

GREATER LONDON AUTHORITY

REQUEST FOR MAYORAL DECISION – MD1638

Delegation of the Help to Buy equity loan programme and administration of equity loan post sales for legacy programmes to the HCA

Executive Summary:

To ensure consistency in customer experience throughout England, a temporary delegation lasting until 31 March 2016 was given to the Homes and Communities Agency (HCA) under MD1210 to operate the Help to Buy (HtB) equity loan scheme programme on behalf of the GLA. In March 2014, the Government announced further funding to extend the programme to 2020 to support an additional 120,000 homes. This funding was confirmed and increased to £8.6bn in the 2015 Spending Review which also extended the programme to 2021 (to support an additional 25,000 homes). As the scheme end date has now been extended, this MD seeks approval to extend delegation arrangements for the HtB programme to 31 March 2022 and for the management of equity loans post sales (under the HtB programme) to 31 March 2046.

Under MD1335, the administration of equity loan post sales for legacy programmes which transferred to the GLA following passage of the Localism Act 2011 was also delegated to the HCA until 31 July 2016. This decision seeks approval to extend this delegation to 31 March 2021.

Decision:

That under section 38(1) of the Greater London Authority Act 1999 (as amended) ("GLA Act") the Mayor authorises the HCA as of the date of this Mayoral Decision to exercise such of the GLA's powers under sections 30 and 34 of the GLA Act as the HCA considers necessary or expedient for the purposes of undertaking or continuing all or any of the activities specified in the Instrument of Delegations in relation to:

- (1) The Help to Buy equity loan scheme until 31 March 2022 for the operation of the programme and 31 March 2046 for the holding of Help to Buy equity loans (Appendix A); and,
- (2) The administration of equity loan matters relating to interests transferred to the GLA following passage of the Localism Act 2011 until 31 March 2021, including a number of loans not included in the 2012 statutory transfer scheme (Appendix B).

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:

31 MARCH 2016

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

Decision required – supporting report

1. Introduction and background

Help to Buy equity loan scheme

- 1.1 The £3.5bn Help to Buy equity loan scheme was announced by the Chancellor of the Exchequer on 20 March 2013. It formed part of a larger package offering greater support to current and potential home-owners.
- 1.2 The scheme built on the success of the existing FirstBuy scheme fund with a 20% equity loan to assist in the purchase of a new build property; however, there are a number of key differences from the previous FirstBuy model. They are:
 - The equity loan is 100% Government funded, with no developer contribution;
 - Eligibility rules have been loosened so existing home-owners can purchase (as long as they sell their other home as part of the purchase),
 - There is no income cap; and
 - The property price cap has been raised to £600k (from £280k previously).
- 1.3 The scheme commenced on 2 April 2013 and was initially announced to run until 31 March 2016. In March 2014, Government announced a further £6bn to extend the programme to 2020 to support an additional 120,000 homes. This funding was confirmed and increased in the 2015 Spending Review to £8.6bn for 2016-2021. The Spending Review also extended the programme to 2021 (to support another 25,000 homes) and announced an increased equity loan contribution of 40% for purchases in London from 1 February 2016.
- 1.4 Help to Buy is a demand-led product which has been designed to be as stream-lined as possible. This means that the GLA's scope to operate Help to Buy in a bespoke manner is limited and in any case could cause confusion to consumers. By operating the Help to Buy programme in London the GLA would have incurred additional administrative costs; in contrast, the HCA will operate the delegation at no cost to the GLA.
- 1.5 The HCA is operating the scheme in the rest of the country and has accepted the Mayor's delegation to run the scheme in London until 31 March 2016. In order to ensure consistency for consumers across the whole of England it is proposed that this delegation is extended to cover the full programme life.
- 1.6 This decision seeks approval to authorise the HCA to exercise the GLA's powers under sections 30 and 34 of the GLA Act as the HCA considers necessary or expedient for the purposes of undertaking or continuing all or any of the activities specified in the Instruments of Delegation (attached at Appendix A) in relation to the Help to Buy equity loan scheme, until 31 March 2022 for the operation of the programme (the additional year after the programme end is to allow for necessary end of programme administration e.g. estimate of accrued legal completions) and until 31 March 2046 for the holding of Help to Buy equity loans.

Administration of equity loan post sales (legacy programmes) delegation

- 1.7 By virtue of the Localism Act 2011 from 1 April 2012 the HCA's powers to operate in Greater London ended, and from this date the GLA has undertaken the HCA's former role in the capital using its new powers in relation to land and social housing contained in Part 7A of the GLA Act, and its general and subsidiary powers under sections 30 and 34 of that Act, which are exercisable by the Mayor.

- 1.8 Relevant property, rights, and liabilities of the HCA transferred to the GLA on 1 April 2012 under a statutory transfer scheme made under the Localism Act 2011, this included the equity loan investments in London that were provided to home buyers in Greater London to enable them to access low cost home ownership in the capital. In addition a number of equity loans in Greater London that were not originally included in the 2012 statutory transfer scheme have also been transferred to the GLA and the activities to be delegated by this Mayoral Decision will also apply to those loans. Each recipient of these loans is legally obliged to repay their loan when the property is sold or by the end of the loan agreement term, typically 25 years.
- 1.9 As part of the GLA's financial settlement, it was agreed with the Department for Communities and Local Government ("DCLG") that, from 1 April 2012, all repayments of equity loans in London and their associated interest fees payable by home buyers under the terms of the loan agreements will be payable to the GLA.
- 1.10 Through an existing temporary delegation agreed until 31 July 2016 under MD1335, the HCA undertakes and oversees a number of activities in relation to these loans in London. These activities include monitoring and reporting on the performance of the equity loan portfolio, collecting repayments from home buyers of loans granted and associated interest fees, management of equity investments, and contract management of the national service provider appointed to administer the programme.
- 1.11 The GLA and the HCA have agreed that, on grounds of efficiency and business continuity, the HCA should continue to undertake its activities in relation to the equity loans in London after the existing delegation expires in July 2016. The Mayor is therefore asked to authorise the HCA to exercise such of the GLA's powers under sections 30 and 34 of the GLA Act accordingly, upon the basis and upon the terms and conditions set out in the Instrument of Delegation attached at Appendix B to extend the delegation to 31 March 2021.

2. Objectives and expected outcomes

- 2.1 As announced by the Government, the Help to Buy: Equity Loan Scheme will now be extended until 2021 to continue to help individuals on lower incomes into home ownership. In addition, and to reflect the current property market in London, from February 2016 the Government has increased the upper limit for the equity loan it gives new buyers within Greater London from 20% to 40%.
- 2.2 In the first 30 months (to 30 September 2015), 62,569 properties were bought (legal completions) in England with the support of the Help to Buy: Equity Loan Scheme. Of these, the majority of sales were to first-time buyers (50,969) representing 81% of total sales¹. Over the same period, there were 3,548 loans in London of which 95% (3,386) were to first time buyers. With the extension of the programme and improved loan offer, the scheme is expected to help more Londoners who would otherwise struggle to afford a new home.
- 2.3 The extension of the maximum equity loan in London addresses the fact that homes in London are significantly more expensive than the rest of the country. There are other changes which could make the scheme more appropriate to the needs of London's housing market, including but not limited to:
- Longer gaps between reservation and purchase to reflect high density, longer build time in London;
 - Support of purchase of homes through assignable contracts for same reasons as above;
 - Explicit support for other forms of home ownership (e.g. forms of affordable home ownership not required as part of a wider s106 agreement, built without grant subsidy);

¹ DCLG, *Open Communities Data*, <http://opendatacommunities.org/data/housing-market/help-to-buy/num-loans/loan-types>

- Support for part-exchanges
- Allowing Help to Buy to sit as a first charge for older downsizers without mortgages;
- Exploring changes to the maximum property value cap (currently £600k nationwide)

- 2.4 HCA and DCLG have committed to working with GLA to implement as many of these as is considered feasible. It is acknowledged that any changes will need the support of main mortgage lenders and house builders, and have due regard for protection of home purchasers, before they can be considered for implementation.
- 2.5 Extending the temporary delegation for the HCA to administer equity loan post sales for legacy programmes is expected to ensure business continuity in tracking these investments and receiving returns.

3. Equality comments

- 3.1 The public sector equality duty requires the identification and evaluation of the likely potential impacts, both positive and negative, of this decision on those with protected characteristics (age, disability, gender reassignment, pregnancy and maternity, race, gender, religion or belief, sexual orientation) and to set out how the organisation is addressing the duty. The delegations set out in this decision are not expected to have any impacts on individuals with protected characteristics and the HCA will continue to give consideration to the public sector equality duty in all future decisions made under these delegations.

4. Other considerations

a.) Key Risk

- 4.1 The HCA will be carrying out the activities and functions specified in the Instrument of Delegations on behalf of the GLA. This means that the GLA is, in law, legally responsible (and potentially liable) in respect of the discharge of these activities and functions. The risks pertaining to the delegation are mitigated by the conditions contained in the delegations and the Mayor's right to revoke the delegations if required.

b.) Links to strategies and Mayoral and corporate priorities

- 4.2 The programmes delegated in this decision link in with the Mayoral priority to assist working Londoners into affordable and sustainable home ownership and the pledge to boost the First Steps programme by increasing home ownership options for working Londoners.

c.) Impact assessments and Consultation

- 4.3 No consultation has been carried out specifically in relation to this scheme but does build on the consultation carried out in relation to the *Mayor's Housing Covenant: Homes for working Londoners* which invited consultation responses up until 19 December 2012. DCLG and the HCA have been consulted in relation to the proposed delegations.

5. Financial comments

- 5.1 There are no financial implications arising from delegating to Homes and Communities Agency (HCA) to operate the Help to Buy (HtB) equity loan scheme programme on behalf of the GLA until until 31 March 2022 for the operation of the programme and 31 March 2046 for the holding of Help to Buy equity loans.
- 5.2 The GLA will be required to pay a proportion of the HCA's national contract price per annum towards the administration costs of the equity loan portfolio being managed on the GLA's behalf. This will be

calculated and based upon the GLA's equity loans as a proportion of the total equity loan portfolio administered by the HCA. Liability for the 2016/17 financial year is envisaged to be in the region of £90k, which will be met from the dedicated 'Home Buy Agent Fees' budget within Housing & Land.

- 5.3 The confirmation of this funding is subject to the finalisation and sign-off of the 2016/17 budget by the Mayor.
- 5.4 Any changes to above proposal, including continuation beyond the period stated above, must be subject to further approval via the Authority's decision-making process.

6. Legal comments

- 6.1 Section 30 of the Greater London Authority Act 1999 ("the GLA Act") allows the Mayor, acting on behalf of the GLA, and after appropriate consultation, to do anything which the Mayor considers will further the promotion of economic development and wealth creation, social development or the improvement of the environment within Greater London. This MD indicates that the relevant purposes in this case are the promotion of economic and social development in Greater London, which will be achieved by administering the Help to Buy equity loan scheme (a programme of equity loans to enable new build home purchase), and by administering the legacy Equity loans referred to above at paragraphs 1.7-1.11. Previously the GLA was prohibited from using these general powers to incur expenditure in relation to housing. This prohibition was removed by section 186 of the Localism Act 2011, which came into force on 1 April 2012.
- 6.2 Section 32 of the GLA Act provides that the power under section 30 is exercisable only after consultation with such bodies or persons as the GLA considers appropriate in the particular case. Paragraph 4.3 above notes that consultation was previously undertaken in relation to the Mayor's Housing Covenant. GLA has also consulted with HCA and DCLG in relation to arrangements for the administration of the two schemes that are subject to this Mayoral Decision.
- 6.3 Section 33 of the GLA Act requires the GLA, when exercising a section 30 power, to make appropriate arrangements with a view to securing that there is due regard to the principle that there should be equality of opportunity for all people. In addition, section 149 of the Equalities Act 2010 requires that GLA and the Mayor have due regard to the need to eliminate unlawful discrimination, harassment and victimisation as well as to advance equality of opportunity and foster good relations between people who share a protected characteristic and those who do not. The HCA is also subject to statutory duties under the Equalities Act 2010 and published an Equality and Diversity Strategy in November 2012, including nine equalities objectives. The HCA will be operating these programmes in line with their published strategy.
- 6.4 Section 34 of the GLA Act provides a further power for 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).

Delegation to HCA

- 6.5 The HCA's objects are specified in the Housing and Regeneration Act 2008 ("the HRA 2008") and include improving the supply and quality of housing in England and securing the regeneration or redevelopment of land or infrastructure in England. The HRA 2008 provides that HCA may do anything it considers appropriate for the purposes of its objects or for purposes incidental to those purposes.

- 6.6 The HCA's powers in the HRA 2008 used to cover the whole of England including Greater London. From 1 April 2012 the HCA's powers in Greater London were devolved to GLA under the Localism Act 2011. As a consequence, HCA no longer has the legal power to operate in Greater London and its property, rights and liabilities in Greater London were transferred to the GLA by statutory transfer scheme.
- 6.7 Sections 38(1) and (2) of the GLA Act allow the Mayor to authorise HCA to exercise his functions under the Act, including those contained in sections 30 and 34. It is therefore necessary that the Mayor delegates his powers under sections 30 and 34 to HCA to enable the HCA to carry on the activities specified in this MD in Greater London.
- 6.8 Section 38(3) of the GLA Act requires that HCA must consent to the delegation. HCA have informally consented to the delegations and will, in due course, be providing formal written consent to the Mayor.
- 6.9 Section 38(7) of the GLA Act gives HCA the power to exercise any functions delegated to it by the Mayor pursuant to section 38, whether or not HCA would otherwise have had that power and irrespective of the nature of that function.
- 6.10 Section 38(10) of the GLA Act requires such delegations to be in writing. The proposed Instruments of Delegation are attached as Appendices A and B. The Mayor may impose conditions on any delegations under section 38(1) and a number of conditions have been included in the delegations.
- 6.11 The powers contained in sections 30 and 34 of the GLA Act, which are to be delegated to HCA, are sufficient to enable HCA to do all things it considers necessary or expedient to undertake the activities specified in the Instruments of Delegation at Appendices A and B.

7. Investment & Performance Board

- 7.1 The HtB equity loan scheme delegation does not affect expenditure by the GLA, but aims to facilitate the delivery of the programme. As such it does not need to be considered by the Investment and Performance Board.
- 7.2 There is also no change to the cost structure for the administration of equity loan post sales; the GLA will still be required to contribute its proportion of the costs of administering the equity loans through HCA's national contract. There is no new decision related to costs for IPB to consider.

8. Planned delivery approach and next steps

Activity	Timeline
Help to Buy Programme Start Date	20 March 2013
Help to Buy Programme End Date	31 March 2021 (delegation to 31 March 2022 to allow for necessary end of programme administration)
Equity loan post sales (legacy programme) management end date	31 March 2021
Help to Buy equity loans management end date	31 March 2046

Appendices and supporting papers:

Appendix A – Instrument of delegation – Help to Buy equity loan scheme programme

Appendix B – Instrument of delegation – Administration of equity loan post sales (legacy programmes)

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:

Heath Pritchard 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:

Jamie Ratcliff 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

31.03.16

Tom MIDDLETON ON BEHALF OF MARTIN CLARKE

CHIEF OF STAFF:

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

Signature



Date

31 MARCH 2016

