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## **8 Resident ballots for estate regeneration projects**

### **8.1. Purpose**

- 8.1.1. This chapter sets out the requirements for Investment Partners (IPs) in relation to a funding condition that requires them to undertake resident ballots for certain estate regeneration projects.
- 8.1.2. IPs are required to determine whether the Resident Ballot Requirement (RBR) applies to each project (see paragraphs 8.3.1 to 8.3.7).
- 8.1.3. Where the RBR applies, IPs are required to:
- Identify residents that are eligible to vote in the ballot (see paragraphs 8.4.1 to 8.4.10).
  - Appoint an Independent Body to undertake the ballot (see paragraphs 8.5.2 to 8.5.5).
  - Ensure the principles of resident ballots set out in the guidance are adhered to (see paragraphs 8.5.6 to 8.5.10).
  - Produce and publish a Landlord Offer document for residents (see paragraphs 8.5.11 to 8.5.17).
  - Prior to claiming grant, complete the GLA Resident Ballot Compliance Checklist in a form satisfactory to the GLA (see paragraph 8.5.19).
  - Provide residents and the GLA with regular reports detailing progress they are making towards delivering the Landlord Offer (see paragraph 8.5.18).
- 8.1.4. In some cases, IPs may apply for an exemption to the RBR. There are three general exemptions to the RBR (see paragraphs 8.6.1 to 8.6.13). Additionally, in recognition that many current projects were either in the pipeline or were currently being delivered when this funding condition was introduced, there are transitional arrangements for current Strategic Estate Regeneration Projects meaning IPs may be able to apply for further exemptions to the RBR for these projects (see paragraphs 8.6.14 to 8.6.22). IPs seeking an exemption should write to the GLA setting out the exemption for which they are applying (see paragraphs 8.6.23 to 8.6.26). Under certain circumstances, the GLA may seek to cancel and/or reclaim grant (see paragraphs 8.7.1 to 8.7.4).

## 8.2. Context

- 8.2.1. For some projects affecting existing social housing estates, GLA funding is conditional upon IPs providing evidence of a positive vote in a resident ballot in favour of redevelopment. IPs undertaking estate regeneration projects should also adhere to the principles set out in [Better homes for local people: the Mayor's good practice guide to estate regeneration](#).
- 8.2.2. In this chapter, "GLA funding" means financial assistance the GLA provides to an IP on condition that the recipient provides affordable housing (whether by itself or as part of a wider project). It also includes Recycled Capital Grant Fund (RCGF) balances where the GLA has given approval for IPs to reinvest RCGF to deliver social housing in a new project. "GLA funding" does not include funding linked to housing delivery the GLA may administer on behalf of other bodies from time to time. Examples of the latter category include Right to Buy receipts the GLA reallocates to local authorities as grant, arrangements for managing additional HRA borrowing capacity in London and awarding Housing Infrastructure Fund monies. However, if there is a combination of "GLA funding" and other funding being used for the same project, then a ballot will be required (subject to the application and exemption guidelines outlined below).
- 8.2.3. The Mayor expects a resident ballot to be a milestone in an estate regeneration process. It should be the culmination of a period of resident consultation, engagement, and negotiation; it should not, however, be the end of the process of engaging with residents. Where a vote in favour of a new estate regeneration project has occurred, resident consultation and engagement should continue after a ballot has taken place to ensure there is ongoing input from residents into the process.
- 8.2.4. Landlord proposals for consulting and engaging with residents on an ongoing basis should form part of the offer to residents on which residents will vote in a ballot. Regeneration plans will usually affect different people in different ways over many years. Landlords should therefore complement ballots with other long-term means of engagement.

### 8.3. Application of Resident Ballot Requirement

- 8.3.1. The RBR applies to Strategic Estate Regeneration Projects benefitting from GLA funding. Strategic Estate Regeneration Projects are defined as those involving:
- demolition of any affordable or leasehold homes whose freehold or long leasehold a Registered Provider owns on an existing social housing estate, and/or the demolition of any freehold properties previously acquired under the Right to Buy, Right to Acquire, or Social HomeBuy schemes on an existing social housing estate; and
  - construction of at least 150 new homes, regardless of tenure, within the boundaries of an existing social housing estate.
- 8.3.2. There is no simple way to define what constitutes an existing social housing estate and the properties that form part of it. Some, though not all, social housing estates have shared characteristics. For example, many social housing estates include a grouping of properties situated on a site that is named as an estate. Typically, the GLA considers that pepper-potted street properties that IPs own that are situated close to an existing social housing estate do not form part of that estate. In some cases, however, the GLA may consider that streets of properties an IP owns that are situated adjacent to an existing social housing estate do form part of that estate. In cases where the boundary of an existing social housing estate is unclear, IPs should seek advice from their relevant GLA contact about how to interpret the guidance in this chapter.
- 8.3.3. For the purposes of this chapter, demolition is defined as substantially or completely destroying a building in order to use the land for the purpose of delivering a project.
- 8.3.4. The RBR does not apply where the only homes to be demolished are those an IP has recently purchased from private ownership (i.e. a property whose freehold has never been owned by a Registered Provider) in order to facilitate a Strategic Estate Regeneration Project. For the avoidance of doubt, the RBR will apply if the privately-owned homes to be demolished are homes an IP has bought back from residents that were previously acquired under the Right to Buy, Right to Acquire, or Social HomeBuy.
- 8.3.5. The GLA will review applications for funding to ensure proposed estate regeneration projects are not partitioned in such a way as to avoid the RBR. GLA funding may not be available where the GLA considers this to be the case.
- 8.3.6. IPs may undertake some Strategic Estate Regeneration Projects across multiple phases over many years. Where IPs intend to seek a single outline planning permission covering multiple phases in a project, only one ballot is

required at the start of the process rather than before each phase. If an IP subsequently increases the size of a Strategic Estate Regeneration Project by adding an additional phase/s that did not previously have outline or detailed planning permission, the RBR may apply for this additional phase/s if it meets the demolition and construction criteria outlined in paragraph 8.3.1.

- 8.3.7. Any queries IPs have on whether or not the RBR applies to a given project should be directed to their assigned GLA Area Manager in the first instance.

## 8.4. Voter eligibility requirements

- 8.4.1. The GLA requires IPs to take reasonable steps to identify those residents eligible to vote, to inform them about the resident ballot and to encourage them to participate in it.
- 8.4.2. To ensure resident ballots are consistent across London, IPs do not have discretion to set the voter eligibility criteria for ballots. Ballots must be open to all residents on an existing social housing estate – not just those currently occupying homes that are due to be demolished – that fall into one or more of the following three eligibility criteria:
- Social tenants (including those with secure, assured, flexible or introductory tenancies named as a tenant on a tenancy agreement dated on or before the date the Landlord Offer is published – see from paragraph 8.5.11 for further information about the Landlord Offer).
  - Resident leaseholders or freeholders who have been living in their properties as their only or principal home for at least one year prior to the date the Landlord Offer is published and are named on the lease or freehold title for their property.
  - Any resident whose principal home is on the estate and who has been on the local authority’s housing register for at least one year prior to the date the Landlord Offer is published, irrespective of their current tenure.
- 8.4.3. In the above criteria, “social tenants” includes residents of affordable housing (whether low-cost rental accommodation or low-cost home ownership accommodation) whose direct landlord is an IP.<sup>1</sup> For the avoidance of doubt, residents living in shared ownership properties are considered “social tenants”, but residents who are living in temporary accommodation are not. Residents that are living in temporary accommodation can only vote if they have been on the local authority housing register for at least one year prior to the date the Landlord Offer is published.
- 8.4.4. For the avoidance of doubt, the following residents are only eligible to vote in a ballot if they have been on the local authority’s housing register for at least one year prior to the date the Landlord Offer is published:
- Tenants whose landlord is not a Registered Provider or a local authority.
  - Homeless households living in temporary accommodation provided pursuant to Part VII of the Housing Act 1996, including those with non-secure or assured shorthold tenancies where their landlord is a housing association or a local authority.

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<sup>1</sup> For the avoidance of doubt, affordable housing includes intermediate housing.

- 8.4.5. IPs must use sufficiently robust processes to identify eligible voters. The GLA expects that resident leaseholders and freeholders will have to declare they are both named on their property's leasehold/freehold and have lived in their property as their only or principal home for at least one year prior to the date the Landlord Offer is published in order to demonstrate their eligibility to vote. The GLA also expects that residents that have been on the housing register for at least one year prior to the publication of the Landlord Offer may have to actively register to vote in the ballot, since landlords may not have access to housing register information.
- 8.4.6. Where the RBR applies, a ballot should be undertaken before residents are relocated for the purposes of delivering a Strategic Estate Regeneration Project. This may not be possible for Strategic Estate Regeneration Projects where landlords began relocating residents before the resident ballot requirement was introduced (i.e. prior to 18 July 2018). In these cases, relocated residents otherwise meeting the eligibility criteria set out in paragraph 8.4.2 are entitled to vote if they have a right to return to a new home in the Strategic Estate Regeneration Project.
- 8.4.7. Eligible residents are entitled to one vote per person. Individuals meeting more than one of the eligibility criteria must receive only one vote.
- 8.4.8. There is no limit to the number of eligible voters per household.
- 8.4.9. Only residents aged 16 or above are eligible to vote (provided they also meet the eligibility criteria defined in paragraph 8.4.2).
- 8.4.10. For the avoidance of doubt, the following residents are not eligible to vote in a ballot:
- Non-resident leaseholders and freeholders.
  - Resident leaseholders and freeholders who have been living in their properties for less than a year prior to the date the Landlord Offer is published (unless they have been on the local authority housing register for at least one year prior to the date the Landlord Offer is published in which case they would be eligible).
  - Non-residential tenants, leaseholders and freeholders (for example, businesses).

## 8.5. Arranging resident ballots

### Timing of ballots

8.5.1. Where the RBR applies, ballots are generally expected to take place prior to the procurement of a development partner and/or prior to finalising the precise specification of works. Ballots should also be undertaken before residents are relocated for the purposes of delivering a Strategic Estate Regeneration Project (see paragraph 8.4.6).

### Appointing an Independent Body

8.5.2. There must be sufficiently robust processes put in place to ensure resident ballots are held securely and deliver accurate results. IPs must appoint an Independent Body to undertake the resident ballot. IPs must only appoint an Independent Body with the appropriate knowledge and expertise necessary to supervise ballots effectively. For trade union ballots and elections, central Government publishes an Order listing Independent Scrutineers (see <http://www.legislation.gov.uk/ukxi/2017/877/made>). IPs could consider appointing an organisation from this list as its Independent Body, provided that the organisation also has relevant experience operating in the housing sector. Alternatively, IPs could consider using another organisation that has relevant expertise and experience operating in the housing sector.

8.5.3. The Independent Body is required to:

- review the arrangements for voter registration and identification;
- undertake or oversee the distribution of the Landlord Offer to eligible residents;
- advise IPs on the question to be put to residents in the ballot;
- ensure that votes cast in ballots are recorded and counted accurately; and
- confirm that the ballot is held in accordance with this guidance by signing the GLA Resident Ballot Compliance Checklist (see paragraph 8.5.19).

8.5.4. The Independent Body may determine it is necessary to undertake spot checks to ensure that ballots have been undertaken properly. For example, where the result is close, it may check that votes have been cast only by eligible voters.

8.5.5. In the event that the Independent Body identifies that votes have been cast fraudulently, these votes may be excluded from the results. Further spot checks may be required in order to determine whether the overall result is accurate.

### Principles of resident ballots

- 8.5.6. Ballots must offer a “yes or no” vote to eligible residents on the Landlord Offer – the IP’s proposals for the future of the estate (see from paragraph 8.5.11 for further guidance about the Landlord Offer).
- 8.5.7. A positive ballot is one where there is a simple majority of those eligible residents voting that choose “yes” – that is, in favour of the Landlord Offer to regenerate the estate. There is no minimum threshold for turnout in a ballot.
- 8.5.8. The question posed in a ballot must be as unambiguous and direct as possible and compliance with this requirement will be confirmed through the completion of the GLA Resident Ballot Compliance Checklist (see paragraph 8.5.19), which must be signed by the Independent Body.
- 8.5.9. The GLA is not prescribing the method by which eligible residents may cast votes in ballots. It is up to IPs to offer an appropriate range of ways to vote to encourage eligible residents to participate. Where residents are invited to cast their votes in a ballot box, such a box should be placed in a neutral venue and not in the vicinity of any publicity encouraging a vote either way.
- 8.5.10. Ballot papers should be delivered to eligible residents under separate cover from any consultation material and/or the Landlord Offer.

### Landlord Offer

- 8.5.11. IPs must make Landlord Offer documents easily accessible. Offer documents must contain sufficient information for eligible residents to make an informed decision about the future of their estate. As a minimum, the Landlord Offer must include the following:
- The broad vision, priorities and objectives for the estate regeneration, including information on:
    - Design principles of the proposed estate regeneration.
    - Estimated overall number of new homes.
    - Future tenure mix.
    - Proposed associated social infrastructure.
  - Details of the full right to return or remain for social tenants living in homes that are to be demolished.
  - Details of the offer for leaseholders and freeholders of homes that are to be demolished.
  - Commitments relating to ongoing open and transparent consultation and engagement.
- 8.5.12. The Landlord Offer should include a map showing the boundary of the existing social housing estate. The Landlord Offer should also include a map showing the proposed boundary for the Strategic Estate Regeneration

Project (if this is different to the boundary of the existing social housing estate).

- 8.5.13. In its Landlord Offer to residents, IPs must explain the arrangements for casting votes in a ballot. As a minimum, IPs should explain:
- the question that will be put to eligible residents in the ballot;
  - details of the timing of the ballot;
  - details of the different ways in which eligible residents may cast their vote in the ballot;
  - details of when the results of the ballot will be announced;
  - details of how the ballot will be undertaken by an Independent Body; and
  - contact details for further advice and guidance on any issues related to the Strategic Estate Regeneration Project and/or the ballot.
- 8.5.14. IPs must publish one Landlord Offer document containing all the required information and send a copy of the document to the GLA. While it is important for transparency purposes that all information pertaining to a Landlord Offer is captured in one document, IPs may additionally wish to produce separate offer documents for distribution to residents that are tailored to the three following different groups of residents that may be eligible to vote in the ballot (as set out in paragraph 8.4.2):
- Social tenants.
  - Resident leaseholders and freeholders.
  - Residents living on the estate that are on the local authority's housing register.
- 8.5.15. IPs should only produce separate offer documents in order to highlight information that is only relevant to a particular group of residents. For example, the offer document sent to social tenants must explain details of the full right to return or remain for social tenants but it need not include details of the offer for leaseholders and freeholders. Information in tailored offer documents must be consistent with the overall Landlord Offer document.
- 8.5.16. The Landlord Offer should be written in a way that residents are capable of understanding. Technical jargon should be minimised and IPs should consider the requirements of different groups of residents including elderly residents, those whose first language is not English, and/or those who have disabilities when preparing and distributing offer documents.
- 8.5.17. There must be an appropriate amount of time between publishing a Landlord Offer and holding a ballot. IPs must publish the Landlord Offer and offer documents must be distributed to eligible residents sufficiently in advance of the vote to allow them a reasonable amount of time to consider

the proposals. The ballot period – during which time eligible residents may cast their vote – should run for at least 21 days to maximise voter turnout. The ballot period must end within six months of the date the Landlord Offer was published.

- 8.5.18. Following a positive vote in a ballot, the GLA expects IPs to update residents regularly about progress towards delivering the Landlord Offer. Progress reports should be distributed to residents at least once a year. IPs should also submit a copy of progress reports to the GLA.

### **Compliance with the Capital Funding Guide**

- 8.5.19. IPs must complete the [GLA Resident Ballot Compliance Checklist](#), which must then be signed by the Independent Body, to confirm the resident ballot was held in accordance with the requirements of the Capital Funding Guide prior to claiming grant. In addition, the GLA will undertake further compliance checks at key points throughout each project (see paragraph 8.7.2).

### **Further ballots in the event of a “no” vote**

- 8.5.20. The GLA is not placing a limit on the number of ballots that can be held on an existing estate. In the event of a negative vote – that is, where residents vote against a Landlord Offer – the IP may wish to re-consult residents, amend its Landlord Offer and then ballot residents on the revised offer at a later date.

## 8.6. Exemptions to the Resident Ballot Requirement for projects

### General exemptions

- 8.6.1. The RBR may not apply to Strategic Estate Regeneration Projects that qualify for one or more of the below exemptions. The GLA will consider applications for exemptions to the RBR on a case-by-case basis. Where the GLA agrees to an exemption to the RBR, it still expects IPs to follow the principles set out in [Better homes for local people: the Mayor's good practice guide to estate regeneration](#).

#### Exemption 1: Demolition required to facilitate a major infrastructure project/s

- 8.6.2. IPs may apply for an exemption to the RBR for Strategic Estate Regeneration Projects where proposed demolitions (as specified in paragraph 8.3.1):
- form part of a major infrastructure project with statutory underpinning (for example a Hybrid Bill or a Transport Works Act Order); or
  - are required in order to facilitate the physical requirements of major rail or underground service improvements.
- 8.6.3. Examples of major rail or underground service improvements that may qualify for an exemption include, but are not limited to, the laying of new track or the construction of a new train station.
- 8.6.4. Where major rail or underground service improvements do not physically require the demolition of homes – for example, improvements to increase train frequency on existing lines – this exemption will not apply.
- 8.6.5. The GLA will determine whether to apply this exemption on a case-by-case basis.

#### Exemption 2: Demolition required to address concerns about the safety of residents

- 8.6.6. IPs may apply for an exemption to the RBR for Strategic Estate Regeneration Projects where demolition (as specified in paragraph 8.3.1) is necessary as a result of resident safety issues that cannot reasonably be resolved through other means.
- 8.6.7. IPs applying to use this exemption must provide evidence to justify why the current condition of homes on an estate represents an unacceptable risk to the safety of residents. In most cases and unless specifically agreed with the GLA in advance, the GLA will only consider applying this exemption where independent specialists have verified the validity of the safety concern.
- 8.6.8. IPs applying to use this exemption must also provide evidence of the steps they have taken to explore options other than demolition to address the

safety concerns and a justification for why these options have been ruled out.

- 8.6.9. The GLA will determine whether to apply this exemption on a case-by-case basis.

Exemption 3: Demolition required to reconfigure provision of supported and/or specialist housing

- 8.6.10. IPs may apply for an exemption to the RBR for Strategic Estate Regeneration Projects where demolition (as specified in paragraph 8.3.1) is necessary to reconfigure supported and/or specialist housing provision. Some existing estates contain only supported and/or specialist housing (i.e. no general needs housing). Where this is the case and the local authority – or another body with responsibility for these services – decides to redevelop the estate because the existing homes are not in a condition to meet the needs of current and/or future residents adequately, there should be flexibility for these homes to be replaced with new supported and/or specialist accommodation that better meets need. This flexibility should also apply where, having fully assessed current and future local need, the local authority – or other responsible body – concludes that the existing supported and/or specialist housing is no longer required to meet need.
- 8.6.11. In the above cases, the RBR may not apply.
- 8.6.12. Where supported and/or specialist housing forms part of an existing social housing estate the RBR may still apply if the ballot applicability criteria outlined above at paragraph 8.3.1 is otherwise met. For example, Strategic Estate Regeneration Projects involving at least 150 new homes and demolition of any affordable homes will not be eligible for this exemption if the project also involves demolition of some supported and/or specialist housing. In these cases, residents of supported and/or specialist housing will be eligible to vote provided they meet the voter eligibility criteria outlined above at paragraph 8.4.2.
- 8.6.13. The GLA will determine whether a project qualifies for this exemption on a case-by-case basis.

**Further exemptions for current projects (transitional arrangements)**

- 8.6.14. Strategic Estate Regeneration Projects are often long-term, costly projects. To recognise that some projects are currently being delivered, the RBR may not apply to current Strategic Estate Regeneration Projects that meet one or more of the additional exemptions below.
- 8.6.15. Current Strategic Estate Regeneration Projects are defined as those projects that:

- secured planning permission for a particular Strategic Estate Regeneration Project on or prior to 18 July 2018; and/or
  - secured contractually committed GLA funding for a particular Strategic Estate Regeneration Project named in a contract on or prior to 18 July 2018 and/or were approved in the GLA's Open Project System on or prior to 18 July 2018.<sup>2</sup>
- 8.6.16. A project will have planning permission when one of the following has occurred:
- a formal decision notice has been issued by the Local Planning Authority;
  - the Mayor has issued a decision pursuant to a direction that he should be the determining authority; or
  - the Secretary of State has issued a decision, having called in the application for his own determination.

Exemption 4: Planning permission secured on or prior to 18 July 2018

- 8.6.17. IPs may apply for an exemption to the RBR for Strategic Estate Regeneration Projects that already have full or outline planning permission that was secured on or before 18 July 2018.
- 8.6.18. Where projects include multiple development phases, this exemption applies to all phases that are contemplated by the relevant decision notice.
- 8.6.19. Where a Strategic Estate Regeneration Project has full or outline planning permission as at 18 July 2018 and this permission is subsequently varied, amended or renewed to include demolition of affordable housing floorspace that was not contemplated in the existing decision notice, the RBR will apply.

Exemption 5: GLA funding committed on or prior to 18 July 2018

- 8.6.20. IPs may apply for an exemption to the RBR where the GLA contractually committed funding to a particular Strategic Estate Regeneration Project on or prior to 18 July 2018. Projects must have been named in a contract and/or approved in the GLA's Open Project System. IPs may also apply for an exemption to the RBR where the GLA has approved an application on or prior to 18 July 2018 to use Recycled Capital Grant Fund monies to fund a Strategic Estate Regeneration Project.
- 8.6.21. Where the GLA contractually committed funding to an IP for a Strategic Estate Regeneration Project named in a contract and/or approved in the GLA's Open Project System on or prior to 18 July 2018 and the IP

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<sup>2</sup> No new contracts for estate regeneration projects were signed by the GLA between the start of the consultation on the resident ballot funding condition on 2 February 2018 and the publication of the final funding condition on 18 July 2018.

subsequently seeks to vary the project to include demolition of affordable housing floorspace that was not foreseen as part of the original bid for funding, the RBR may apply. Where the counterparty seeks an amendment to the funding agreement, the GLA may choose to provide its consent to the counterparty's proposed variation to the project only if there is a further amendment to the funding agreement to introduce the RBR.

- 8.6.22. For the avoidance of doubt, significant changes to funding agreements entered into on or prior to 18 July 2018 that increase the level of affordable housing in a project and do not result in additional demolition of affordable housing floorspace will not trigger the RBR.

### **Applying for exemptions**

- 8.6.23. IPs seeking an exemption to the RBR that requires GLA approval should write to the GLA setting out the exemption for which they are applying and explaining why the proposed project meets the criteria for that exemption defined in this guidance.
- 8.6.24. Once it has received an application from an IP for an exemption to the RBR, the GLA will confirm in writing if it decides to grant the exemption.
- 8.6.25. In some cases, the GLA may specify the period of time for which the exemption applies.
- 8.6.26. The GLA may subsequently withdraw an exemption if the circumstances under which it was granted change. For example, if the GLA grants an exemption to the RBR on the basis of a proposed major rail service improvements project and the project no longer proceeds, the GLA may decide to retract the exemption.

## **8.7. Cancellation and/or recovery of GLA funding**

- 8.7.1. Prior to claiming grant IPs must – where the RBR applies – provide a copy of the GLA Resident Ballot Compliance Checklist (see paragraph 8.5.19), signed by the Independent Body and in a form satisfactory to the GLA, otherwise the GLA may seek to cancel the grant allocation for the project.
- 8.7.2. Further, the GLA will continue to check compliance at key points throughout the project. It may terminate a funding allocation and/or reclaim any funding paid (plus interest) on a project where the RBR applies if in its view:
- the planning permission secured for a project materially deviates from the proposals set out in the Landlord Offer to residents;
  - a progress report to residents highlights that a project materially deviates from the proposals set out in the Landlord Offer to residents; and/or
  - the completed project materially deviates from the proposals set out in the Landlord Offer to residents.
- 8.7.3. Examples of material deviations include, but are not limited to, changes to:
- the right to return for social tenants;
  - the offer to leaseholders and/or freeholders;
  - the scale of demolition and number of units to be demolished;
  - the number of new homes; and/or
  - the tenure mix of the new development.
- 8.7.4. The GLA may terminate and reclaim any funding paid (plus interest) on a project where in its view an IP has artificially partitioned development in such a way as to avoid the requirement for a resident ballot.