

REQUEST FOR MAYORAL DECISION – MD1476

Title: The Mayor's Care and Support Specialised Housing Fund – Phase 2

Executive Summary:

The second phase of the Mayor's Care and Support Specialised Housing Fund is focused on the delivery of private housing solutions for older persons and disabled adults with an option to fund affordable housing for older persons and disabled adults on mixed tenure developments.

The £35m allocation will be administered by the GLA on behalf of the Department of Health (DoH) over the next three years starting in financial year 2015/16 and ending in 2017/18. Funding is capital grant from DoH budgets and not repayable. Where the funding is for private housing it will be provided by the GLA (or GLA Land and Property Limited, as appropriate) on commercial terms and on a recoverable basis, to be reinvested in additional housing for the same client group.

A bidding prospectus will be published and bids invited to deliver the objectives of the fund.

Decision:

That the Mayor:

- approves the GLA receiving £35m capital grant funding from the Department of Health and administering this funding over 3 years, commencing in financial year 2015/16 and ending 2017/18, for the purposes of the Mayor's Care and Support Specialised Housing Fund - Phase 2 ("MCSSHF").
- authorises each of the Deputy Mayor for Housing Land and Property and the Executive Director of Housing and Land to prepare and publish a bidding prospectus, which sets out the basis on which GLA funding will be made available under the MCSSHF, and the bidding process;
- delegates authority to the Executive Director of Housing and Land, and authorises GLA Land and Property Limited ("GLAP") as required, to contractually commit up to £35m of MCSSHF funding to successful bidders for GLA funding and to enter into the subsequent contractual funding agreements and to do all things necessary or desirable to facilitate the implementation and operation of the matters referred to in this Mayoral Decision

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:

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

Decision required – supporting report

1. Introduction and background

In the Comprehensive Spending Review June 2013, there was £115m additional capital funding awarded to the Department of Health (DoH) for the provision of specialised housing solutions.

In late 2013 it was agreed with DoH, that the GLA will receive circa 30% of the £115m, totalling £35m, a 10% larger proportion than for phase one of the Care and Support Specialised Housing Fund (MD1073). DoH agreed that the GLA's share of the additional funding would be allocated in its entirety to Phase Two of the fund.

Phase Two of the fund will be used predominantly for the delivery of private market housing options. This could include private sale, private rent but also affordable products where they assist the mixed tenure scheme's delivery.

In early January 2015 DoH confirmed to the GLA that Phase Two of the Mayor's Care and Support Specialised Housing Fund can be implemented as approval from HMT had been granted.

A bidding prospectus will be published to competitively allocate the funds for the specific purpose of delivering specialist supported private housing in London. DoH and GLA will sign a Memorandum of Understanding (MoU) to set out how the parties intend the GLA will administer the funds.

2. Objectives and expected outcomes

The key objective of Phase Two is to maximise the delivery of new homes in the private market for older persons and disabled adults.

The aim is not to deliver high end top of the prime market products but to deliver accessible good value private market solutions to encourage those who may feel isolated to down size into more appropriate accommodation potentially realising equity they hold in their existing property.

The fund will run from 2015 to 2018 finishing in the same financial year as Phase One (the affordable housing part of this programme) which will have run for five years.

The terms on which the GLA provides funding will need to be state aid compliant and, where there is investment into private housing that is not covered by any state aid exemption, the investment will be made on commercial terms.

The following proposed investment routes that will be used to allocate the recoverable funding, and which be described in more detail in bidding prospectus are:

- loans on fully commercial terms
- equity – pari passu and valued linked
- grant for shared ownership or affordable rent – where this enables private housing to be delivered on the same site.

The bidding prospectus will be prepared and published by either the Deputy Mayor for Housing Land and Property and the Executive Director of Housing under delegated authority conferred by this Mayoral Decision.

The bidding prospectus will seek Expressions of Interest from land owners that would be interested in the GLA acquiring land or assisting in land remediation or site assembly before tendering to the market to select a development partner.

The £35m the Mayor is asked to receive from DoH for the purposes of the Mayor's Care and Support Specialised Housing Fund, phase 2 ("MCSSHF") is capital grant. There is no requirement for this investment to be recovered by DOH from the GLA. However, DoH does expect that the GLA reinvests funds recovered from any loans, equity investments or grants it provides under the MCSSHF into similar products for older persons and disabled adults.

The GLA will enter into a MoU with the DoH to confirm these principles and commit to reinvest the funds.

As the DoH funding does not have to be repaid, and only reinvested, this will not count against the GLA's credit rating. It should be noted that the contractual agreements to provide funding on commercial terms for the delivery of private housing may need to be entered into by GLA Land and Property Ltd and not the GLA.

Funding will be allocated on an annual basis following the bids assessment, shortlisting and due diligence of bidders and proposals which will not complete until quarter 3 2015/16.

Drawn down will be based on the most accurate forecast of required funds from all bidders and then transferred from DoH to GLA. It will be back loaded over the three years.

There is no estimated or minimum required delivery target set by DoH, targets will be agreed following the bidding round and the assessment and due diligence process.

3. Equality comments

The funding is specifically design to address the housing pressures and challenges faced by those that are older in life or those that live with a physical or mental disability. The funding from DoH will greatly assist in increasing the provision of specialised housing with an element of care and support required

This will not only provide more suitable accommodation for those in need but also have an impact on the market by enabling older home owners to downsize and free up larger underutilised properties into the market in return for a stake in or full ownership of a more appropriate home where care and support can be received.

4. Other considerations

Links to strategies and Mayoral and corporate priorities

The London Housing Strategy indicates that although London is a relatively young city compared with the rest of the UK, 14 per cent of those who live in the capital, over a million, are over retirement age. London is also home to 1.2 million disabled people just over a half of whom are older people.

Every year over a thousand of London's social tenants voluntarily choose to downsize, so releasing family sized housing for overcrowded households. Overcrowding is a blight on the lives of tens of thousands of London families. Impacting on health, educational outcomes and general wellbeing.

There are positive links between the impact of downsizing and overcrowding in London. There is also potential correlation between the average age of those households that would wish to downsize and the aspirations of the fund in promoting home ownership models for the elderly.

Impact assessments and Consultation

The Housing and Land Directorate have conducted soft market testing with local authority partners and our investment partners which indicates that there is sufficient appetite in delivering a supported housing fund that would run until March 2018.

Risk

There is a risk that the funding could be under-subscribed, leaving un-allocated funding. This risk is considered low due to the different options available to bidders.

There is a risk that the fund is not promoted wide enough within the sector, this will be mitigated by looking to update all forums and ensure the launch of the prospectus gets sufficient coverage and conducting a seminar during the bidding period.

There is a risk that through this fund the Mayor could be seen as prioritising supported housing over and above other much needed provision, however this fund was transferred with the explicit purpose of delivering additional supported housing.

5. Financial comments

The DoH have offered capital funding to the GLA of £35m to fund phase two of The Mayor's Care and Support Specialised Housing Fund (MCSSHF) within the financial years 2015/16 to 2017/18 to invest in specialised housing for older people and disabled adults.

Loans for the private housing will be made on state aid compliant rates and the interest receipts will be receivable by [the GLA or] GLAP, along with the risk of default on the loans.

This funding can be accepted by the GLA with the intention to fund the loans from capital receipts in GLAP, subject to legal advice.

Revenue costs can be partially met from the balance of phase one revenue funding from the DoH of £60k. Further costs will need to be contained within existing revenue budgets

6. Legal comments

Section 30 of the Greater London Authority Act 1999 (as amended) ("GLA Act") gives the Mayor a general power to do anything which 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:

- (a) promoting economic development and wealth creation in Greater London;
- (b) promoting social development in Greater London; and
- (c) promoting the improvement of the environment in Greater London.

Given the above, the GLA's housing and regeneration functions contained in Part 7A of the GLA Act and section 34 of that 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), and section 333A(3)(b), (4) and (10), the GLA is empowered to provide financial assistance for the purpose of the recipient providing social and/or private market housing.

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);

The Prospectus will need to be formulated having regard to the Public Sector Equality Duty, and the matters set out in section 30(3-5) of the GLA Act detailed above. These matters will also need to be taken into account when assessing specific bids for funding proposals and entering into funding agreements.

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. The Mayor will need to consult in accordance with section 32 of the GLA Act, as appropriate, prior to entering into any funding agreements.

Where funding is to be granted by the GLA for the provision of affordable housing on shared ownership or affordable rent terms (as anticipated in this paper), 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, in respect of affordable rent accommodation, to impose a condition ensuring that a registered provider of social housing is the landlord when the accommodation is made available for rent and, further, the GLA must consult the Regulator of Social Housing in respect of its proposals to provide financial assistance for any affordable shared ownership accommodation.

The legal implications of Section 34A of the GLA Act and the Greater London Authority (Specified Activities Order) 2013/973 will need to be considered. They require that the GLA can only carry out certain activities if done so through a company that is a subsidiary of the GLA. Those activities are the “management and exploitation” (which includes acquisition, disposal, development and holding) of land on a commercial basis with a view to the realisation of a profit in connection with the GLA’s housing, regeneration and economic development functions under the GLA Act. To the extent any of the proposals involve loans secured by legal charge or involve the acquisition, holding or disposal of land by the GLA, such activities will need to be reviewed in order to assess whether they are required to be carried out by GLA Land and Property Limited rather than the GLA.

Affordable rent and shared ownership is, in State Aid terms, social housing; and, provided those eligible to be tenants or leaseholders of new homes meet the GLA criteria for income eligibility, then the affordable housing element of the programme should be capable of being implemented in compliance with State Aid rules. In relation to the proposed funding for private market housing, it is proposed in this paper that all such funding is provided on fully commercial terms to ensure that there is no breach of the State Aid rules. Detailed legal advice will be required in this respect. The funding arrangements, incorporating relevant security for GLA recoverable investment, will need to be established in a State Aid compliant manner and also in a way which complies with the GLA’s fiduciary duty to use its public funds prudently and in a manner which affords value for money.

Where any proposals include the disposal of land held by the GLA for housing and regeneration purposes, section 333ZC of the GLA Act – which provides that the GLA may not dispose of land held by it for the purposes of housing or regeneration for less than the best consideration which can reasonably be obtained unless the Secretary of State consents – will need to be complied with.

The award of GLA funding under phase two of the Mayor's Care and Support Specialised Housing Fund is not a procurement, and is not therefore subject to the requirements of the Public Contracts Regulations 2006. This notwithstanding, the GLA is still subject to the overarching duties of fairness and transparency.

Legal advice should be sought on any documentation that the GLA proposes to use before the GLA starts to administer and operate phase two of this funding programme, and enters into any such agreements and to advise on specific legal issues arising. Specialist legal advice will be required.

7. Housing Investment Group

The Group received a presentation on Phase two of the Mayor's Care and Support Specialised Housing Fund (MCSSHF) from the Head of Area North West.

Members considered whether a proportion of homes for elderly and disabled people should be included within the Housing Zones, however it was thought that this would need to be considered separately for each Zone.

A question was raised as to whether those bidding to the fund would have to demonstrate availability of revenue support. Members were informed that this would be built into the prospectus as a requirement before funding was sought.

8. Planned delivery approach and next steps

Activity	Timeline
Launch bidding prospectus	w/c 23 rd March
Deadline for bids	Noon Friday, 30 th June 2015
Announcement of shortlisted proposals and commencement of due diligence	August 2015
Announcement of first allocations	September 2015

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? NO

If YES, for what reason:

Until what date: (a date is required if deferring)

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.

✓

Assistant Director/Head of Service:

Nick Taylor has reviewed the documentation and is satisfied for it to be referred to the Sponsoring Director for approval.

✓

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:

Richard Blakeway has been consulted about the proposal and agrees the recommendations.

✓

Advice:

The Finance and Legal teams have commented on this proposal.

✓

EXECUTIVE DIRECTOR, RESOURCES:

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

Signature

Date

CHIEF OF STAFF:

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

Signature

Date