

# GUILDFORD BOROUGH COUNCIL

## Right to Buy Retained Receipts Policy

### Document Information

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## Introduction

In 2012 the Council, in common with most stock owing authorities, entered into a retention agreement with, the now, Department of Levelling Up, Housing and Communities) regarding receipts from the sale of council properties under the Right to Buy (RTB) legislation. Retention of receipts was only permitted if councils signed up to such an agreement.

Where a Local Authority enters into an agreement to retain receipts, those receipts can only be used for the provision of additional social housing, which may be by development of new properties or acquisition of existing properties.

The framework for this has developed over time and the most recent retention agreement includes the following terms;

- Retained RTB receipts can only be used for 40% of the cost of development or acquisition (including refurbishment costs) the remaining 60% of funding is taken from the Housing Revenue Account (HRA) Capital Programme. This is usually from the HRA 'New Build reserve' or from HRA borrowing.
- There is a cap on the amount of RTB receipts that can be used to fund acquisitions. The cap will apply as a maximum percentage of the Council's overall expenditure on replacement affordable or social housing. The Cap will be nil in 2021-22, 50% in 2022-23, 40% in 2023-24 and 30% in 2024-25. The reason for the cap is because central government is of the view that the use of acquisitions to deliver replacement housing does not represent the best value for money. The government is clearly encouraging delivery of replacement housing through new build.
- Retained RTB receipts can be used to support development of new properties by other Registered Social Landlords (Housing Associations). However, it is not possible to use RTB receipts together with grant from Homes England on the same development.
- Retained RTB receipts can be used to deliver Shared Ownership and First Homes as well as affordable or social rented tenures
- Retained RTB receipts must be spent within five years or the funding must be returned to DLUHC plus interest. Spent means actually spent, not merely contracted commitment to spend in the future.
- Future RTB sales of properties brought into stock post-2008 using Retained RTB are not subject to restrictions or obligations to return funds to central government.
- The Council needs to complete an annual pooling return to government reporting the properties sold, the receipts obtained, and expenditure incurred on new build and acquisitions during the period.

## Purpose of Policy

The purpose of the Right to Buy Retained Receipts Policy is to set out Guildford Borough Council's approach to how RTB retained receipts are used for the provision of additional social housing.

The scope of this policy is to set out how the Council will use receipts from the sale of council houses. It does not set out the policy on how the council will receive and respond to customers regarding right to buy enquiries, the process by which a sale will take place or the roles and responsibilities of officers and teams in processing sales under right to buy.

This policy also sets out how the Council intends to monitor the receipt of right to buy receipts and how it will utilise retained receipts. It also sets out the roles and responsibilities of various officers and councillors in the management, monitoring and use of retained receipts.

## **Contribution to our Strategic Themes**

This policy contributes to the strategic themes of Access to Jobs and Homes and Empowering Communities by providing clarity on how we use Right to Buy Retained Receipts for the provision of additional social housing for our community.

This policy supports the Council's Local Plan, Housing and Homeless Strategy and Strategic Asset Management Framework. It has been developed in accordance with our Privacy and Data Protection Policy and our Equalities Policy.

## **Policy Aims**

The aim of the policy is to increase the supply of additional suitable social housing either owned and managed by the Council within the Housing Revenue Account (HRA) or by a Registered Social Landlord (RSL). The council will achieve this by:

1. Developing as many new council-owned properties as possible, in compliance with planning policies. We will seek to deliver and fund all housing and housing led regeneration development projects through the Council's HRA and appropriate surplus land from the General Fund into the HRA to for this purpose
2. Within the imposed limitations, acquiring properties or land on the open market for retention within the HRA using the following acquisition strategy, in order of priority:-
  - a) Acquisition of affordable housing (ideally for rent) directly from developers 'off plan' where possible
  - b) Re-acquisition of properties formerly sold under right to buy
  - c) Acquisition of market property within the borough into the HRA where the property is suitable for tenanting
3. Utilising receipts to provide grant contribution to support local Housing Association and /or RSL development within the borough

The acquisition of property formerly sold under RTB has two advantages:

- The council should already have a first right of refusal to reacquire the property at a discounted price when the property is first sold on
- Re-acquiring property may enable the council to increase ownership again over a particular road or area which will then give the council scope to carry out a regeneration of the road or estate to redevelop existing properties that may be coming end of life and to potentially increase the density of housing within the area. This will provide the opportunity to carry out 'estate regeneration schemes'.

## **Relevant Legislation**

The RTB was introduced under the Housing Act 1980 subsequently superseded by the Housing Act 1985. Under current legislation, council tenants and housing association tenants who transferred with their homes from council landlords have the right to buy their home at a discount with the amount of discount dependent on the length of time as a social tenant. In April 2012 the right to buy was reinvigorated by the Government and the maximum

right to buy discounts were increased. Councils could enter into an agreement with Government to retain these additional sales receipts to fund the provision of replacement housing stock. These agreements were made under section 11(6) of the Local Government Act 2003.

Section 122 of the Local Government Act 1972 ('LGA 1972') provides the Council power to appropriate land for any purpose which it is authorised by the LGA 1972 or any other enactment to acquire land by agreement any land which belongs to the Council and is no longer required for the purpose it was held immediately prior to that appropriation. This includes appropriation for planning purposes. Section 19(1) of the Housing Act 1985 permits the Council to appropriate land between the General Fund and the HRA. The Council will need a valuation and the decision to appropriate the land by made under officer delegation or the Executive.

Any land can be appropriated into the HRA as long as there is a documented intention to use the land for housing purposes and all income, expenditure, reserves and borrowing in relation to the land will be accounted for within the HRA from the date of appropriation.

The Council is permitted by section 24 of the Local Government Act 1988 and section 22 Housing Act 1996 to provide grants to housing associations provided the criteria as detailed in the provisions are met and subsidy (state aid) rules are complied with.

## **How Retained RTB Receipts will be used**

### **Council Development**

The primary purpose of retaining RTB receipts is to support the development of new housing by the Council. Central government intention / aspiration was for a one-for-one basis to be achieved. In order to support this, the Council will seek to develop as many new council-owned properties as possible, in compliance with planning policies. The Council will also seek to deliver and fund all housing and housing led regeneration development projects through the Council's HRA and appropriate land from the General Fund into the HRA to for this purpose. The Council will seek to include and deliver affordable housing on all of its regeneration schemes.

When Council land or property is no longer required for the purposes for which it is held, under the asset management framework, an options analysis should be undertaken to establish whether the property should be retained or disposed of. As part of this options analysis, the option of retaining the land or property for housing development should always be considered and given priority where the development can be shown to be viable.

### **Acquisition of Property into the HRA**

Each potential acquisition will be assessed on a case-by-case basis; in line with the acquisition criteria set out in this policy considering the financial implications of the acquisition and the relative merits in value for money terms. The priority order in which acquisitions should be considered are:

- a) Acquisition of affordable housing (ideally for rent) directly from developers 'off plan' where possible
- b) Re-acquisition of properties formerly sold under right to buy
- c) Acquisition of market property or land within the borough into the HRA where the property is suitable for tenanting in particular, regard should be paid to:
  - Whether a property has been adapted or is particularly suitable for adaptation to meet the needs of an identified tenant or applicant

- Property that is long-term empty
- Property is disrepair causing concerns in the locality, and where works undertaken to allow letting would improve not only the dwelling, but also the surrounding area.
- A property in specific demand at any time – i.e. larger properties (four or more bedrooms) suitable for larger households, one-bedroom dwellings suitable for downsizing
- Leasehold flats, where the Council is the freeholder
- Property in locations that could free up land or access to land to facilitate affordable housing development or estate regeneration.

In addition, there will be a cap on expenditure which can be incurred on acquisitions. The cap will be set as a % of the Council's overall Housing Investment Programme and will be 50% in 2022-23, 40% in 2023-24 and 30% in 2024-25. However, where the purpose of the acquisition is part of the land assembly strategy for a development, the government have confirmed that this can be treated outside of the cap. The Council will set a budget for acquisition in monetary terms at the start of each financial year based on the amount the Council expects to spend on its approved HRA capital programme in that year. Should more expenditure be incurred on the approved capital programme than expected then the budget for acquisitions may be revised in year.

The following criteria will apply be considered when assessing whether individual properties are suitable for acquisition:

- The purchase price of an individual property will be assessed for viability and will not exceed a suitable market valuation
- Type of property will meet a need identified by the Housing team
- Properties will either meet or will be able to be improved to ensure they meet the Decent Homes Standard and offer suitable and appropriate standard of accommodation prior to being let.

The Council will take account of the number of applicants waiting for a particular type of property and consider any potential housing management issues. An independent valuation and survey of the property will be obtained to ascertain the asset value for the Council. The survey will identify issues / works required. The valuation is to consider comparable recent sales in the area. A high level 30 year cashflow appraisal should be carried out to give an indication of purchase and lifecycle costs, rental income that can be charged and an indication of the net present value and payback period for the investment. The Council would expect a potential acquisition to show a positive net present value over a 30 year appraisal using the HMTreasury discount rate. The authorisation from the Head of Housing must be obtained before an offer is made.

Once a price is agreed the Director of Service Delivery in consultation with the Section 151 Officer must authorise the purchase of the land and property, this gives authorisation to enter into contract to purchase, no funds are released until exchange and completion.

### **Grant Contribution to Registered Social Landlord**

The Council will work with Registered Social Landlords to identify opportunities where the retained receipts can be used to assist RSLs with the viability of their schemes. Any potential site must have planning permission and the retained receipts can only be used for rented properties.

There are a number of steps to determine whether retained receipts can be used to assist Registered Providers with development. Where a site is identified as requiring contribution from retained RTB receipts to be viable or to provide additional affordable units; the Council will discuss the sites viability, taking account of the size of the site, number of units to be delivered and timescales.

When considering the site, data from a range of sources should be considered to assess the need for affordable housing in a given location. The RSL will be required to provide a breakdown of costs, schemes and site details for the Council for review. The application for assistance should be made using the Councils template and be supported with all of the necessary information which would include tenure, values, costs along with details of the proposed timescales

A decision in principle will be made by the Head of Housing.

A draft retained receipts agreement will be provided to the RSL to enable them to take legal advice as necessary. The decision in principle will then be subject to Executive Approval. Funds will be released to the RSL after the Retained Receipts Grant Agreement is signed by both parties. 50% will be paid at start on site and 50% at practical completion, however if there is a need to bring forward payment the RSL can make a request to the Council.

Delivery will be monitored through regular liaison meetings with the RSL.

### **Financial projections of receipts and spend required in each year**

On a regular basis, not less than quarterly, the Council should use the RTB model (or a suitable alternative) to record the actual RTB receipts received in the period and when they need to be used by and retain a running total of receipts. A monitoring report will be produced showing:

- The year in which receipts may need to be surrendered.
- The value of receipts that may need to be surrendered (if no expenditure was incurred).
- The value of expenditure required to use those receipts.
- A projection of the expenditure the Council expects to incur in that year.
- Any variance between the expenditure required and the expenditure forecast to be incurred.
- The value of receipts that may need to be surrendered given forecast expenditure.

This report will be monitored by the Finance team, the Housing Specialist team, Lead Councillor for Housing, Lead Councillor for Resources and the Housing Investment Programme working group on a regular basis. This monitoring report will also be reported to Corporate Governance and Standards Committee as part of the regular financial monitoring reports the committee receives.

### **Monitoring Process**

The monitoring of retained RTB receipts and their expenditure is in 2 stages:

1. Monitoring of expenditure on the approved HRA capital programme against budget at project level and overall programme level
2. Monitoring of whether the expenditure on the approved capital programme is sufficient to ensure that RTB receipts are fully utilised.

For the purposes of monitoring RTB receipts, only approved capital programme projects (including the acquisition programme) will be looked at. This is because the provisional

capital programme is a pipeline of projects that do not have approved business cases and therefore are not in delivery. It is only approved schemes that are in delivery that are likely to incur sufficient expenditure in the required timeframes.

*Monitoring of expenditure on the approved HRA capital programme against budget at project level and overall programme level*

- Once a project or programme has been designed and a business case approved by Executive, a project and budget manager will be assigned and provided with an approved budget for the project (in most cases the project and budget manager will be the same individual, but this may be different in cases where the project manager is not a GBC employee).
- The approved budget will be loaded into BusinessWorld at a detailed account level and the budget manager will have live access to the system to raise requisitions, purchase orders and incur expenditure against each budget line on the project.
- The project manager (if they are not the same as the budget manager) will be responsible for informing the budget manager of their expenditure plans, progress in meeting those plans and key milestones.
- The project and Budget Manager are responsible for ensuring they understand how their project is funded and any key milestone dates that are required to be met to ensure that the funding remains in place.
- The budget manager will be responsible for advising the finance team of what the profile of the budget should be between financial years.
- The budget manager should monitor the actual and committed expenditure against the budget (if they are not the project manager they will need to liaise closely with the project manager to do this) and provide a forecast of expenditure that is likely to be incurred for each financial year against each budget line to the Finance Specialist – Capital and VAT. The forecast should be provided on a bi-monthly basis. In due course, the submission of forecasts should be undertaken via 'budget books' in BusinessWorld but at present it will be via spreadsheet.
- The project budget manager will provide an explanation of variances where actual or projected expenditure significantly (i.e. over £25,000) exceeds or is below budget.
- The Finance Specialist – Capital and VAT will meet with the budget and project manager (where the two are not the same) on a bi-monthly basis to understand the expenditure incurred, the forecasts provided and explanations given to both ensure that BusinessWorld is accurate and up to date and to ensure the accuracy of the monitoring information provided to the Head of Housing, Directors and Councillors.
- The Finance Specialist – Capital and VAT will collate the monitoring of individual projects together and produce a monitoring report showing actual and forecast expenditure compared to budget, variances and explanations of variances, for the approved HRA capital programme, the provisional HRA Capital programme, HRA capital programme financing, and HRA reserves on a bi-monthly basis. These monitoring reports form part of the regular Financial Monitoring reports for the Council as a whole.
- The Finance Specialist – Capital and VAT will report the monitoring of the approved HRA Capital, HRA provisional capital programme, HRA financing and HRA reserves to the Lead Finance Specialist, Head of Housing, and other officers at the Housing Investment Programme Working group
- The Housing Investment Programme Working Group will review and discuss the Financial Monitoring reports with the Finance Specialist – Capital and VAT

- The HRA capital programme monitoring reports, which form part of the overall Financial Monitoring report for the Council will then be reported to Corporate Management team (CMT), Lead Councillor for Community and Housing, Lead Councillor for Resources and Corporate Governance and Standards Committee (CGSC) on a bi-monthly basis

Monitoring of whether the expenditure on the approved capital programme is sufficient to ensure that RTB receipts are fully utilised

- Once a property is sold under RTB, the income from the receipts is posted to the relevant codes within BusinessWorld.
- The Finance Specialist – capital and VAT will use the Council's RTB Model (or a suitable alternative) to record receipts income, expenditure incurred and expenditure forecasted on a bi-monthly basis.
- The Finance Specialist – capital and VAT will complete any quarterly or annual monitoring returns required by the government (currently done using the 'DELTA' system) using the information from the RTB model (or a suitable alternative) and the HRA capital programme monitoring.
- The Lead Finance Specialist will review and sign-off the Government returns and in doing so will review the RTB model (or suitable alternative).
- The Finance Specialist will use the RTB model (or a suitable alternative) to complete 'Use of Right to buy receipts' monitoring report. This report will look at the total expenditure on the Approved and Provisional capital HRA capital programmes and report how the financing of that expenditure compares to budget. It will also look at what expenditure is required to be incurred to avoid repayment of RTB receipts, the actual expenditure forecast to be incurred and any variance.
- The use of RTB receipts Monitoring report will be reported the Housing Investment Programme Working Group.
- The Housing Investment Programme Working Group will review and discuss the Use of RTB receipts monitoring report with the Finance Specialist – Capital and VAT.
- The Use of RTB receipts monitoring report will form part of the overall Financial Monitoring report for the Council will then be reported to Corporate Management team (CMT), Lead Councillor for Community and Housing, Lead Councillor for Resources and Corporate Governance and Standards Committee (CGSC) on a bi-monthly basis.

## **Roles and Responsibilities**

### **Finance Specialist – Capital and VAT**

The role of the finance specialist is to

1. Enter the data into the RTB model, keep the model up to date and extract the relevant figures to feed into the monitoring reports
2. To complete the pooling returns on Delta
3. To make any payments to government if required
4. To report the information to and attend the Housing Investment Programme Working Group
5. To monitor the Housing capital programme and regularly meet with the project managers (at least bi-monthly) to review their forecasts against budget for each project and ascertain explanations of variances
6. To provide the information for the financial monitoring reports to CGSC.

## **Lead Finance Specialist**

The role of the Lead finance specialist is to

1. To review the RTB model on a regular basis
2. To certify the pooling returns on Delta
3. To attend the Housing Investment Programme Working Group and advise the group of any risks of repayment
4. To escalate any risk of repayment (and payments made) to the Chief Finance Officer and the Head of Housing and advise on mitigation options
5. To authorise any payments to government
6. To review the Financial Monitoring report to CGSC and attend the committee to present the report and answer any questions.

## **Neighbourhood Housing Lead**

The role of the Neighbourhood and Housing Lead is to

1. Source, evaluate and recommend potential acquisitions of property into the HRA
2. To negotiate an acquisition on behalf of the council and to complete the transaction and add the new property into the council's stock for management purposes
3. To attend the Housing Investment Programme Working group and update the group on the progress of the acquisition programme and potential new acquisitions
4. To monitor the acquisition budget on BusinessWorld and provide forecasts for budget monitoring
5. To regularly meet with the Finance Specialist – Capital and VAT to discuss updated forecasts and budget profiles / requirements for the acquisition programme and explain any variances.

## **Head of Regeneration and Corporate Programmes**

The role of the Head of Regeneration and Corporate Programmes is to:

1. To manage the New Build Programme from site identification through feasibility, business case, design, planning and implementation stages.
2. To identify and understand how each project is funded and key risks to the funding.
3. Appoint project teams to deliver the projects.
4. To provide appropriate project plans, key milestones, risk registers and cashflow and budget for each development and keep such documents up to date as per Programme and Project Governance arrangements.
5. To monitor the projects against the plans, cashflow forecasts and budgets.
6. To monitor the project risk registers.
7. To monitor the development project budgets on BusinessWorld and provide forecasts for budget monitoring
8. To attend the Housing Investment Programme Working group and update the group on the progress of the new build programme and projects
9. To attend the Housing Programme Sub-Portfolio Programme Board
10. To regularly meet with the Finance Specialist – Capital and VAT to discuss updated forecasts and budget profiles / requirements for the new build programme and explain any variances.

## **Head of Housing**

The role of Head of Housing is to:

1. Oversee the overall HRA revenue and capital budgets (including the Housing Investment Programme) and their delivery to plan.

2. Chair the Housing Investment Programme Working group and review the monitoring information and project / acquisition reports provided.
3. To identify and report any risks to councillors around the repayment of RTB receipts and to identify possible mitigating action.
4. To authorise the acquisition of property for the HRA.
5. To oversee the development of the New Build pipeline.
6. To oversee the delivery of the New build programme and the acquisition programme.
7. To meet with the finance team to develop appropriate budgets for both the HRA revenue and capital programme.
8. To present the HRA budget report to councillors.

### **Lead Councillor for Community and Housing**

The role of the Lead Councillor for Community and Housing is to:

1. To set the strategic direction for the Housing Investment Programme and work with the Head of Housing to ensure its delivery.
2. To attend the Housing Investment Programme working group and Housing Programme Board and scrutinise the officers reports and activities.
3. To inform the Executive about the progress of the Housing Investment Programme. and the work of the working group, and raise concerns, risks and issues as necessary.
4. To be accountable to the Council and public for the Housing Investment Programme.

### **HRA Housing Investment Programme (HIP) working group**

Members: Head of Housing, Housing and Strategy manager, Head of Regeneration and Corporate Programmes, Lead Finance Specialist, Finance Specialist – Capital and VAT, Lead Councillor for resources and Lead Councillor for Community and Housing.

Role: To ensure that proper programme and project management arrangements are in place for the HRA housing investment programme by:

- To monitor the delivery of the Housing Investment Programme and receive update reports on individual projects and delivery risks.
- To review the monitoring of expenditure on the approved HRA capital programme and investigate variances.
- To review the use of RTB receipts and take relevant action to address any areas of concern.
- To identify a pipeline of projects and new schemes that can be developed and arrange to operationally bring them forward to business case stage for approval.
- To manage and mitigate risks across the Housing Investment programme and escalate significant risks to CMT, Executive and Corporate Governance and Standards Committee where necessary.
- To act as client for projects being delivered by Corporate Programmes under the Housing Programme Board

### **Housing Development Programme Board (HDPB)**

Separate terms of reference exist regarding this board which is a sub-portfolio board of the Major Projects Portfolio Board.

The purpose of the Housing Development Programme Board (HDPB) is to review on an as required basis, the content of the housing development programme of work with respect to:

- Issues arising that require discussion and direction.
- Interdependencies.
- Funding/financial status.
- Risks.
- Constraints.

Any key output from this meeting is then reported at the quarterly Major Project Portfolio Board (MPPB). This reduces lengthy debate at the main Board meeting while focusing on the key issues for discussion and gives that Board the reassurance that each programme of work/projects is being continuously scrutinised.

The board exists to specifically monitor the Housing development projects being managed by the corporate programmes team, this programme comprises of both housing developments being funded from both the HRA and the general fund. The delivery of major Housing Developments funded from the HRA would be covered by this board in terms of tracking delivery progress. In that respect there is a significant link and some overlap with the work of the Housing Investment Programme Working Group but it is recognised that the HIP Working Group has a wider remit to review both the HRA acquisition and the HRA Investment programme. The Housing Programme Board should however be aware of and alert to the fact that housing development projects funded by the HRA will be partially funded from Right to buy Receipts and therefore will need to be aware, as part of the monitoring role that any delay in the programme will impact on the expenditure of RTB receipts. The risk of project delay on the funding stream availability will need to be monitored as a key risk on projects. This will need to be a key consideration when reporting up to the MPPB.

### **Reviewing the policy**

We will monitor the success of the policy in a number of ways.

The Housing Investment Programme Working Group will use the financial monitoring report process set out within the policy and the Housing's Corporate Performance Indicators within our service planning and corporate performance framework to review the success of the policy.

The HRA Housing Investment Programme Working Group will also review this policy every 3 years to ensure it is fit for purpose.