

## REQUEST FOR MAYORAL DECISION – MD2021

### Title: Voluntary Right to Buy – Scheme Administration

#### Executive Summary:

The Government has agreed a voluntary Right to Buy deal with the National Housing Federation. The National Housing Federation was acting on behalf of all stock owning housing associations across the country. The Housing and Planning Act 2016 provides for payments to be made to housing associations to fund the Right to Buy purchase discounts offered to eligible housing association tenants.

Payments in London are unable to be administered by the Homes and Communities Agency as they only operate outside of the capital.

This Mayoral Decision sets out:

- details of the pilot Voluntary Right to buy scheme,
- what is currently known of how the main Voluntary Right to buy scheme is intended to operate,
- the options for administering the purchase discounts grants,

and recommends that the GLA performs this function within London.

#### Decision:

That the Mayor:

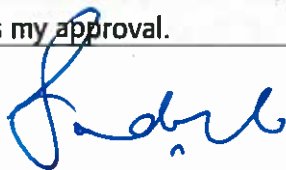
1. Approves the GLA administering the pilot Voluntary Right to Buy scheme in London and the receipt and expenditure of up to £16.1m from central Government to meet the full cost of the pilot scheme in London, by making discount and administration grant payments to London & Quadrant Housing Trust in respect of dwellings sold to their tenants in the pilot boroughs.
2. Agrees to the GLA managing the payment and monitoring of the purchase discount grants for the main Voluntary Right to Buy scheme in London and the receipt and expenditure from central government to meet the full costs of the scheme (subject to the receipt of sufficient funding from central Government to fund the same, and agreement of appropriate terms and conditions with government).
3. Delegates authority to the Executive Director of Housing and Land in consultation with the Deputy Mayor for Housing & Residential Development to, in accordance with this MD, agree the appropriate terms and conditions to administer and monitor the pilot and main Right to Buy scheme in London, and agree with government the annual funding required for the main scheme.

#### 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:

24/10/16

## **PART I - NON-CONFIDENTIAL FACTS AND ADVICE TO THE MAYOR**

### **Decision required – supporting report**

#### **1. Introduction and background**

- 1.1 In September 2015, the National Housing Federation (NHF), on behalf of its housing association members, put forward a proposal to the Government to deliver its manifesto commitment to extend the local authority Right to Buy (RTB) scheme to housing association tenants by way of a voluntary agreement rather than legislation. This proposal was accepted by the previous Prime Minister in October 2015. Under the Voluntary Right to Buy scheme housing association tenants would have the right to purchase their home at a substantial discount, subject to meeting certain criteria.
- 1.2 Housing associations are to be compensated for the purchase discounts through grant payments that will be managed outside of the capital by the HCA. Housing investment powers in London rest with the Mayor through the Localism Act 2011 which, *inter alia*, transferred all of the investment and funding responsibilities of the Homes and Communities Agency (HCA) to the Mayor. The HCA therefore has no remit to operate as an investment agency in London unless the Mayor chooses to delegate his powers to it. This has been done in a few cases since 2012, primarily for reasons of operational efficiency.
- 1.3 Section 65 of the Housing and Planning Act 2016 gives the GLA power to pay grants to housing associations to compensate them for the Right to Buy purchase discounts for dwellings in London, on any terms and conditions that the GLA considers appropriate. The amount of Right to Buy purchase discount available to eligible housing association tenants will be set at the same level as the existing Right to Buy for local authority tenants, a maximum of £103,900 in London.
- 1.4 Details over the source of revenue to compensate housing associations for the discounts have not yet been published. The Housing and Planning Act 2016 provides a statutory underpinning for this to be funded through the requirement of local housing authorities to make payments to government that reflect the sale of the most valuable council owned housing stock by area, though the relevant regulations have not yet been issued.
- 1.5 Whilst the funding arrangements for the main scheme are still to be settled, a pilot scheme has been put in place which is not reliant on the higher value asset sales to fund the purchase discounts. A separate budget has been agreed and made available by HM Treasury to fund the housing associations running the pilot scheme.
- 1.6 The overall operation of the pilot scheme can be operated within existing structures and systems within the Housing and Land Directorate and will not be an administrative burden or cost to the GLA, but will enhance our knowledge of the impact that the Voluntary Right to Buy programme has in London.

#### **2. Objectives and expected outcomes**

##### **Main scheme**

- 2.1 The main scheme is not expected to commence across the housing association sector until the source of revenue to compensate housing associations for the discounts is clear.
- 2.2 The Voluntary Right to Buy agreement between the National Housing Federation and central government made a national commitment for replacement properties sold through the programme on a 'no net loss' basis. However, the agreement does not require replacement 'like for like' in terms of location, tenure, or any particular housing association.

- 2.3 It is important therefore that the Mayor works to support the one-for-one re-provision of affordable homes to rent within the capital. By administering the scheme within the GLA, he will be able to maximise the chances of this being achieved in London.
- 2.4 To this end, the Mayor has secured a voluntary agreement from the G15, the leading housing associations in London, that every home sold in London through the Voluntary Right to Buy will be replaced with a new affordable home to rent in the capital.
- 2.5 In agreeing to administer both the pilot and on-going Voluntary Right to Buy discount arrangements, the GLA will seek to secure agreement with all partner housing associations that every home sold through the Voluntary Right to Buy will be replaced with a new affordable home to rent in the capital.
- 2.6 In managing the Voluntary Right to Buy scheme and the relationships with the housing associations, the GLA will be able to monitor where the sales are taking place, what level of receipts are being generated, align this with other investment programmes, and use this information for investment planning in the future.
- 2.7 In accepting this management responsibility the GLA would not be accountable for the RTB programme budget. This will be monitored and managed using an online portal controlled by DCLG which will monitor the number of applicants going through the key approval stages with each housing association. This limits the risk of the GLA having to 'turn off the tap' and stopping individual eligible tenants accessing the scheme and purchasing their homes should the funding prove insufficient to sustain the levels of demand from tenants. This responsibility rests with central government. The details of exactly how the scheme will be run will be negotiated and finalised in due course.

#### Pilot Scheme

- 2.8 The Government has put in place a Voluntary Right to Buy pilot scheme with five housing associations invited by the Government to take part, only one of which, London and Quadrant Housing Trust (L&Q), operates in London. The L&Q pilot covers eight boroughs (Croydon, Enfield, Greenwich, Haringey, Lambeth, Lewisham, Newham and Southwark).
- 2.9 L&Q have approximately 70,000 properties across London and since the pilot was launched have received in excess of 2,000 expressions of interest. They expect to see 150 purchases take place under the pilot.
- 2.10 Under an agreement between the Secretary of State for Communities and Local Government and the five pilot housing associations, it is envisaged that once the sale of an L&Q property under the pilot Voluntary Right to Buy is completed, L&Q will notify the Government or its nominated agent, proposed to be the GLA for London sales. The GLA will then pay L&Q a grant of an amount equal to the Right to Buy discount together with an administration grant of £3,500 (to cover costs incurred by L&Q in connection with the pilot Voluntary Right to Buy sales) within 10 working days of the notice.
- 2.11 A budget has been made available by Government to cover around 600 purchases nationally. The GLA anticipates that up to £16.1m will be made available by Government to the GLA to compensate L&Q in respect of its estimated pilot Voluntary Right to Buy sales. L&Q completed the first sale in July 2016.

#### Options and Recommendation

- 2.12 There are two routes that the Mayor could adopt in delivering the Voluntary Right to Buy in London.

- 2.13 Firstly the Mayor could delegate the full operation of the pilot and main scheme to the HCA so that they have a mandate to operate in London and pay the purchase discount grants. This would mean that the Mayor and GLA had no association with the scheme. However, in doing so the GLA would forgo any ability to enforce any terms and conditions that the GLA considers appropriate to deliver the scheme, as enabled by clause 65 of the Housing and Planning Act 2016.
- 2.14 The second and preferred route is to agree to manage the Voluntary Right to Buy scheme (both the pilot and subsequent main programme) in London and to build on the G15 voluntary agreement over replacements by setting terms and conditions to ensure so far as possible that all homes sold are replaced within the capital on a like for like basis.

### **3. Equality comments**

- 3.1 Section 149(1) of the Equality Act 2010 provides that, in the exercise of their functions, public authorities must have due regard to the need to:
- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
  - Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
  - Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 3.2 The obligation in section 149(1) is placed upon a decision maker, and due regard must be had at the time a particular decision is being considered. The duty is non-delegable and must be exercised with an open mind.
- 3.3 Taking into account the obligations under section 149(1) of the Equality Act 2010, there are no equality implications arising from this decision.
- 3.4 It is expected that the pilot Voluntary Right to Buy scheme will be operated fairly and transparently by L&Q. L&Q will be expected to recognise those with protected characteristics and no weight should be placed upon these characteristics when assessing eligibility to exercise the Right to Buy as a housing association tenant.

### **4 Financial comments**

- 4.1 This decision requests approval to administer the Voluntary Right to Buy scheme in London by making purchase discount grant payments. The pilot scheme requires the receipt of circa £16.1m revenue funding from Department for Communities and Local Government (DCLG) and paying London and Quadrant Housing Trust (L&Q) for offering the pilot scheme to their tenants.
- 4.2 The revenue funds will be administered and monitored through the current investment management system (IMS) that the GLA uses to fund the majority of the affordable housing programme. The mechanism of payments to L&Q will be as follows:
- 4.2.1 L&Q will be providing monthly sales projections to the GLA and DCLG
- 4.2.2 Based on those projections, DCLG will be transferring 100% of forecast funds to the GLA on a quarterly basis

4.2.3 Once the sale of an L&Q property is completed, L&Q will notify the GLA who will pay to L&Q a grant of an amount equal to the Right to Buy discount together with an administration grant of £3,500

4.2.4 In order to manage DCLG's end of year underspend in quarter three of the financial year DCLG will transfer 75% of the L&Q forecast amount in advance and the remainder in arrears against actual spend, not forecast.

4.3 It is envisaged that the pilot scheme will run throughout the 2016/17 financial year. Any changes to this proposal will be subject to further approval via the GLA's decision making process.

## **5 Legal comments**

5.1 Under section 65 of the Housing and Planning Act 2016, which came into force on 26 May 2016, the GLA may make grants to private registered providers in respect of Right to Buy discounts for dwellings in London. Such grants may be made on any terms and conditions the GLA considers appropriate. Further, section 38(1) of the Greater London Authority Act 1999 provides that any function exercisable on behalf of the GLA by the Mayor shall also be exercisable on behalf of the GLA by any member of staff of the GLA if or to the extent that the Mayor so authorises, whether generally or specially, and subject to any conditions imposed by the Mayor.

5.2 Section 30(1) of the Greater London Authority Act 1999 (the GLA Act), provides that the Authority may do anything which further one or more of the principle purposes which are:

- (1) promoting economic development and wealth creation in Greater London;
- (2) promoting social development in Greater London; and
- (3) promoting the improvement of the environment in Greater London.

5.3 In determining whether or how to exercise the power conferred by section 30(1) of the GLA Act, the Mayor must:

- (i) have regard to the effect that his decision 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 United Kingdom and climate change and its consequences (sections 30(3-5) of the GLA Act;
- (ii) pay due regard to the principle that there should be equality of opportunity for all people (section 33 of the GLA Act); and
- (iii) 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 between persons who share a relevant protected characteristic (race, disability, gender, age, sexual orientation, religion or belief, pregnancy and maternity and gender reassignment) and persons who do not share it and foster good relations between persons who share a relevant protected characteristic and persons who do not share it (section 149 of the Equality Act 2010);

5.4 The Right to Buy for Housing Association tenants will enable those tenants to purchase their homes at a discount. The grants provided by the GLA will help to facilitate the extension of Right to Buy rights to housing association tenants, which would promote social and economic development and wealth creation in London. Given the above, together with the GLA's powers under the Housing and Planning Act 2016, and section 34 of the GLA Act, which allows the Mayor to do anything which 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:

- (i) administer the pilot scheme and make the relevant grants to L&Q, and
- (ii) administer the main scheme and make grants to other housing associations active in London, subject to the terms and funding of that main scheme being settled.

- 5.5 Legal advice should be sought in respect of the terms and conditions to be agreed with central Government in relation to receipt of the funding for the pilot scheme. In particular (bearing in mind that the GLA is not a party to the agreement between the Secretary of State for Communities and Local Government and the five pilot housing associations so it could be varied without GLA consent), the terms of the funding should ensure that the Government will provide the GLA with any additional funding necessary to cover grant claims made by L&Q under the pilot Voluntary Right to Buy scheme. Once the proposed terms and conditions of the main scheme are known, further legal advice should be sought as appropriate.

## **6. Planned delivery approach and next steps**

<b>Activity</b>	<b>Timeline</b>
Pilot VRTB scheme starts	September '16
Pilot VRTB scheme ends	31 <sup>st</sup> March '17
Main VRTB scheme starts	TBC

### **Appendices and supporting papers:**

**Public access to information**

Information in this form (Part 1) is subject to the Freedom of Information Act 2000 (FOI Act) 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 approval or on the defer date.

**Part 1 Deferral:**

**Is the publication of Part 1 of this approval to be deferred? YES**

If YES, for what reason:

Until the regulations for the main VRTB scheme have been agreed by DCLG and HM Treasury

Until what date: 15 September 2017

**Part 2 Confidentiality:** Only the facts or advice considered to be exempt from disclosure under the FOI Act should be 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:**

Nick Taylor has drafted this report in accordance with GLA procedures and confirms the following have been consulted on the final decision.

✓

**Sponsoring Director:**

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

✓

**Mayoral Adviser:**

James Murray has been consulted about the proposal and agrees the recommendations.

✓

**Advice:**

The Finance and Legal teams have commented on this proposal.

✓

**Corporate Investment Board**

This decision was agreed by the Corporate Investment Board on 10 October 2016.

**EXECUTIVE DIRECTOR, RESOURCES:**

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

Signature

*M. J. Allen*

Date

20.10.16

**CHIEF OF STAFF:**

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

Signature

*D. Bellamy*

Date

20/10/2016

