MAYOR OF LONDON LONDON ASSEMBLY

Legal guidance on the appropriation of General Fund land to the Housing Revenue Account (HRA)

Key information

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Background

The 'Building London's Future: The Next Generation of Council Homes' report makes a number of recommendations to help councils increase their supply of affordable housing in London.

A key recommendation of the report called for the Mayor to publish guidance about the legal framework that governs land appropriations between a council's General Fund and their Housing Revenue Account.

The GLA has procured this advice from Trowers & Hamlins LLP and the full legal guidance can be accessed at the link below. The guidance includes basic principles and pointers that councils can apply to limit the administrative complexity and cost incurred with these appropriations.

Based upon discussions between the GLA and London Boroughs, there are indications that the rules which apply to the appropriation of land from a council's General Fund to its Housing Revenue Account (HRA) are seen as difficult to interpret, in relation to both the circumstances in which appropriations can be made and the 'price' the HRA must pay. This may have deterred some London Boroughs from transferring General Fund land into their HRA for the delivery of new affordable homes.

Aims

The aim of the attached guidance note is to set out the legal framework for such appropriations with the intention that, supported by financial advice, it facilitates the appropriation of General Fund land to the HRA for affordable housing.

It explains how an appropriation results in the requirement for an accounting adjustment (the ‘price’) to be made to increase the HRA Capital Financing Requirement (CFR), and correspondingly decrease the General Fund CFR. Each year Boroughs are required to add to the opening HRA CFR the “certified value” of any interest in housing land which commenced or recommenced to be accounted for in the HRA during the current financial year for a reason other than acquisition by the local authority.

There is no statutory guidance on “certified value”; the approach suggested in the attached guidance is to interpret this as the market value – taking into account the fact that the land will be used in accordance with HRA ring fence rules, generally meaning the land is intended to be used for affordable housing tenures. This is a different approach to the requirements which apply to the disposal of General Fund land where the valuation of the land must ignore any so-called voluntary conditions.

Key findings

Aside from the obvious benefits of an increased supply of affordable council homes, there may also be other financial benefits and/or mitigations from the appropriation of General Fund land for housing use (depending on current debt management arrangements), such as:

- Lower temporary accommodation costs – thus reducing pressure on the General Fund costs.
- A revenue return and/or benefit – thus probably relieving the General Fund's most acute pressures - rather than a capital receipt.
- HRA contributions to any above-market interest rate debt – the General Fund will lose this above-normal cost.
- No Minimum Revenue Provision on the debt 'transferred' to the HRA – the General Fund will be charged less to account for the cost of the council's debt.
- No transaction costs – no third party is involved in an appropriation, thus avoiding professional fees and the other costs.

Councils may want to agree on a “pipeline” process for appropriations to help with planning a programme of HRA new build schemes.

Further information

Please note this guidance has been prepared in good faith to be of assistance to London boroughs, but neither the GLA nor Trowers & Hamlins LLP owe or accept a duty of care to the boroughs or to any other party. The guidance is based on legal analysis; it does not constitute accountancy or financial advice.

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