

Executive Report

Ward(s) affected: N/A

Report of Director of Resources

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## Use of Right to Buy Receipts Policy

### Executive Summary

In 2019-20 the Council had to repay Right to Buy (RTB) receipts plus interest to government totalling £2.7million. The reason for the repayment was because the Council did not spend the money on its new build housing investment programme in the HRA within the required time frame. Executive received a report on the use of right to buy receipts and the appropriation of land into the Housing Revenue Account at its meeting on 23 March 2021. The report recommended a number of actions which the Executive approved. One of the recommendations, which was later repeated by KPMG in their Internal Audit report on Right to Buy receipts in April 2021, was for the Council to develop a formal use of right to buy receipts policy. This report sets out that policy in Appendix 1 and seeks its approval.

### Recommendation to Executive

That the Executive approves

1. the Use of Retained Right to Buy Receipts Policy

### Reason(s) for Recommendation:

To facilitate the delivery of affordable housing in the borough and try to mitigate the risk of repaying RTB receipts to government in the future

**Is the report (or part of it) exempt from publication? No**

### 1. Purpose of Report

- 1.1 The purpose of this report is to adopt a formal use of right to buy receipts policy to aid the ongoing development and funding of the Housing Investment
- 1.2 Programme and to **further improve the governance** arrangements around the receipts and their expenditure.

## **2. Strategic Priorities**

- 2.1 The Council's new corporate plan includes a priority to provide affordable housing and jobs through regeneration and to facilitate high quality development of strategic sites. The use of the right to buy receipts policy will contribute towards that priority.

## **3. Background**

- 3.1 Between 2018 and 2021 the council had a significant issue with identifying and then delivering schemes within the Housing Investment Programme (HIP) within the HRA. Whilst schemes on some of the smaller sites have been successful, a number of larger schemes in the Housing Investment Programme in the HRA capital programme have, for various reasons, seen significant slippage in delivery which has resulted in the council needing to repay RTB receipts to government during Quarter 4 2018-19, and throughout 2019-20. The Council has not repaid any receipts in 2020-21 and 2021-22 due to a significant HRA property acquisition programme, increased awareness of the need to spend the receipts within the timescale and better monitoring arrangements. To further improve the governance arrangements around RTB receipts and their use, the Executive agreed on 23<sup>rd</sup> March 2021 to develop and adopt a formal Use of Right to Buy Receipts policy. Through the work of the RTB working group, a policy has now been developed that sets out:

- how receipts should be used,
- formalises the HRA acquisitions strategy
- how grants to registered social landlords may be considered
- the monitoring and governance arrangements
- the roles and responsibilities of individual officers and councillors and
- as establishes a new Housing Investment Programme working group to oversee the governance arrangements.

- 3.2 The policy is set out in Appendix 1 for Executive approval.

## **4. Key Risks**

- 4.1 Any slippage and under delivery in the Housing Investment Programme creates a significant risk that repayments to government of right to buy receipts will be necessary. In order to mitigate this risk it is necessary to ensure that there are effective monitoring and governance arrangements in place around the HIP and the RTB receipts.
- 4.2 There is a particular risk around the 50% limit on use of right to buy receipts to fund acquisitions coming into force in 2022-23 and then being reduced to 30% by 2024-25. In 2020-21 and 2021-22 the Council has spent significant amounts on HRA acquisitions to use its RTB receipts within the timeframe. Acquisition of Property into the HRA is expected to be around for 75% of expenditure on the Housing Investment Programme with development only accounting for 25% of expenditure. Expenditure on the HRA housing development programme needs to significantly increase during 2022-23 to enable the Council to continue to use RTB receipts to fund both acquisitions and development.

## 5. Financial Implications

- 5.1 There are no financial implications arising directly from this report but agreement of the policy should continue to improve the overall governance arrangements around the use of right to buy receipts, increase awareness of how the HRA capital programme is funded and the impact of delays in HRA development projects.

## 6. Legal Implications

- 6.1 Background: Under Local Government Act 2003 and 'reinvigoration' changes made in subsequent legislation, most recently the amendments to the Local Authorities (Capital Finance and Accounting) Regulations 2003 which came into force on 30 June 2021, Central Government, operating through the newly-named **Department for Levelling Up, Housing and Communities**, formerly Ministry of Housing, Communities & Local Government, ("the Department") allows retained Right to Buy (RTB) receipts to be used to replace homes sold under the RTB. The expenditure may be by development of new properties or acquisition of existing properties. This is subject to local authorities entering into an agreement with the Department under section 11(6) of the Local Government Act 2003 (as substituted by section 174 of the Localism Act 2011). Under the legislation RTB receipts can only be used for the provision of **additional** social housing. If the RTB receipts are not used within the statutory timeframe funds must be repaid to Central Government via the Local Authority Housing Capital Receipts Pooling ("the Pool"). The Council has a valid / lawful Section 11(6) RTB receipts agreement in place with the Department under the relevant legislation, but has previously had to make repayments under the terms of the legislation / RTB receipts agreement because of a failure to utilise the funds within the statutory timeframe.
- 6.2 The Policy here being recommended for adoption is not itself the machinery which provides the legal right to retain RTB receipts, as that is the function of the relevant legislation and the Section 11(6) agreement, it is *merely* the internal machinery by which The Council will monitor the correct and timely use of the RTB receipts in order to minimise any risk of having to make repayments to the Pool, in the future. The Policy appears to be based on a correct understanding and application of the legal principles under the legislation and the Agreement.
- 6.3 In the circumstances, there are no direct legal implications because of this report.

## 7. Human Resource Implications

- 7.1 There may be a requirement to increase the number of posts for the Housing Development part of the Corporate Programmes team. This may require the recruitment of additional staffing resources to manage and deliver the programme. Any increase in resources will be included in the HRA budget for 2022-23 and in project management costs included within the business cases for each project.

## **8. Equality and Diversity Implications**

- 8.1 Using RTB receipts to deliver affordable housing is likely to have a positive impact on equality and diversity by enhancing the equality of opportunity in respect of housing services to those with a protected characteristic.

## **9. Climate Change/Sustainability Implications**

- 9.1 Delivery of the Council's Housing Investment Programme should have a positive impact on climate change and sustainability as housing can be built with sustainable energy efficiency design in to the property. This may have a positive benefit for tenants with respect to lower energy usage and costs.

## **10. Executive Advisory Board comments**

- 10.1 The policy has not been reviewed by EAB.

## **11. Summary of Options**

- 11.1 The Executive is asked to adopt the policy to fulfil a previous executive and audit recommendation and improve governance arrangements around the use of right to buy receipts. The alternative option is that the executive does not adopt the policy and does not improve governance arrangements therefore risking further repayment of receipts.

## **12. Conclusion**

- 14.1 The Executive is asked to approve the use of RTB receipts policy and improve governance arrangements around the receipts.

## **13. Appendices**

Appendix 1 – Draft RTB Policy