

REQUEST FOR MAYORAL DECISION – MD1402

Title: Delegation of Programme Administration to the Homes and Communities Agency

Executive Summary:

This Mayoral Decision delegates powers of the Greater London Authority (“GLA”) to the Homes and Communities Agency (“HCA”) to enable the HCA to administer, in Greater London, Government funding for five national housing related capital investment programmes. It also asks the Mayor to agree to the GLA entering into a Memorandum of Understanding with the Department for Communities and Local Government (“DCLG”) /HCA, which relates to these delegations.

Decision:

That the Mayor, under the Greater London Authority Act 1999 (as amended), delegates to the HCA exercise of the Mayor’s powers in sections 30 and 34 of the GLA Act in accordance with, and for the purposes of, undertaking the activities specified in the Instruments of Delegation (attached at Appendices B-F) in relation to the following national housing related capital investment programmes:

- Estate Regeneration Loan Fund;
- Custom Build Services Plots Fund;
- Builders Finance Fund;
- Large Sites Infrastructure Fund;
- Local Growth Fund (Housing Infrastructure).

That the Mayor agrees to the GLA entering into the Memorandum of Understanding attached at Appendix A with DCLG/HCA, which relates to these delegations.

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

1. Introduction and background

- 1.1. A number of housing related national capital investment programmes have been launched this financial year. The budgets for each of these programmes are determined by Government and are in the form of fully recoverable Government loans known as “Financial Transactions.” They include:
- Custom Build Services Plots Loan Fund; £150m nationally (between 2014/15 to 2019/20) £22.5m expected to be allocated to Greater London;
 - Estate Regeneration Loan Fund; £150m nationally with majority of take-up expected to be in Greater London;
 - Builders Finance Fund; £525m nationally with £54m anticipated to deliver 900 homes in London;
 - Large Sites Infrastructure Programme, £745m delivering 19,000 homes nationally, and;
 - Local Growth Fund (Housing Infrastructure), £37m delivering 1,500 homes nationally.
- 1.2. Funding for the investment programmes listed in 1.1 above is being provided by Government to HCA in the form of a Financial Transaction. The HCA is currently responsible administering the funds and for repaying Government its Financial Transactions. The GLA will therefore need to delegate powers to the HCA in order for these programmes to operate in London, which is what the Mayor is asked to do in this Mayoral Decision. Details of the investment programmes are set out in section 2 below. The basis and terms and conditions on which the Mayor is asked to delegate powers to the HCA are set out in the Instruments of Delegations, attached at Appendices B-F.
- 1.3. The volume of homes and funding to be delivered in each programme listed at paragraph 1.1 above within London will be publically known once shortlisting, due diligence and announcements have been made for each respective programme. Any new shortlisting for the programmes listed in paragraph 1.1 will be examined by the GLA’s Housing Investment Group (“HIG”) prior to public announcement. In addition the HCA will be invited to HIG on an annual basis to report on all GLA delegated programmes.
- 1.4. To facilitate efficient and effective joint working between the GLA and the DCLG/HCA (where the GLA delegates powers to the HCA in respect of housing related programmes funded by Financial Transactions), it is proposed that the GLA and DCLG/HCA enter into a Memorandum of Understanding. The proposed Memorandum of Understanding between GLA and DCLG/HCA is attached at Appendix A, and the Mayor is asked to agree to the GLA entering into this. The Memorandum of Understanding sets out the principles for joint working arrangements on Financial Transactions in London; for the five programmes listed in 1.1 above and also future programmes. The guiding principle is that the lead on programme design, execution and monitoring is taken by the organisation holding the financial risks.

2. Details of the Investment programmes to be administered by the HCA under delegated authority

Custom Build Serviced Plots Loan Fund

- 2.1. The Custom Build Serviced Plots Loan Fund is part of the range of measures employed by DCLG to encourage increased activity by Custom Builders. The principle of Custom Build in London is currently being tested through the delivery of the Floating Village and the GLA's *Build your own home – the London way* programme. It is thought that it will have continued wider application, with opportunities for place-making activity.
- 2.2. The programme has been designed to provide direct recoverable investments in specific projects to bring forward serviced plots. The £150m national programme is long term, open for drawdowns between 2014/15 to 2019/20. An initial bid round closed on 30th September 2014. It is envisaged that £22.5m of this programme will be allocated to Greater London, which is based on the proportion previously allocated via the initial Custom Build programme. Formal confirmation of London's allocation is subject to sufficient high quality and deliverable bids.
- 2.3. The Fund is aimed at developers, enablers and construction firms who undertake site infrastructure works and offer design and build contracts for the construction of homes. Bids are to be assessed on value for money and deliverability.
- 2.4. Under arrangements negotiated and agreed with DCLG and the HCA, the GLA will lead on the assessment of bids for funding, and will provide the HCA with a shortlist of projects in London recommended to proceed to detailed due diligence, which will be undertaken by the HCA. The HCA is currently responsible for undertaking all necessary legal and financial due diligence, making funding decisions, and contracting with successful bidders. The HCA shares appropriate monitoring information with the GLA. The GLA has a key role in the relationship management process for all selected projects as schemes progress.
- 2.5. The basis and terms and conditions on which the Mayor is asked to delegate powers to the HCA in respect of the Custom Build Serviced Plots Loan Fund are set out in the Instrument of Delegation, attached at Appendix B.

Estate Regeneration Fund

- 2.6. Following lobbying by the GLA, the Government announced in Budget 2014 a new £150m funding programme targeted at accelerating and unlocking large scale estate regeneration projects.
- 2.7. The Estate Regeneration Fund was created to provide long term (15-20 year) project finance to developers. The funding is being made available to accelerate land assembly (leaseholder buy-back), demolition and prepare development sites. Modelling has shown that this type of project finance can accelerate development programmes by two to four years and improve viability. The majority of the funding is likely to be taken up in London, where there is greatest prospect of recovery due to higher values. In lower value areas it is unlikely that projected receipts will be sufficient to pay for the costs of re-providing existing affordable housing in estate regeneration areas

- 2.8. A prospectus has been launched seeking bids for funding nationally. The GLA negotiated the programme detail and worked with DCLG and the HCA on the prospectus, which contains a joint foreword from the Mayor of London and the Secretary of State for Communities and Local Government. The Expression of Interest (Eoi) process has been collaborative, with GLA and HCA staff attending meetings with bidders to provide support in structuring their bids and loan finance proposals. The deadline for EOIs was 12th September.
- 2.9. Going forward, the GLA has agreed working arrangements with HCA and DCLG as to how funding decisions will be made, and subsequently managed. These are explained below. Work is ongoing to align the policy expectations from the programme of DCLG and GLA.
- 2.10. Bids for funding are assessed by the GLA in the first instance, and the GLA provides the HCA with a shortlist of projects in London recommended to proceed to detailed due diligence, which is currently being undertaken by the HCA in consultation with GLA project managers. The HCA is currently responsible for undertaking all necessary legal and financial due diligence, making funding decisions, and contracting with successful bidders. The HCA shares appropriate monitoring information with the GLA. There are protocols in place to ensure the HCA seeks approval for any changes to the shortlist allowing time for the GLA to intervene, if required. The GLA has a key role in the relationship management process for all selected projects as schemes progress.
- 2.11. The basis and terms and conditions on which the Mayor is asked to delegate powers to the HCA in respect of the Estate Regeneration Fund are set out in the Instrument of Delegation, attached at Appendix C.

Large Sites Infrastructure Programme

- 2.12. This funding programme seeks to enable the delivery of large housing sites, meaning those with capacity for 1,500 homes or more, with the goal of stimulating housing supply. The funding is a recoverable investment where the public sector shares risks or bridges financing up to the point at which projects are built out.
- 2.13. For London, five schemes have been shortlisted and have entered the due diligence stage with the HCA.
- 2.14. The GLA has jointly assessed the bids in London and shortlisting decisions for the programme were made jointly by DCLG, HCA and GLA. As part of the ongoing due diligence process, Boroughs were asked to provide comments on the deliverability of projects in their relevant locations.
- 2.15. It is recommended that due diligence, funding decisions, contracting and monitoring for the Large Sites Infrastructure programme is delegated to the HCA. Regular meetings to track progress with the HCA and input to any key decisions have been established.
- 2.16. The basis and terms and conditions on which the Mayor is asked to delegate powers to the HCA in respect of the Large Sites Infrastructure Programme are set out in the Instrument of Delegation, attached at Appendix D.

Local Growth Fund (Housing Infrastructure)

- 2.17. Local Growth Fund is designed to unlock housing developments ranging from 250-1,499 units. The funding is intended to provide support to sites where it is considered that the early provision of infrastructure can unlock or accelerate the delivery of housing.
- 2.18. The HCA is responsible managing the programme funding nationally, including schemes in London. From the initial bids received two sites have been shortlisted in London.
- 2.19. It is recommended that due diligence, funding decisions, contracting and monitoring for the Local Growth Fund (Housing Infrastructure) programme is delegated to the HCA. Regular meetings to track progress with the HCA and input to any key decisions have been established.
- 2.20. The basis and terms and conditions on which the Mayor is asked to delegate powers to the HCA in respect of the Custom Build Serviced Plots Loan Fund are set out in the Instrument of Delegation, attached at Appendix E.

Builders Finance Fund

- 2.21. Builders Finance Fund is designed to unlock housing developments ranging from 15-250 units. The funding will provide support to smaller sites with the aim of encouraging Small and Medium Enterprises to progress housing schemes. The funding is offered in the form of a recoverable loan or investment, where the public sector shares risks or bridges financing up to the point at which projects are built out.
- 2.22. Bids have been scored by the GLA against a number of different categories, including the strength of the scheme delivery programme, planning status and local demand.
- 2.23. The HCA has carried out an initial sifting of bids and will take forward a national shortlist. The shortlisted projects will now progress into due diligence and contracting.
- 2.24. It is recommended that due diligence, funding decisions, contracting and monitoring for the Builders Finance Fund programme is delegated to the HCA. Regular meetings to track progress with the HCA and input to any key decisions have been established.
- 2.25. The basis and terms and conditions on which the Mayor is asked to delegate powers to the HCA in respect of the Custom Build Serviced Plots Loan Fund are set out in the Instrument of Delegation, attached at Appendix F.

3. Equality comments

- 3.1. These initiatives contribute to the aim of increasing housing supply as set out in the Mayor's London housing strategy, and his statutory equalities statement, Equal Life Chances for All. In January 2014 the GLA published an integrated impact assessment ("IIA"), including an equalities impact assessment, of the draft London housing strategy. The policies related to increasing housing supply were covered by the Integrated Impact Assessment (IIA) for the Further Alterations to the London Plan.

- 3.2. The IIA concluded that updating housing projections and targets would support the delivery of sufficient housing and may help stabilise housing prices, supporting equal opportunities throughout communities.

4. Other considerations

- 4.1. GLA has met with and consulted DCLG and HCA on a number of occasions to seek agreement about the appropriate fund administration discussed in this paper.
- 4.2. It is not considered necessary to consult with London Boroughs because the delegation focuses on the detail of fund administration and should not affect their involvement in the programmes.

5. Financial comments

- 5.1 The Custom Build Loan Fund under the Build your Own Home the London Way is separate and remains under GLA responsibility and control.
- 5.2 The HCA will not charge the GLA any revenue costs incurred in undertaking the activities specified in the Delegations.
- 5.3 Investment income generated by these funds will be paid directly by HCA to HM Treasury.

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.
- 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 2(b) above notes that the GLA has consulted with HCA and DCLG in relation to arrangements for the HCA’s administration , in Greater London, of Government funding (by way of Financial Transactions for the five national housing related capital investment programmes, which are the subject of 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 this fund in line with their published strategy and address their objectives where appropriate.
- 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).

- 6.5. Section 31(1)(a) of the GLA Act prohibits the GLA from using its general power to incur expenditure in doing anything that may be done by Transport for London, but section 31((5A) provides that nothing in section 31(1)(a) shall be taken to prevent the GLA incurring expenditure in doing anything for the purposes of, or relating to, housing or regeneration. Section 333A(3)(b) and (4) envisage the Mayor providing financial assistance in connection with the provision of housing accommodation.
- 6.6. Under section 32(8) of the Housing and Regeneration Act 2008 (which is applied to the GLA by virtue of section 333ZE of the GLA Act), if the GLA is proposing to give financial assistance on condition that the recipient provides low cost rental accommodation, the GLA is required to impose a further condition that a registered provider of social housing is the landlord of the accommodation when it is made available for rent.
- 6.7. Under section 333ZH of the GLA Act, if the GLA is proposing to give financial assistance on condition that the recipient provides low cost home ownership, the GLA must consult the Regulator of Social Housing in accordance with that section.

Delegation to HCA

- 6.8. 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.
- 6.9. 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 to operate in Greater London ceased, by virtue of 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.
- 6.10. Sections 38(1) and (2) of the GLA Act allow the Mayor to authorise HCA to exercise his functions under the Act on behalf of the GLA, 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 on behalf of the GLA.
- 6.11. Section 38(3) of the GLA Act requires that HCA must consent to the delegation. HCA have informally consented to the delegation and will, in due course, be providing formal written consent to the Mayor.
- 6.12. 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.
- 6.13. Section 38(10) of the GLA Act requires the delegation to be in writing. The proposed Instrument of Delegations are attached as Appendix A. The Mayor may impose conditions on any delegations under section 38(1) and a number of conditions have been included in addition to the delegation.

6.14. 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 B-F.

6.15. Where the HCA exercises the Mayor's powers under delegation, it is the GLA that retains legal liability for the HCA's exercise of those delegated powers.

7. Investment & Performance Board

7.1. An item on Financial Transactions was tabled at Housing and Investment Group (HIG) on 10th September 2014. The Group discussed the proposed delegations to the HCA for the Estate Regeneration Fund, Custom Build Serviced Loans Fund, Large Sites Infrastructure Programme, Local Growth Fund (Housing Infrastructure) and Builders Finance Fund. The Group agreed that the Mayoral Decision for the delegations to the HCA be deferred until the Memorandum of Understanding arising from the DCLG/GLA review was finalised, which has now happened (see Appendix A).

7.2. HIG also agreed that a representative from the Homes and Communities Agency (HCA) be invited to a future meeting of the Group to provide an update on the progress of key programmes delegated to them by the GLA, with a focus on the Build to Rent programme

8. Next steps

8.1. The Instruments of Delegation, the formal legal documents used to delegate powers, are to be signed by the Mayor.

8.2. The Assistant Director of Housing and Land, Jamie Ratcliff, will then write to HCA's Chief Executive and Accounting Officer, Andrew Rose, with the Instruments of Delegation. Upon receipt of HCA's letter agreeing to the delegation, HCA will take responsibility for the activity outlined.

Appendices and supporting papers:

Annex A: Memorandum of Understanding between DCLG/HCA and GLA on Financial Transactions delegated to HCA.

Annex B: Instrument of Delegation: Estate Regeneration Loan Fund

Annex C: Instrument of Delegation: Custom Build Serviced Plots Fund

Annex D: Instrument of Delegation: Builders Finance Fund

Annex E: Instrument of Delegation: Large Sites Infrastructure Fund

Annex F: Instrument of Delegation: Local Growth Fund (Housing Infrastructure)

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:

Owain Roberts 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

CHIEF OF STAFF:

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

Signature

Date