

GREATER LONDON AUTHORITY

REQUEST FOR MAYORAL DECISION – MD3341

Supporting housing delivery with returned Recycled Capital Grant (RCG)

Executive summary

Under the GLA's Recovery Determination and Capital Funding Guide, GLA investment partners receiving funding from the GLA's Affordable Homes Programme (AHP) (and other similar housing delivery programmes funded by the GLA) must comply with GLA rules on grant recovery. Partners who are registered providers of social housing (including local authorities) can either return the recoverable grant to the GLA, or (in certain circumstances) place it into their Recycled Capital Grant Fund (RCGF). However, if the grants within a partner's RCGF are not used within three years, for 'permitted purposes', they must be returned to the GLA. Partners who are not registered providers do not have the option of placing recoverable grant into an RCGF, and must repay it to the GLA.

When grants given by the GLA for the purposes of social housing are returned through the grant-recovery process, there is a statutory requirement that the grant must be used for social housing, though explicit use of this funding requires further approval by the Mayor. This Mayoral Decision formalises the use of returned recycled capital grant as social housing assistance to support delivery in the Mayor's AHP.

Decision:

That the Mayor:

- approves spending up to £376m of Recycled Capital Grant (RCG), returned to the GLA as of 31 March 2024, to support the GLA's Affordable Homes Programme (AHP)
- approves spending up to £80m of estimated future RCG returns, due to be returned to the GLA by investment partners between 1 April 2024 and 31 March 2025 (provided that the total expenditure does not exceed the amount received by the GLA), to support the AHP
- delegates approval of individual allocations, within the above funding envelopes, and subject to the funding being committed by the deadline set out in paragraph 1.11, below, without the need for a further decision form, to be exercised by either the Executive Director of Housing and Land, or the Assistant Director of Housing, in consultation with the Deputy Mayor of Housing and Residential Development.

Mayor of London

I confirm that I do not have any disclosable pecuniary interests in the proposed decision and take the decision in compliance with the Code of Conduct for elected Members of the Authority.

The above request has my approval.

Signature:



Date:

24/2/24

PART I – NON-CONFIDENTIAL FACTS AND ADVICE TO THE MAYOR

Decision required – supporting report

1. Introduction and background

Returned Recycled Capital Grant (RCG)

- 1.1. The GLA provides funding to organisations across London, to deliver affordable housing through different funding programmes – the largest being the GLA’s Affordable Homes Programme (AHP).¹ Partners securing grant funding under GLA programmes must adhere to the terms of the GLA’s funding agreements and its Capital Funding Guide (CFG).
- 1.2. Sections six and seven of the CFG focus on grant-recovery provisions, which are complemented by the GLA’s Recovery of Capital Grant General Determinations. As set out in these documents, the GLA can, under certain circumstances, recover grant it has paid out previously. Such circumstances include the sale of a rented property; a shared owner purchasing more shares in their property; or a change in the use of a completed scheme.
- 1.3. Where grant-recovery circumstances do not require the immediate return of grant funding to the GLA, partners who are registered providers of social housing (including local authorities) often hold the grant funding in a Recycled Capital Grant Fund (RCGF). This is maintained and managed by the grant recipient. Interest is calculated and added to the RCGF every year. The GLA sometimes allows partners to use the capital funding in the RCGF towards ‘permitted uses’, defined in the CFG. Save for exceptional circumstances, grant that has been in the RCGF for three years or more is returned to the GLA, along with the interest, as part of an annual process.
- 1.4. As set out in the GLA’s annual budget, interest received by the GLA from the partners’ RCGF is used to support the provision of corporate services. Mayoral Decision (MD) 2707 approved the use of all interest generated from the recovery of unused or recycled affordable housing grants to offset the GLA’s administrative and staffing costs associated with delivering affordable housing. Returned grant funding, including RCG, can be used by the GLA to support the delivery of new homes as ‘social housing assistance’, subject to approval by the Mayor.
- 1.5. As of 31 March 2024, a total of £376m RCG has been returned to the GLA. Subsequent RCG returns up to 31 March 2025 are estimated to be around £80m, based on conversations with partners. It is not possible to precisely forecast future income from returned RCG, as partners generate RCG at different rates and this varies from year to year. Similarly, the GLA’s approval of the use of RCG by partners affects the amount of RCG that would be returned to the GLA in the future.
- 1.6. This decision approves the use of returned RCG as of 31 March 2024, and the estimated future RCG returns up to 31 March 2025, with an appropriate level of oversight, on specific uses that will unlock the delivery of affordable homes in London. These uses are set out below.

Supporting delivery in the AHP 2016-23

- 1.7. In November 2016, the Mayor launched Homes for Londoners: AHP 2016-21. MD2052 and MD2125 approved the receipt of £2.57bn capital grant from the government. Combined with existing grant funding already allocated to the GLA, this meant the total programme budget was £3.25bn. In May 2018, MD2282 approved receipt of a further £1.67bn of funding from the government, with the programme deadline extended to March 2022. This equated to a budget of £4.92bn. In 2020, due to the negative impact of the COVID-19 pandemic on housing delivery, the programme was extended to March 2023.

¹ Mayor of London, [Homes for Londoners: AHP 2016-21 Funding Guidance](#) (November 2016) and [addendum](#) (June 2018); [Homes for Londoners: Affordable Homes Programme 2021-26 Funding Guidance](#) (November 2020).

- 1.8. Some GLA partners are facing a range of challenges in delivering some of their AHP 2016-23 schemes. These challenges are well publicised but include the increased costs of construction following the COVID-19 pandemic; rapidly rising interest rates following the 2022 mini-budget; new rules requiring second staircases; and partners having to reprioritise internal investment into improving existing housing stock. Faced with these challenges, as well as contractor insolvencies and constrained sale rates, the viability of some partner development projects has been affected, leading to delays in delivering completions.
- 1.9. To help address the viability challenges, there is a need to explore additional funding avenues to further support partners in delivering their AHP 2016-23 projects. There is only limited capital grant remaining within the AHP 2016-23 budget available to support these projects. Using returned RCG to support delivery under AHP 2016-23 is considered an appropriate use of returned grants and will help secure affordable housing delivery.

Supporting delivery in the AHP 2021-26

- 1.10. In November 2020, the Mayor launched Homes for Londoners: AHP 2021-26. MD2707 secured the receipt of £4bn funding from the government to deliver AHP 2021-26. Partners delivering under this programme are experiencing similar challenges to those seen with AHP 2016-23, and this decision will permit the GLA to use returned RCG to support delivery under AHP 2021-26 if absolutely required.

Allocating returned RCG to support housing delivery

- 1.11. The GLA will need to commit the returned RCG by 31 March 2029 for the AHP 2016-23; and by 31 March 2030 for the AHP 2021-26. These deadlines can be accommodated under the existing subsidy schemes for the programmes.
- 1.12. Returned RCG will be allocated to partners in the same way as other affordable housing grant under the AHP. The GLA is in ongoing engagement with its partners about the delivery of their affordable housing projects. Proposals for the use of returned RCG to support delivery will arise from these discussions. The GLA's assessment of proposals and negotiations with partners on the use of returned RCG will mirror existing GLA assessment processes; and ensure the grants are used in a manner that supports affordable housing delivery and offers value for money.
- 1.13. This Decision form seeks a delegation so that formal approval to allocate returned RCG as of 31 March 2024, and for future RCG returns up to 31 March 2025, will be provided by the Executive Director for Housing and Land or, the Assistant Director for Housing, in consultation with the Deputy Mayor for Housing and Residential Development. Details related to the allocations approved under the delegated authority will be included within the delegated approvals log, on the GLA's website.

Contracting

- 1.14. Returned RCG will be treated the same way as standard affordable housing grant. Since the returned RCG will be used through the AHP, the existing AHP funding agreements cover the use of this funding. Therefore, no redrafting or new contracts will be required.

2. Objectives and expected outcomes

- 2.1. The GLA continues to work closely with its partners to ensure the delivery of new homes through the Mayor's AHP. The use of returned RCG to support housing delivery will help the GLA to secure this delivery; and ensure Londoners are provided with affordable homes as swiftly as possible.

3. Equality comments

- 3.1. The use of returned RCG to support delivery of homes under the Mayor's AHP will help increase the number of affordable homes in London. This will contribute to the implementation of policies outlined in the London Housing Strategy, and covered in its impact assessment published in May 2018.

- 3.2. The homes delivered under the AHP will likely help many people with protected characteristics, as many of these groups are disproportionately represented among those in need of affordable housing. This is in part because they are more likely to experience homelessness or overcrowding; or to have low incomes that make it difficult for them to afford market housing. Others with protected characteristics may be more likely to need supported accommodation, or accommodation that meets particular design requirements.
- 3.3. To access funding, partners must enter into a contract with the GLA. With regard to project delivery, the GLA's contracts place the following standard obligations (in respect of the Equality Act 2010) upon the counterparty.
- 3.4. For AHP 2016-23 funding agreements, the grant recipient:
- will comply in all material respects with all relevant legislation – including, but not limited to, legislation relating to health and safety, welfare at work, equality and diversity, modern slavery, and other relevant employment matters; and will use reasonable endeavours to ensure that all grant recipient parties engaged in the delivery of the approved bid do likewise
 - confirms that it has, and is in full compliance with, a policy covering equal opportunities designed to ensure that discrimination prohibited by the Equality Act 2010, or which is made on any other unjustifiable basis, is avoided at all times; and will provide a copy of that policy, and evidence of its actual implementation, upon request by the GLA
 - shall have due regard to the public sector equality duty under Part 11 of the Equality Act 2010, insofar as its activities under the agreement could reasonably be deemed to be functions of a public nature for the purposes of the aforementioned Part 11.
- 3.5. For AHP 2021-2026 funding agreements, the grant recipient must:
- comply in all material respects with all relevant legislation – including, but not limited to, legislation relating to equality and diversity; and will use its reasonable endeavours to ensure that all parties engaged by it, in the delivery of the AHP dwellings funded pursuant to this agreement, do likewise
 - have due regard to the public sector equality duty under Part 11 of the Equality Act 2010, insofar as its activities under this agreement could reasonably be deemed to be functions of a public nature for the purposes of the aforementioned Part 11; and shall take reasonable steps to promote equality of opportunity, in respect of access to the AHP dwellings funded pursuant to this agreement
 - take reasonable steps to monitor the representation of those who share protected characteristics within its undertaking; and shall take appropriate steps to remedy any under-representation in its workforce of those sharing a protected characteristic (as compared to the population of London) involved in projects within London funded (partly or wholly) by the GLA.

4. Other considerations

Key risks

- 4.1. The key risks associated with the decisions in this MD are outlined in the table below:

Risk description	Impact	Likelihood	Mitigation
The GLA allocates more RCG than returned by partners.	Medium	Low	Returned RCG allocations into affordable housing delivery will be based on available funds, and no unfunded allocations will be made.

Returned RCG may not be fairly allocated to partners.	Medium	Low	The GLA's assessment of the received proposals and negotiations with partners on the use of returned RCG will mirror existing GLA assessment processes; and ensure that the returned RCG is used in a manner that safeguards remaining completions, supports housing delivery, and offers the best value for money.
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Links to Mayoral strategies

- 4.2. The London Housing Strategy sets out Mayor's commitment to delivering genuinely affordable homes as outlined within three policies (4.1: genuinely affordable homes; 4.2: increasing delivery of affordable homes; and 4.3: protecting London's affordable homes). The allocation of returned RCG towards housing delivery, through this decision, will further support implementation of these policies and delivery of more affordable homes for Londoners.

Consultation

- 4.3. As mentioned in paragraph 1.12 of this MD, officers have had ongoing close engagement with partners (including London boroughs) about the existing viability challenges within the schemes delivering the AHP. Proposals for the best use of this additional funding, towards supporting the delivery of affordable housing, will arise from these discussions. Extensive consultations with wider stakeholders are not required as this MD is only seeking approval to use this additional funding (returned RCG) through the existing AHP.

Conflicts of interest

- 4.4. There are no conflicts of interest to declare from any of the officers involved in the drafting or clearance of this decision form.

5. Financial comments

- 5.1. This Decision form is seeking approval to incur expenditure of up to £456m to support the delivery of the 2016-23 and 2021-26 AHPs, if required. This support is required to address the financial challenges being experienced by some of the GLA partners, which is leading to delays in delivery of completions. Some of the factors negatively affecting some of GLA's partners financial viability are increased construction costs; increasing interest rates; contractor insolvency; and reprioritised internal investment into improving existing housing stock.
- 5.2. This MD is also seeking approval to use the RCG balance of £376m (as at 31 March 2024), plus approximately £80m RCG receipts that is expected in 2024-25, to fund the cost of the support required to address partners' financial challenges.
- 5.3. The use of the RCG funds will be administered under the same guidance as applied to the AHP. Management of the risks associate with this source of funded are outlined in section 4 of this decision form.

6. Legal comments

- 6.1. Section 30 of the Greater London Authority Act 1999 (as amended) (GLA Act) gives the Mayor a general power to do anything that he considers will further one or more of the principal purposes of the GLA. The principal purposes, as set out in section 30(2), are:
- promoting economic development and wealth creation in Greater London

- promoting social development in Greater London
 - promoting the improvement of the environment in Greater London.
- 6.2. Given the above, the GLA's housing and regeneration functions contained in Part 7A of the GLA Act and section 34 of the GLA Act, which allow the Mayor to do anything that is calculated to facilitate, or is conducive or incidental to, the exercise of any of his functions (including his functions under section 30), the GLA is empowered to provide financial assistance for the purpose of the recipient providing affordable housing.
- 6.3. In determining whether or how to exercise the power conferred by section 30(1) of the GLA Act, the Mayor must:
- have regard to the effect that these decisions will have on the health of persons in Greater London, health inequalities between persons living in Greater London, the achievement of sustainable development in the UK and climate change and its consequences (sections 30(3-5) of the GLA Act)
 - pay due regard to the principle that there should be equality of opportunity for all people (section 33 of the GLA Act).
- 6.4. In taking the decisions requested, the Mayor must also have due regard to the Public Sector Equality Duty – namely the need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Equality Act 2010; and to advance equality of opportunity, and foster good relations, between persons who share a relevant protected characteristic (race, disability, sex, age, sexual orientation, religion or belief, pregnancy and maternity, and gender reassignment) and persons who do not (section 149 of the Equality Act 2010). These matters will also need to be taken into account when assessing specific bids for funding allocations.
- 6.5. In respect of paragraphs 6.3 and 6.4, the Mayor should have regard to section 3, above.
- 6.6. In addition to the above, where the Mayor is proposing to use the power conferred in section 30(1) of the GLA Act, the Mayor must consider consulting in accordance with section 32 of the GLA Act (see paragraph 4.3, above). The Mayor will need to consult in accordance with section 32 of the GLA Act, as appropriate, prior to committing any funding.
- 6.7. Where funding is to be granted by the GLA for the provision of low-cost rental accommodation, it should be noted that sections 31 to 36 of the Housing and Regeneration Act 2008 (as amended by section 333ZE of the GLA Act) will apply. This includes a requirement upon the GLA to impose a condition ensuring that a registered provider of social housing is the landlord when the accommodation is made available for rent.
- 6.8. The GLA is subject to the overarching duties of fairness and transparency. Officers must ensure that the funding is distributed fairly, transparently, in accordance with the GLA's equalities duties and in a manner that affords value for money in accordance with the GLA's Contracts and Funding Code.
- 6.9. The proposals in this paper include an increase in the budget and an extension of the end date for the respective AHP subsidy schemes. Certain modifications, defined as 'permitted modifications' under the Subsidy Control Act 2022, may be made to a subsidy scheme without the public authority being required to carry out a further assessment against the subsidy control principles. 'Permitted modifications' include providing for an increase in budget of a subsidy scheme of up to 25 per cent; and providing for an extension of a subsidy scheme of up to six years. The increase in budget and extension of the subsidy schemes proposed in this paper fall within the definition of a 'permitted modification'; therefore, a fresh assessment against the subsidy control principles is not required.
- 6.10. Section 38 of the GLA Act provides that any function exercisable on behalf of the GLA by the Mayor shall also be exercisable by, amongst others, any member of staff of the GLA, if or to the extent that

the Mayor authorises and subject to any conditions imposed by the Mayor. The Mayor may make the delegations proposed in this paper.

7. Planned delivery approach and next steps

- 7.1. Once confirmed, the first formal allocation and payment of returned RCG is expected to happen by March 2025. Proposals for the use of returned RCG to support housing delivery will be discussed, reviewed, and assessed on an ongoing basis.

Activity	Timeline
Engagement with partners	Ongoing
First use of returned RCG to support delivery	March 2025
Monitoring and tracking of AHP grant headroom and the returned RCG	ongoing

Appendices and supporting papers:

None.

Public access to information

Information in this form (Part 1) is subject to the Freedom of Information Act 2000 (FoIA) and will be made available on the GLA website within one working day of approval.

If immediate publication risks compromising the implementation of the decision (for example, to complete a procurement process), it can be deferred until a specific date. Deferral periods should be kept to the shortest length strictly necessary. **Note:** This form (Part 1) will either be published within one working day after it has been approved or on the defer date.

Part 1 – Deferral

Is the publication of Part 1 of this approval to be deferred? NO

Part 2 – Sensitive information

Only the facts or advice that would be exempt from disclosure under the FoIA should be included in the separate Part 2 form, together with the legal rationale for non-publication.

Is there a part 2 form? NO

ORIGINATING OFFICER DECLARATION:

Drafting officer to
confirm the
following (✓)

Drafting officer:

Mustafa Nassery has drafted this report in accordance with GLA procedures and confirms the following:

✓

Sponsoring Director:

Tim Steer has reviewed the request and is satisfied it is correct and consistent with the Mayor's plans and priorities.

✓

Mayoral Adviser:

Tom Copley has been consulted about the proposal and agrees the recommendations.

✓

Advice:

The Finance and Legal teams have commented on this proposal.

✓

Mayoral Delivery Board

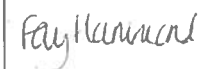
This decision was agreed by the Mayoral Delivery Board on 17 February 2025.

✓

CHIEF FINANCE OFFICER:

I confirm that financial and legal implications have been appropriately considered in the preparation of this report.

Signature:



Date:

19/02/2025

CHIEF OF STAFF:

I am satisfied that this is an appropriate request to be submitted to the Mayor.

Signature:



Date:

17/02/2025