framework of housing providers who may apply for grant funding and determine the final terms and conditions for the grants in accordance with the draft assessment criteria set out at Appendix 2 to this report.

2.3 That the City Manager for Neighbourhoods and Housing in consultation with the Portfolio Holder for Housing and Infrastructure is given delegated authority to award surplus funds as grant through the framework by individual decision record.

3. Reasons for Recommendations

3.1 The recommendations are made to support the maintenance of a supply of new and refurbished social housing in the city.

4. Impact on other Executive Committees (including Area Committees)

- 4.1 The main impact on areas is where schemes for new affordable homes come forward.

5. Background

5.1 Following changes to Right to Buy (RTB) discounts in 2012/13 the Council has an agreement in place with Department for Communities and Local Government (DCLG) that receipts for properties sold through the RTB, over and above Government expectations of sales under the previous discount regime, are to be used for the provision of new affordable housing supply. Strict rules stipulate that the receipt can only fund 30% of the total scheme cost and cannot be used to part fund properties where grant is received from the Homes and Communities Agency ("HCA"). The receipt must be spent within 3 years otherwise "excess" receipts are returned to DCLG for distribution.

5.2 The programme is independent from, and different to, the Government's proposed sale of high value stock. Through the Housing and Planning Bill the Government have proposed that Local Authorities are given a target to sell a proportion of their highest value stock on void, to fund to fund the RTB in housing association stock. The details of the sale of high value stock will be implemented through regulation but as yet nothing has been forthcoming. As set out at 5.1 the funding outlined in this report has strict rules attached and cannot be used for any other purposes than the provision of new affordable housing supply.

5.3 Given the underlying changes to the overall fiscal landscape and the fact that a number of our new build properties attract HCA grant, it is unlikely that the Council will be able to utilise all such receipts. In order to minimise the amount of receipt returned to the DCLG and the reduction in affordable housing stock it is proposed that the Council seeks to provide any receipt that the Council is unable to use to groups providing affordable housing in-line with our strategic priorities and meeting a demonstrable need.

5.4 Changes to the Right to Buy process were implemented by national Government from 1st April 2012 with the maximum available discount increasing from £24,000 to £75,000, increasing by inflation each subsequent year (now £77,900). This has seen an increase in the number of properties sold under RTB. The Government has announced further changes to the RTB scheme, which may have an impact on the number of properties sold in the future. The key changes are as follows:

- The maximum discount for houses rose from 60% to 70% with effect from 21st July 2014.
- The maximum discount for flats remains at 70%
- The maximum discount value of £75k will be subject to increase by CPI in future years – it is now £78k
- The qualifying period before a tenant is able to apply under

RTB is to be reduced from 5 years to 3 years, introduced on 26th May 2015.

➡ Starting discounts at this point are 35%

- 5.5 Sales are thus projected to substantially increase over the next ten years with 2500 additional properties sold included within the Housing Revenue Account (HRA) budget. The table below shows the assumed number of right to buy sales in the underlying HRA budget. Receipts from the additional and newly arising sales can only be used to support new supply of affordable housing.

| | <u>2015 / 2016</u> | <u>2016 / 2017</u> | <u>2017 / 2018</u> | <u>2018 / 2019</u> |
|--|------------------------|------------------------|------------------------|------------------------|
| Government assumptions (based on £24k max discount) | 71.9 | 72.7 | 73.4 | 74.1 |
| Additional (due to increase in discount) | 117.1 | 118.3 | 119.6 | 120.9 |
| newly arising sales as a consequence of the Budget | - | 275.0 | 300.0 | 300.0 |
| | <u>189.0</u> | <u>466.0</u> | <u>493.0</u> | <u>495.0</u> |

Table 1 – Forecast Sales of Council Homes due to changes set out in the Housing and Planning Bill

- 5.6 In 2015 the Government announced a 1% social rent reduction impacting on the ability of the HRA to sustain a large programme of new build. The rent reduction means that even with right to buy receipt capital most new build schemes still run at a loss to the HRA when modelled over a 30-year business plan.
- 5.7 Therefore, on current projections of right to buy sales, there is likely to be a surplus of receipts. It should also be noted that the calculation is highly volatile as it is dependent upon actual property sales with individual property archetype calculations taking place. Appendix 1 forecasts the potential receipt available up to March 2018 totals over £3.7m. It should be noted that currently there is no proposed end date for the like for like replacement programme.

6. Issues for Consideration

Author:

Status:

Date: 16/09/2016

6.1 The Council will need to take into account a number of factors should it allocate its surplus right to buy receipt to other housing organisations. To comply with the funding requirements social housing providers must provide the properties within the Hull CC boundary and the Council can only fund organisations in which we do not hold a controlling interest. Other factors which the Council will take into account include the ability of the organisation to deliver the housing and that the terms set out by the DCLG for the usage of right to buy receipt are met. Appendix 2 sets out the draft information for potential applicants and criteria by which an award could be made. These include but are not limited to –

- Strategic importance, alignment with Council priorities and housing need
- Value for Money
- Timeframes, deliverability and past performance
- Planning status
- Quality and Environmental standards
- Employment and training opportunities

6.2 The exact details of how the scheme operates will be developed should approval be given to the programme. The funding would be allocated in a competitive and transparent way through the establishment of a framework of providers. Once on the framework organisations would put forward proposals for the provision of housing and how they would use the grant to achieve those aims. Crucially providers would sign an agreement with the Council to achieve the stated outputs and would be monitored by the Housing Service for compliance. Any grant provided would require a clawback mechanism that should the property cease to be used for its intended purpose that the grant would be returned. Clawback is essential should a provider fail to deliver, or should the property cease to be used for affordable housing.

6.3 Any receipts not used by the Council or the housing providers would need to be returned to the DCLG after three years. However, through the Council's new build programme and this scheme the amount of handback can be minimised.

7. Options and Risk Assessment

7.1 **Option 1 – Do nothing** – This option would see the right to buy receipts return to the Government. The option would not cost anything to administer but grant of up to c£2m may be lost to the city.

- 7.2 **Option 2 – Spend the Receipt in House** – This option has been explored and although wherever possible the receipt will be spent in-house, the HRA is not able to sustain the required level of new build programme that the level of right to buy receipts require.
- 7.3 **Option 3 – Allocate surplus receipt to housing providers (recommended option)** – this option retains receipt to deliver the Council's own programme wherever possible and in line with the HRA business plan with any surplus receipts provided to groups providing new affordable housing. This option maximises housing delivery, grant for the city and minimises funding returned to the Government.
- 7.4 **Option 4 – Allocate all right to buy receipt to housing providers** – this option would mean the Council would not use receipts to deliver new affordable housing. As the national affordable homes programme has removed the majority of funding for rented products this option would greatly reduce the Council's ability to deliver new affordable rented housing. This option would also put at risk the current Council programme funded through right to buy receipts.

8. Risk Assessment

- 8.1 The housing provider does not deliver the contracted new homes – clauses will be placed into any funding agreement to ensure delivery. Should the provider not meet the terms clawback mechanisms will be in place to recover the capital.
- 8.2 The Council is challenged on allocating its receipt – to minimise this risk a legally compliant process will be used to allocate funds to groups in a competitive and transparent way. Groups will be required to meet minimum requirements as set out in the DCLGs receipt offer and would enter into a funding agreement with the Council.
- 8.3 There are not sufficient receipts to meet demand – should this be the case then the receipts will be allocated in a competitive way amongst providers.
- 8.4 There is no interest in using the receipts to deliver new homes – This risk will be mitigated through engaging with providers to deliver in Hull. However, it is likely that some receipts will be returned to the DCLG due to high levels of RTB activity and the stringent conditions attached to the spending of the receipt.

9. Consultation

- 9.1 The report and recommended option aims to ensure that capital provided for the provision of affordable housing is utilised fully for the city. The Council is not in a position to fully utilise the capital available itself. Therefore the Council needs to work in partnership with other providers to ensure investment is not lost to the city.

10. Comments of the Town Clerk (Monitoring Officer)

- 10.1 The objective of maximising use of right to buy receipts to enhance provision of social housing is supported in principle. However, the detail of how the project will operate needs to be developed and this, from a legal perspective, has to include consideration of such matters as public procurement and state aid. Commission Decision 2012/21/EU recognises that state funding for the provision of social housing for disadvantaged citizens should be exempt from notification to the EU, even where the general compensation threshold set out in the Decision is exceeded. Such services are regarded for state aid purposes as being of general economic interest. On this basis, the Council may lawfully provide funding to registered providers operating locally without risk of challenge. Comparable schemes in other local authority areas are operating successfully on the same model.

The establishment of a framework of social housing providers needs to be established in an open and transparent way and with the flexibility to allow new providers to the city to be included. The framework should be subject to periodic review. More information is required about the level of grant which may be available to individual providers in order to inform a decision or options as to how the proposed framework should be established. Legal Services officers should be consulted throughout the development of the scheme.

11. Comments of the Section 151 Officer

- 11.1 The City Treasurer has been involved in the compilation of, and thinking behind, this report.

The Council is not in control of the RTB process or the number of people who exercise their rights. However, we can influence how the receipts are spent and this proposal in effects orders their use to:

- Firstly the Council for it's own schemes
- Secondly other schemes within the City led by Partners
- Finally to return the residue to Central Government

The proposal maximises their use within the City boundaries.

12. Comments of HR City Manager and compliance with the Equality Duty

12.1 There are no staffing or equality issues arising from the recommendations

13. Comments of Overview and Scrutiny

13.1 This report has been provisionally scheduled to be considered by the Finance and Value for Money Overview and Scrutiny Commission on Friday, 23 September, 2016. Any comments or recommendations agreed by the Commission will be tabled at Cabinet on Monday, 26 September, 2016. (Sc4846)

14. Comments of the Portfolio Holder for Council Infrastructure

14.1 The scheme will support the delivery of affordable housing in the City whilst minimising the amount of funding returned to Central Government. The delivery of new homes by partner organisations is essential in delivering the aims of the Housing Strategy and meeting housing need in Hull.

Nicholas Harne
Assistant City Manager, Housing Strategy and Renewal

Contact Officer: Nicholas Harne Telephone No.: 01482 615477

Officer Interests: None

Background Documents: -

Appendix 1- Forecast Receipts up to March 2018

Appendix 2 – Draft assessment criteria and scheme requirements

Implications Matrix

This section must be completed and you must ensure that you have fully considered all potential implications

This matrix provides a simple check list for the things you need to have considered within your report

If there are no implications please state

| | |
|---|-----|
| I have informed and sought advice from HR, Legal, Finance, Overview and Scrutiny and the Climate Change Advisor and any other key stakeholders i.e. Portfolio Holder, relevant Ward Members etc prior to submitting this report for official comments | Yes |
| I have considered whether this report requests a decision that is outside the Budget and Policy Framework approved by Council | Yes |
| Value for money considerations have been accounted for within the report | Yes |
| The report is approved by the relevant City Manager | Yes |
| I have included any procurement/commercial issues/implications within the report | Yes |
| I have considered the potential media interest in this report and liaised with the Media Team to ensure that they are briefed to respond to media interest. | Yes |
| I have included any equalities and diversity implications within the report and where necessary I have completed an Equalities Impact Assessment and the outcomes are included within the report | Yes |
| Any Health and Safety implications are included within the report | Yes |
| Any human rights implications are included within the report | Yes |
| I have included any community safety implications and paid regard to Section 17 of the Crime and Disorder Act within the report | Yes |
| I have liaised with the Climate Change Advisor and any environmental and climate change issues/sustainability implications are | Yes |

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|---|-----|
| included within the report | |
| I have included information about how this report contributes to the City Plan/ Area priorities within the report | Yes |

Appendix 1 – Forecast Receipts up to March 2018

Available in Quarter

| | |
|-----------------|--------------|
| Q2 16-17 Sept | 759,092.18 |
| Q3 16-17 Dec | 788,446.84 |
| Q4 16-17 March | 1,436,309.71 |
| Q1 - 17-18 June | 196,658.98 |
| Q2 17-18 Sept | 85,943.64 |
| Q3 17-18 Dec | 148,671.48 |
| Q4 17-18 March | 481,712.48 |