

REPORT TO: EXECUTIVE AND COUNCIL
DATE OF MEETING: 11 OCTOBER 2016 AND 18 OCTOBER 2016
REPORT OF: Assistant Director Finance and Assistant Director Housing

TITLE: SURRENDER RIGHT TO BUY RECEIPTS

Is this a Key Decision?

Yes

Is this an Executive or Council Function?

Executive and Council

1. What is the report about?

On 27 June 2012 the Council signed up to an agreement with the Department of Communities and Local Government (DCLG) which enables the Council to retain certain receipts from the sale of properties under the Right-to-Buy scheme for reinvestment in replacement affordable housing locally.

This report sets out the issues facing the Council in its ability to continue meeting the terms and condition of that agreement and the options available.

2. Recommendations:

That Executive approves:

- 2.1 The retention of Right to Buy receipts are reviewed on a quarterly basis and that receipts are surrendered to DCLG or passed over to a housing association (subject to the relevant housing association satisfying the Council that any transferred funds would be used specifically to deliver new affordable housing for the benefit of Exeter residents in housing need) should it be identified that insufficient capital investment in replacement affordable housing can be made by the Council before they would otherwise need to be returned to DCLG.**

That Executive recommends to Council:

- 2.2 Delegated powers are given to the Assistant Director of Housing to opt to surrender Right to Buy (RTB) Receipts to DCLG or pass receipts over to a housing association, subject to prior consultation with the Assistant Director Finance and the Executive Member with Relevant Portfolio and that the Constitution is amended accordingly.**

3. Reasons for the recommendations:

It was resolved by Executive on 19 June 2012 that should it be identified that sufficient retained RTB receipts will not be spent before they would otherwise need to be returned to DCLG, that a report would be submitted back to Executive setting out the options available to the Council for consideration.

4. What are the resource implications including non financial resources

The resource implications are set out in the body of this report.

5. Section 151 Officer Comments:

The section 151 Officer agrees with the proposal. In order to protect the HRA from paying additional interest to the Government, at a rate that is significantly above what it can generate through investing the funds, it is appropriate to return the funds at the earliest opportunity. Where opportunities arise to use some of the funds, keeping the agreement open will enable this to happen.

6. What are the legal aspects?

On 27 June 2012 the Council entered into an agreement with the Department for Communities and Local Government under section 11(6) of the Local Government Act 2003 to retain certain Right to Buy receipts for investment in new affordable housing.

This report considers the options available to the Council in accordance with the terms of the agreement.

7. Monitoring Officer Comments:

The Monitoring officer has not had sight of the Agreement, was not party to the discussions with DCLG and therefore is not in a position to make any comment about the content of the report.

8. Report Details:

ONE-FOR-ONE REPLACEMENT AGREEMENT

8.1 Background

In April 2012 the Government raised the cap on Right to Buy discounts from £30,000 to £75,000 (the cap for the South West) and confirmed that local authorities could retain any additional RTB receipts generated as a result of the increased maximum RTB discount to fund the provision of replacement affordable homes in their area.

In order for local authorities to keep the additional receipts it was necessary to enter into an agreement with the Department of Communities and Local Government. Exeter City Council entered into such an agreement, referred to as the One-for-One replacement agreement, on 27 June 2012.

8.2 Key Terms of the One-for-One Replacement Agreement

In accordance with the terms of the agreement, the Council is permitted to retain its additional Right to Buy receipts to fund the provision of replacement homes, but;

- It must use the receipts for the provision of affordable rented homes
- It must spend those receipts within three years from the date the receipts were retained
- The retained Right to Buy receipts should not make up more than 30% of the total spend on replacement homes

- That if, after three years, any of those receipts are not used as set out above, it will repay the un-used sums plus compound interest at 4% over the base rate back to DCLG

8.3 Match Funding by the Council

The Council is expected to fund the remaining 70% investment in replacement homes from its own reserves or through borrowing serviced by the anticipated rental income from the new homes. It cannot include schemes that are partially or wholly funded by grant from the Homes and Communities Agency.

Unfortunately, for Exeter, it is not possible to take out any additional borrowing as it already has existing debt up to its 'debt cap'. Therefore the 70% match funding needs to be found from available capital resources and prioritised alongside needs to invest in existing housing stock and the provision of services. Given the external pressures on Housing Revenue Accounts coupled with the generous levels of discount, the match funding of Right to Buy is increasingly being seen as unachievable and as a consequence a number of local authorities have already withdrawn from the replacement agreement including Haringey and a number of other London authorities.

8.4 Pressure on the Housing Revenue Account

Officers have become increasingly aware that the financial pressure of match funding the retained Right to Buy receipts may become unsustainable to the Housing Revenue Account (HRA).

Recent Government announcements including the requirement to reduce social rents by 1% each year over the next four years have significantly reduced the amount of resources available for capital investment. This is further exacerbated by the proposed introduction of a 'higher value' vacant housing levy which has the potential to further destabilise the financial position of the HRA.

8.5 Current Financial Position

On a quarterly basis the Council is required to complete a return (HRA Pooling Return) to DCLG in respect of the number of RTB sales, the amount of RTB receipts it has retained, the cumulative amount it has spent on replacement homes and the number of starts on site/acquisitions.

The most recent return was completed as at 30 June 2016. The table below sets out the current financial position:

Total Retained RTB receipts	30%	£4,401,960
Required Match Funding	70%	£10,271,240
Total Required to be Spent by 30/6/2019	100%	£14,673,200
Less actual spend between start of agreement and 2015/16		(£4,966,379)
Less approved/committed investment in new housing		(£5,749,675)

(includes Rennes House car park & purchasing properties on the open market) 2016/17 to 2017/18		
Investment shortfall		£3,957,146

8.6 Competing Priorities

In order to ensure the HRA maintains prudent level of balances to take account of the potential level of financial risk facing the HRA in the medium term, its capital investment programme has been significantly curtailed. To this end, no budgetary provision has been made for investment in new affordable housing beyond 2017/18.

The Council's current policy is that the minimum level of the HRA working balance will remain at £4 million. Committing a further £3.9m investment in new affordable housing, as set out above, would require all the HRA's other available capital resources plus take the working balance down to £3.4m, unless savings could be identified elsewhere. Please refer to Appendix 1 which sets out the latest projections of available HRA resources.

9. OPTIONS AVAILABLE

There are several options available:

9.1 Keep One-for-One agreement in place and continue to fully retain all additional Right to Buy receipts

This is considered unaffordable at the present time, for the reasons set out above.

9.2 Keep One-for-One agreement in place but pass retained receipts to a housing association

As an alternative to the Council match funding the retained receipts, it is also possible for the Council to pass over the retained receipts to another body such as a housing association – but not a body in which the Council has a controlling interest. Under these circumstances the same terms and conditions would apply to the housing association in that it:

- Must use the receipts for the provision of affordable rented homes
- Must spend those receipts within three years from the date the receipts were retained
- The passed over Right to Buy receipts should not make up more than 30% of the total spend on replacement homes
- Must provide match funding from its own resources or through borrowing

In passing over receipts to a housing association the Council must ensure that they are used for the provision of social housing for the benefit of the Authority, which means that the housing needs to be situated in the area of the Authority or the Authority must own or have nomination rights in respect of the housing.

9.3 Terminate One-for-One Replacement Agreement

The agreement could be terminated. The Council would be unable to retain any additional Right to Buy receipts in the future and the receipts would be fully repaid to DCLG for passing to the Homes and Communities Agency for allocation nationally (which the authority could bid for).

This would remove the Council's flexibility to retain RTB receipts in the event that investment in affordable housing was deemed affordable again and would necessitate the signing of a new agreement.

9.4 Keep One-for-One agreement in place but opt to surrender additional receipts on a quarterly basis

Future additional RTB receipts could be repaid (fully or partially) by reporting to DCLG the amount the Council has chosen not to retain via the quarterly return. The Council would then retain the ability to keep future receipts when/if investment in replacement housing becomes affordable/prioritised in the HRA Capital Programme. It would still be required to incur sufficient investment for the receipts retained to date, plus match fund any receipts partially retained.

9.5 Re-pay Retained Receipts Early

On the basis that the Council already has a £3.9m gap between its planned investment in affordable housing and the amount it is obliged to spend based on receipts retained to date, the Council could consider re-paying some of the receipts it has already kept. These receipts would need to be repaid with compound interest charged at 4% above base rate.

In order to re-align with current investment plans, the Council would need to repay £1.187m to the Government plus interest (approx. £21k).

10. PREFERRED OPTION / SUMMARY

In order to bridge the gap between the Council's current investment plans and the amount it is required to spend on affordable housing, based on receipts retained to date, it would be advisable to either repay £1.187m to DCLG or pass the receipts over to a housing association. This would minimise the interest penalties to the Council.

Moving forward, it is advisable that RTB receipts are also surrendered back to DCLG or passed over to a housing association until such time as investment in replacement affordable housing is deemed affordable by the Council and prioritised in the HRA's Capital Programme.

The decision to surrender RTB receipts or to pass them over to a housing association would be made under delegated powers.

11. How does the decision contribute to the Council's Corporate Plan?

The Housing Revenue Account contributes to two key purposes, as set out in the Corporate Plan; help me find somewhere suitable to live and maintain our property assets. Effective management of the One-for-One Replacement agreement will help to protect the HRA's financial position in order to support its contribution to the Corporate Plan.

12. What risks are there and how can they be reduced?

It is not permissible for the HRA to go into an overall financial deficit position and the level of investment required in respect of new affordable housing is currently not deemed affordable by the HRA at the levels required in accordance with the One-for-One Replacement Agreement. Early recognition of this issue will ensure that the interest penalties for failure to spend sufficient retained RTB receipts will be minimised.

13. What is the impact of the decision on equality and diversity; health and wellbeing; safeguarding children, young people and vulnerable adults, community safety and the environment?

No impact

14. Are there any other options?

No

**Assistant Director Finance
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**Local Government (Access to Information) Act 1972 (as amended)
Background papers used in compiling this report:**

None

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