

**Report for:** Cabinet Member for Housing

**Date of meeting:** 15 June 2012

**Subject:** Reinvigoration of Right to Buy and One for One Replacement

**Report by:** Head of Housing Management  
Chief Officer responsible for Financial Administration  
(Section 151 Officer)

**Wards affected:** ALL wards

**Key decision:** No

**Budget & policy framework decision:** No

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## **1 Summary & Purpose of Report**

- 1.1 This report identifies the impact that the increase in Right to Buy discount could have on Portsmouth City Council and seeks approval to sign the Department for Communities and Local Government's agreement's with regard to the city's contribution towards the provision of national one for one replacement.

## **2 Recommendations**

- 2.1 It is recommended that the Cabinet Member for Housing:
- i) Notes the impact that the increase in Right to Buy discount has on sale proceeds and resources available for reinvestment,
  - ii) Approves the signing of the Department for Communities and Local Government's One for One Replacement Agreement, confirming Portsmouth's contribution towards the provision of national one for one replacement

## **3 Reasons for Recommendations**

- 3.1 The report is intended primarily as an information item with regard to the recent announcement relating to Right to Buy discounts, as well as seeking an ongoing commitment to deliver new housing on a local basis, in accordance with the Housing Strategy and Portsmouth's response to the Reinvigoration of Right to Buy and One for One Replacement Consultation.

## 4 Background

### The History of Right to Buy

- 4.1 Individual local authorities have always had the ability to sell council houses to their tenants, but until the early 1970s such sales were extremely rare. It wasn't until after Margaret Thatcher became Prime Minister, that legislation to implement the Right to Buy was passed in the Housing Act 1980.
- 4.2 The sale price of a council house is based on its market valuation. However, the legislation gave council tenants the right to buy their council houses at a discounted value, based on how long they had been living in the house. This was applied to reflect the rents already paid by tenants and also to encourage take-up.
- 4.3 The Right to buys is only available to those who have been a public sector tenant for at least 5 years. The discount after 5 years is 35 per cent for houses and 50 per cent for flats. This discount then increases by 1% per year for houses, and 2% per year for flats and maisonettes, up to a maximum limit. Prior to the recent government announcements, this discount limit was fixed at £38,000, and as demonstrated below, average sales in Portsmouth all met this maximum limit.

Qualifying period (in years)	Discount for the Average House Value: £110,454		Discount for the Average Flat Value: £80,592	
<b>5</b>	<b>35%</b>	£38,000	<b>50%</b>	£38,000
<b>10</b>	<b>40%</b>	£38,000	<b>60%</b>	£38,000
<b>15</b>	<b>45%</b>	£38,000	<b>70%</b>	£38,000
<b>20</b>	<b>50%</b>	£38,000	<b>70%</b>	£38,000
<b>25</b>	<b>55%</b>	£38,000	<b>70%</b>	£38,000
<b>30</b>	<b>60%</b>	£38,000	<b>70%</b>	£38,000
<b>Over 30</b>	<b>60%</b>	£38,000	<b>70%</b>	£38,000

Example of RTB Discount based on average PCC property values.

- 4.4 All of the proceeds of these sales were retained by local authorities, but their use was restricted. Any receipt from the disposal of housing property was subject to 'set-aside' provisions. This meant that only 25% of the Right to Buy receipt was available as a usable receipt to meet new capital expenditure. The remaining proportion of the receipt was set-aside to repay outstanding debt.
- 4.5 On the 1<sup>st</sup> April 2004, the Secretary of State used their powers under section 11 of the Local Government Act 2003 to replace the set-aside method of redistribution, with a new capital financing system. This new method, known as the Prudential Capital Financing System, replaced the 75% set aside rule with the pooling regime.

- 4.6 The Prudential System aimed to continue the redistribution of right to buy receipts nationally by pooling 75% of the capital receipt centrally, where as before 75% was set-aside locally to repay debt. The remaining portion of the capital receipt which is not subject to the pooling arrangements (ie 25% for right to buy sales) continued to be available for any kind of capital expenditure, or to repay debt.

### **Portsmouth City Council's Corporate Capital Strategy**

- 4.7 On the 4th February 2009 the City Council approved the Capital Strategy 2008 - 2018. The financial framework approved within the Capital Strategy moved from the previous framework based on passporting, to one that is designed to offer Members greater choice and transparency with the overall aim of delivering better outcomes from the resources available. It sought to strike the appropriate balance of allocating capital resources between short and medium term needs and priorities and longer term aspirations in order to support the delivery of the 10 year Capital Strategy.
- 4.8 Previously, Right to Buy receipts were passported directly to Housing to fund the Housing Investment Programme (HIP), however, the financial framework as stated in the approved Capital Strategy, moved to a concept of pooling all non ring fenced capital resources including Housing "Right to Buy" receipts and "Other Housing" receipts and matching those resources to those Capital Investment needs, priorities and aspirations of the Council that could not otherwise be funded from ring fenced capital resources.

### **Portsmouth City Council's Housing Strategy**

- 4.9 One of the key priorities within Portsmouth City Council's Housing Strategy 2011/12 – 2014/15 is Creating More Homes. City Council policies create the context for housing development, a priority informed by research that includes resident opinion surveys. It is given shape by a planning regime that has the new Portsmouth Plan as the principal element of the Local Development Framework (LDF). As a result, homes for sale by commercial developers have been encouraged and partnership arrangements with housing associations have been productive. The outcome has been 4,300 additional homes built or refurbished over the six years to March 2011 with over one third affordable, rents and sale prices being set at below market levels.
- 4.10 The City Council has also created a housing development team that is focusing on sites owned by the housing management service. As a result, new council built housing is being planned for the first time in many years, with over 40 homes on sites at Buckland and Somerstown being completed in 2011/12.

## **5 Government's Housing Strategy and Right to Buy Consultation**

- 5.1 During September's Conservative Party Conference, the Prime Minister pledged to "inspire a new Tory housing revolution", by using increased right to buy discounts to encourage 100,000 people to buy their council homes and use the receipts to replace each sold with a new 'affordable' rent property, let at up to 80 per cent of the market rent on a one for one basis.
- 5.2 The Housing Strategy, published by DCLG on 21 November 2011, develops the proposal further, stating Government's intention to double the current average discount, which currently stands at 25% of the market value across England, to up to a discount of up to half the value of each home. Portsmouth already offers an average discount of approximately 40%, far greater than the national average, mainly due to the low market value of our housing stock compared to the national average.
- 5.3 Central Government's Housing Strategy recognised the need to balance such generous discounts with the ability to raise sufficient receipts to fund the building of replacement homes, and as a result the DCLG consulted on these.

## **6 Reinvigoration of Right to Buy and One for One Replacement Announcement**

- 6.1 Following the detailed consultation process, the DCLG announced that it would be raising the existing national right to buy discount limit from £38,000 to £75,000 from 1<sup>st</sup> April 2012 and using all additional right to buy receipts to fund a one for one replacement programme on a national basis.
- 6.2 Whilst increasing the discount to £75,000 is an encouraging incentive for tenants to purchase their Council houses, it does result in a significant reduction in the proceeds received for each sale, as demonstrated below:

<b>Estimated Average Market Value:</b>			<b>Estimated Average Market Value:</b>		
<b>House</b>			<b>Flat</b>		
<b>£110,454</b>			<b>£80,592</b>		
	<b>Old Discount</b>	<b>New Discount</b>	<b>Old Discount</b>	<b>New Discount</b>	
Discount / Cap	£38,000	£66,272	£38,000	£56,414	
Proceeds	£72,454	£44,182	£42,592	£24,178	
Other Allowances	(£1,300)	(£1,300)	(£1,300)	(£1,300)	
Debt per dwelling	(£5,854)	(£5,854)	(£5,854)	(£5,854)	
<b>Previously Subject to Pooling</b>	<b>£65,300</b>	<b>£37,028</b>	<b>£35,438</b>	<b>£17,024</b>	
<b>Split:</b>					
75% to Central Govt	<b>£48,975</b>	<b>£27,771</b>	<b>£26,578</b>	<b>£12,768</b>	
25% retained by PCC	<b>£16,325</b>	<b>£9,257</b>	<b>£8,860</b>	<b>£4,256</b>	
<b>Loss to PCC</b>	<b>£7,068</b>		<b>£4,604</b>		

- 6.3 Whilst the new announcement states that all proceeds are available to be retained by the local authority to be used for the provision of replacement housing, it also recognises the fact that both the Comprehensive Spending Review 2010 and the Council's own Capital Strategy already assumes a certain level of capital receipts for both the HM Treasury and PCC's General Fund, prior to the announcement of the increase in discount. The previously assumed level of receipt are as follows:

	<b>HM Treasury</b>	<b>PCC Gen Fund</b>
Previously assumed level of capital receipts	£658,945	£274,843

- 6.4 The announcement states that pooling will continue to exist in order to honour the sums stated above in paragraph 6.3, after which any additional available resources must be used by the local authority to fund replacement social and affordable housing or be returned to the DCLG for national distribution through the Homes and Communities Agency (HCA). It should however be recognised that as a result of the increase in discount, the number of sales now required to achieve these assumed levels has increased significantly, from 19 per year to 32, assuming the current distribution of sales.

## **7 Agreement to Commit to the Re provision of Replacement Homes**

- 7.1 In order to ensure that local authorities commit to using the additional capital receipts generated to provide replacement housing, local authorities are required to sign an agreement to do so, or return the receipts back to DCLG.

- 7.2 The agreement states that all works must have commenced on replacement sites within a three year period of the receipt being retained. The extent of the use of the receipt cannot exceed 30% of the total build cost of the replacement dwellings (excluding land value), resulting in a minimum spend on replacement homes from year three onwards, as shown in the illustrative example below:

	Receipts Retained £	Cumulative Receipts Retained £	Min Cumulative Spend on Replacement Homes £
Quarter 1 (April '12 to June '12)	100,000	100,000	0
Quarter 2 (July '12 to Sept '12)	150,000	250,000	0
Quarter 3 (Oct '12 to Dec '12)	130,000	380,000	0
Quarter 4 (Jan '13 to March '13)	100,000	480,000	0
Quarter 5 (April '13 to June '13)	120,000	600,000	0
Quarter 6 (July '13 to Sept '13)	120,000	720,000	0
Quarter 7 (Oct '13 to Dec '13)	150,000	870,000	0
Quarter 8 (Jan '14 to March '14)	150,000	1,020,000	0
Quarter 9 (April '14 to June '14)	100,000	1,120,000	0
Quarter 10 (July '14 to Sept '14)	115,000	1,235,000	0
Quarter 11 (Oct '14 to Dec '14)	100,000	1,335,000	0
Quarter 12 (Jan '15 to March '15)	150,000	1,485,000	0
Quarter 13 (April '15 to June '15)	150,000	1,635,000	333,333
Quarter 14 (July '15 to Sept '15)	100,000	1,735,000	833,333
Quarter 15 (Oct '15 to Dec '15)	115,000	1,850,000	1,266,667
Quarter 16 (Jan '16 to March '16)	100,000	1,860,000	1,600,000

- 7.3 Failure to achieve the cumulative minimum spend on replacement homes would result in the amount of receipt above 30% being payable back to DCLG with interest chargeable at 4% above base rate from the date retained. It is therefore essential to ensure that both the Asset Management Plan and Housing Investment Programme incorporate sufficient schemes to reflect the need to achieve this level of reprovion.

- 7.4 The reprovion can be met in a number of ways. The local authority may choose to build the dwellings themselves or pass on the resources to a RSL to deliver the replacement housing as part of a larger scheme. However in all cases, the use of the retained receipt cannot exceed 30% of the cost of the new provision, as shown below:

Cost of a new build (e.g. based on Watts Rd development)	£117,000
Right to Buy Receipts (30% of cost)	£35,100
<b>Shortfall requiring alternative PCC funding</b>	<b>£81,900</b>

- 7.5 Alternatively, the local authority may choose to purchase homes directly on the open market as this could allow a quicker provision of replacement housing. It

is suggested that a financial appraisal would need to be undertaken for any such proposal to ensure the best use of our resources is achieved.

- 7.6 Due to the limit on the use of the retained capital receipt not exceeding 30% of the total build cost, Portsmouth would need to fund the remaining 70% from alternative sources, such as revenue contributions, S106 contributions or prudential borrowing against the anticipated rental income.

Affordable Rent - The affordable rent (80% of market rent) in the example above would equate to £720 per month, which could enable borrowing of up to £150,000 based on current rates, which would cover any shortfall.

Social Rent - Social rent for the same dwelling would equate to £404 per month which could enable borrowing of up to £84,000, which would also cover the shortfall.

- 7.7 Whilst the above demonstrates that additional prudential borrowing could be used to fund the shortfall, Section 171 of the Localism Act 2011 has put a limit on the amount of borrowing that the HRA can take out.

## **8 The Localism Act 2011 and Borrowing Headroom**

- 8.1 As a result of the Localism Act 2011, Portsmouth's Housing Revenue Account (HRA) is no longer required to pay ever increasing negative housing subsidy payments to central government, but instead is able to retain all of the tenants rents, allowing long term planning to be carried out with much more certainty than under the previous Housing Revenue Account Subsidy System (HRASS).

- 8.2 The buyout of the HRASS required PCC's HRA to take on additional debt of £88M, and capped HRA borrowing to £181M. This compared to an actual debt of £144M, gives PCC's HRA available borrowing headroom of £37M, which could fund over 450 dwellings based on the example in paragraph 7.4.

- 8.3 On the 31 January 2012, the Cabinet Member for Housing delegated authority to the Head of Housing Management & the Chief Officer responsible for Financial Administration (Section 151 Officer), in consultation with the Cabinet Member for Housing and resident's representatives to produce an HRA Business Plan, including an Asset Management Plan, to be presented to Members at a later date. Officer are currently compiling the Asset Management Plan and the resulting Housing Invest Programme (HIP), with a view to publish later in the year. One of the priorities of the plan will be to create new homes, and the plan will identify sites and proposed developments which will allow the City to meet the DCLGs replacement requirements.

## **9 Equality impact assessment (EIA)**

9.1 A preliminary EIA has been carried out which indicates that the requirement for a full EIA is low.

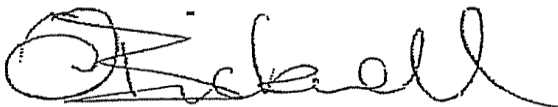
## **10 Head of legal, licensing & registrars' comments**

10.1 The Agreement arises under the Local Government Act 2003, s11, which regulates the use of capital receipts. S11(6), which provides for the retention of receipts, provides for exceptions and the Agreement specifies circumstances in which that exception applies – thereby enabling the Council to retain proportions of the receipts in those circumstances.

## **11 Head of Finance's comments**

11.1 The HFS has been consulted and is in agreement with the recommendations to this report.

Signed by:



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**Owen Buckwell – Head of Housing Management**

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**Chris Ward – Chief Officer responsible for financial administration (S.151 Local Government Act 1972)**

## **Appendices:**

Appendix 1 Agreement – Section 11(6) of the Local Government Act 2003



**Background list of documents: Section 100D of the Local Government Act 1972**

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by ..... on .....

.....  
Signed by: