

# GREATER LONDON AUTHORITY

## REQUEST FOR MAYORAL DECISION – MD2369

### Title: Right to Buy Ringfence Offer

#### Executive Summary:

The Mayor launched the *Building Council Homes for Londoners* funding prospectus in May 2018. The prospectus contained details of a Right to Buy Ringfence Offer for councils under which the GLA will ringfence any Right to Buy receipts that a participating council collects and returns to the GLA (via central Government) for use by that council. This decision approves the receipt from central Government of funds collected by councils in London from Right to Buy receipts and, where the funds received derive from a participating council's area, the award of such funding by the GLA as affordable housing grant to be spent on delivering new social housing for rent by that council. It also approves applying such receipts to the *Mayor's Homes for Londoners: Affordable Homes Programme 2016-21* budget retrospectively at the end of each year, once amounts received are finalised.

#### Decision:

That the Mayor approves:


1. The receipt from central Government of grant on a quarterly basis for amounts up to that collected by councils in London from sales receipts (plus any interest) of dwellings under the Right to Buy scheme;
2. Where councils opt in to the GLA's Right to Buy Ringfence Offer, as described in the Mayor's *Building Council Homes for Londoners* funding prospectus, making allocations of affordable housing grant to spend on delivering new social housing for rent up to the amount received (or expected to be received) from central Government in respect of the decision above; and
3. Applying the grant received from central Government under this Mayoral Decision to the *Mayor's Homes for Londoners: Affordable Homes Programme 2016-21* budgets at the year end.

#### 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:

5/11/18

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

### Decision required – supporting report

#### 1. Introduction and background

- 1.1. MD2282 approved an Affordable Homes Programme budget of £4.92bn linked to delivering at least 116,000 starts of affordable homes by March 2022. In May 2018, the Mayor launched *Building Council Homes for Londoners*, the first-ever City Hall programme dedicated solely to council homebuilding. *Building Council Homes for Londoners* forms part of the *Mayor's Homes for Londoners: Affordable Homes Programme 2016–21*. In October 2018, the Mayor announced funding allocations for the *Building Councils Homes for Londoners* programme of £1,029.3m to support 14,724 affordable homes, of which 11,154 will be based on social rent levels.
- 1.2. In addition to providing grant funding and helping councils to build in-house skills and expertise, the *Building Council Homes for Londoners* funding prospectus also contained details of the GLA's Right to Buy Ringfence Offer.<sup>1</sup>
- 1.3. The rules governing council expenditure of Right to Buy receipts are enforced through legislation and agreements between councils and central Government. In the absence of these agreements – or if the receipts cannot be spent in accordance with the terms in these agreements – councils must return receipts to central Government which then redistributes them to the GLA in London. The agreements also allow councils to voluntarily return funding to central Government. The GLA has received more than £50 million of returned Right to Buy receipts since 2012. It has used this money to top up its affordable homes programmes (through which it allocates the majority of funding to housing associations rather than councils).
- 1.4. For councils opting in to the Right to Buy Ringfence Offer, the GLA will ringfence any Right to Buy receipts that a participating council collects and returns to the GLA (via central Government) for use by that council in accordance with a standard-form grant agreement between the two parties. The allocations for projects being delivered through standard-form grant agreements will be agreed in line with section 18 of the GLA's scheme of delegation ("Mayoral Decision-Making in the Greater London Authority"), that is by the Executive Director of Housing & Land and recorded and published by the Housing & Land Directorate. As detailed in the *Building Council Homes for Londoners* funding prospectus, the payments the GLA makes to councils must be used to fund social housing for rent and should not exceed 30 per cent of the full development costs for replacement homes. The GLA will require reassurance from councils that they identify projects within a three-year pipeline to ensure resources are utilised quickly.
- 1.5. The GLA receives Right to Buy receipts, returned from councils, from the Ministry of Housing, Communities and Local Government (MHCLG) by way of grant on a quarterly basis one quarter in arrears. These funds will be added to the Housing and Land affordable housing grant budgets annually following receipt of the funds. To ensure compliance with the GLA's scheme of delegation (in particular, section 18), the GLA will make allocations to councils opting in to the ringfence offer against affordable housing grant budgets in cases where it receives (or expects to receive) sufficient grant (derived from Right to Buy receipts plus any interest) from MHCLG but where such funds await being added to its affordable housing budgets. The standard-form grant agreements for Right to Buy ringfence allocations will stipulate that the GLA will only pay councils Right to Buy ringfence allocations where the GLA has received sufficient Right to Buy funds from MHCLG.

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<sup>1</sup> The *Building Council Homes for Londoners* funding prospectus is available here:  
[https://www.london.gov.uk/sites/default/files/building\\_council\\_homes\\_for\\_londoners\\_16\\_may.pdf](https://www.london.gov.uk/sites/default/files/building_council_homes_for_londoners_16_may.pdf)

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

- 2.1. The Right to Buy Ringfence Offer will contribute to the Mayor's objective, as set out in the *Building Council Homes for Londoners* funding prospectus, to build at least 10,000 new council and Right to Buy replacement homes.

## **3. Equality comments**

- 3.1. The Right to Buy Ringfence Offer will help councils to increase the number of affordable homes in London, in turn helping to implement the policies set out in the London Housing Strategy. In September 2017 the GLA published an Impact Assessment, including an equalities impact assessment, of the London Housing Strategy.
- 3.2. Delivery of additional affordable homes in London is likely to help many of those with protected equality 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.
- 3.3. In order to access funding, councils or their dedicated delivery bodies will be required to enter into a grant agreement with the GLA. With regards to project delivery, GLA grant agreements will place the following standard obligations in respect of the Equality Act 2010 upon the counterparty:
  4. 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 procure that all Grant Recipient Parties engaged in the delivery of the Ringfence Offer do likewise.
  5. The Grant Recipient 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 the actual implementation of that policy upon request by the GLA.
  6. The Grant Recipient shall 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 that Part.

## **4. Other considerations**

### *a) Key risks and issues*

- 4.1. Risk: Councils do not utilise ringfenced Right to Buy receipts within three years of the GLA receiving the monies from central Government and the GLA has to return this money to central Government. Mitigation: The GLA made clear in the *Building Council Homes for Londoners* funding prospectus that the Right to Buy ringfence proposal is underpinned by councils' intentions to deliver a programme of projects on a three-year rolling delivery programme. The GLA will work closely with councils opting in to the ringfence offer to ensure grant is spent on time. Where a council is unlikely to spend ringfenced receipts on time, the GLA is able to reduce a council's funding allocation (i.e. the amount it has ringfenced for that council). In this scenario, the GLA could then re-allocate the resources to another partner.

### *b) links to Mayoral strategies and priorities*

- 4.2. The London Housing Strategy includes a chapter entitled "Delivering genuinely affordable homes". The chapter details three policies (4.1 genuinely affordable homes; 4.2 increasing delivery of affordable homes; and 4.3 protecting London's affordable homes) which set out the need and means

for delivering many more genuinely affordable homes for Londoners. By helping councils to deliver social housing for rent, the Right to Buy Ringfence Offer will help to deliver strategic priorities in the London Housing Strategy.

*c) Consultation*

- 4.3. GLA officers engaged with London boroughs when preparing proposals for the Right to Buy Ringfence Offer.

**5. Financial comments**

- 5.1. This decision requests approval for the GLA to ringfence Right to Buy receipts received from central Government for the individual local authorities who had made the payments to central Government.
- 5.2. The payments made by the GLA to the local authorities are dependent on the local authority opting into the Right to Buy Ringfence Offer. The payments will only be made to the local authority if a receipt has been received by the GLA from the Government. Payments are received from the Government quarterly.
- 5.3. The payments made by the GLA to the local authorities are to be used for social housing for rent. The Right to Buy receipts the GLA reallocates to councils should not exceed 30 per cent of the full development costs for replacement homes.
- 5.4. There are no direct financial implications for the GLA. There will be an indirect cost to monitor the scheme.

**6. Legal comments**

- 6.1. The GLA is empowered to receive funding from MHCLG and provide grant funding to councils in London for the purpose of the recipient providing social/affordable housing under sections 30(1) and 34 of the Greater London Authority Act 1999 (the GLA Act), provided the Mayor considers that doing this will further one or more the GLA's principal purposes of: (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. It is open to the Mayor to take the view that the provision of funding to councils in London for the delivery of affordable rented homes in London promotes economic and social development.
- 6.2. 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 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);
  - Pay due regard to the principle that there should be equality of opportunity for all people (section 33 of the GLA Act); and
  - Comply with the Public Sector Equality Duty; namely to have due regard to 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 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).

- 6.3. As noted in section 3 above, in September 2017, the GLA published an impact assessment, including an equalities impact assessment, of the London Housing Strategy. Policies related to increasing housing supply and delivering affordable housing, to which GLA funding under the Right to Buy Ringfence Offer will contribute, were also covered by the Integrated Impact Assessment (IIA) for the Draft London Plan, published in November 2017.
- 6.4. Going forward, the Mayor will also need to have due regard to the Public Sector Equality Duty, and the matters set out in sections 30(3-5) and 33 of the GLA Act, when entering into any funding agreements.
- 6.5. 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. It is noted in paragraph 4.3 of this report that GLA officers engaged with London boroughs when preparing proposals for the Right to Buy Ringfence Offer.
- 6.6. 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.
- 6.7. The award of GLA funding under this programme is not a procurement and is not therefore subject to the requirements of the Public Contracts Regulations 2015. This notwithstanding, the GLA is still subject to the overarching duties of fairness and transparency.
- 6.8. External lawyers have advised on the standard-form grant agreement to be used for this funding. No commitment to fund should be made before the relevant agreement is entered into.

## 7. Planned delivery approach and next steps

Activity	Timeline
Councils consider whether to opt in to the Right to Buy Ringfence Offer	Ongoing
GLA reallocates ringfenced Right to Buy receipts as grant to councils opting in to the offer using a standard-form agreement	2018-2022

## 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**

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

## Part 2 - Sensitive information

Only the facts or advice that would be exempt from disclosure under 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:

Dan Maton has drafted this report in accordance with GLA procedures and confirms the following:

✓

### Sponsoring Director:

David Lunt 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 5 November 2018.

## EXECUTIVE DIRECTOR, RESOURCES:

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

Signature



Date

03.11.18

TOM MIDDLETON ON BEHALF OF MARGIN CLARKE

## CHIEF OF STAFF:

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

Signature



Date

5/11/2018