

Report of Housing Senior Finance Manager

Report to Housing Advisory Board

Date: 8th April 2014

Subject: Right to Buy – Cessation as Mortgage Lender in Last Resort

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	Yes	<input checked="" type="checkbox"/> No
	City Wide	
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number:	Yes	<input checked="" type="checkbox"/> No

Summary of main issues

This report seeks the Board’s consideration to revocation of the previous policy whereby the Council would consider providing a voluntary mortgage to a tenant seeking to purchase their home under the statutory provisions of the Right to Buy.

The Council previously established a policy that it would consider acting as “Lender in Last Resort” where a tenant was unable to obtain a mortgage from one of the recognised approved lending institutions to purchase their home. This being where their inability to secure a mortgage was a direct result of the property being of defective construction (e.g. Airey, Myton, REEMA’s etc.), or where the property is a Multi-storey Flat.

This policy was adopted by the Council in the past because it was aware that the main stream lenders would generally not provide mortgages for Council dwellings which have been previously deemed to be of defective construction, or where they are multi storey flats. Advice from legal services at that time was that the Council may be open to challenge on the basis that it may potentially be deemed to be preventing secure tenants from exercising their Right to Buy their homes albeit the Housing legislation provides no entitlement to mortgage for tenants or any obligation on the Council’s part to lend for such purposes.

However, following recent consideration of the Policy it is proposed that the Council should no longer act as Lender in Last Resort. The reasons for this include; that the Council’s aim is to increase its stock of affordable accommodation, the changes in the Right to Buy announced by Government to increase the discount percentage for houses, the extensive works the Council is carrying out on Multi-Storey Flats (MSFs), the difficulty the Council encounters in recovering monies from leaseholders in MSFs, the proposal by government to increase Right to Buy sales by improving applicants’ access to mortgage finance, the

financial loss to the Council through the reduced rent and deferred income from the sale, consultation with other Core Cities and the potential issues which arise for tenants acquiring this type of property.

Recommendation

It is recommended that the Housing Advisory Board note the content of this report and agree that the Council cease to act as lender in last resort. Approval to the change in policy will be subject to Environment and Housing Panel decision.

1 Purpose of this report

1.1 To seek the Housing Advisory Board agreement/comments to the Council ceasing to act as Lender in Last Resort in the provision of voluntary mortgages for tenants wishing to buy their home under the Right to Buy.

2. Main Issues

2.1 History: - Until 1993 tenants applying to purchase their home under the Right to Buy had a Right to a Mortgage. However, from October 1993 the Government abolished this right. As a result of the abolition and following legal advice the Council considered that it should act as Lender in Last Resort when a tenant could not obtain a mortgage on the open market and where the property and tenant met specific criteria. This included:-

- a) that a tenant could not secure a mortgage on the open market, and
- b) the property was of defective build type (Airey, REEMA, Myton), under Part XVI of the Housing Act 1985 or was a Multi-storey flat, and
- c) the property represented adequate security for the mortgage, and
- d) the tenant(s) met the Council's financial criteria for a mortgage loan

Members of the then Tenancy Sub Committee considered a report and approved that the policy become effective from December 1994.

2.2 Current Position: there are a number of factors which have resulted in the existing policy being re-considered each of these is considered below:-

2.2.1 The Council's housing waiting list as at the end of December 2013 was 24,489. The Council is currently aiming to increase its stock of affordable accommodation through the acquisition of properties under the Empty Homes Strategy and through a programme of New Build in future years. The existing policy conflicts with the aims of the Council although it has operated to assist and support the prospect of home ownership for tenants of those types of properties affected.

2.2.2 The Council is currently investing substantially in the improvement of Multi Storey dwellings, through programmes for example under the Little London and Beeston Hill PFI. The issues to consider with regard to these properties are twofold:-

- a) the Council will not recover its investment in these properties where there is a sale because the property value will not increase £ for £.
- b) where tenants of these properties have previously acquired under the Right to Buy, the Service Charge for the works being carried out is not being recovered fully due to limitations on service charge contributions set by the Government, there is a statutory requirement to provide loans to specified values (Service Charge Loans Regulations 2003) and the need in some cases to top up these loans due to the limited financial means of some leaseholders. The Council is therefore expending monies which it will only recover over a period of time, or at a

point in the future, dependent upon the loan type provided, or indeed may not recover due to other factors such as default on primary mortgage or other priority charge repayments resulting in possession proceedings by lenders.

The provision of mortgages to facilitate the purchase of these properties may exacerbate the position in the future where the Council carries out works to other multi-storey blocks and is again in conflict with the Council's aims.

2.2.3 The provision by the Council of a mortgage for any property effectively reduces the income to the Housing Revenue Account (HRA) because the rental income for that property is lost upon its sale. Whilst there are mortgage repayments received these are required to be pooled under the Capital Receipts Pooling Regulations, which is effectively shared by the Council and Government.

2.3 Future: The Government has announced that it is to introduce revisions of the Right to Buy.

2.3.1 With effect from April/May 2014 there will be an increase in the maximum discount percentage for houses. This will increase from 60% to 70% (the maximum for a flat is already 70%), this will however be subject to the maximum discount value of £75,000. The effect of this is that where a tenant has the necessary tenancy periods to acquire the maximum percentage discount, they are likely to be able to acquire their home at a lower value and the maximum discount value will be achieved on lower value properties.

eg - prevs max disc 60 % on a £125,000 property, generates discount of £75,000
- new max disc 70% on a £107,143 property, generates discount of £75,000

2.3.2 The qualifying period for the Right to Buy is proposed to be reduced from 5 years to 3 years. The Bill is currently going through the various stages of parliament and is anticipated to become law later in 2014 subject to receiving Royal Assent.

2.3.3 There is a further proposal to increase the maximum discount of £75,000 by an allowance for inflation each year (Consumer Price Index). This proposal if applied within a stagnant housing market will effectively further increase the discount on properties.

2.3.4 The effect of both of the above is potentially likely to increase the number of Right to Buy applications received by the Council and reduce the Capital Receipts from those properties sold.

2.3.4 The government is also to provide further support for the Right to Buy by introducing Right to Buy agents to help buyers complete their home purchase, and provide £100 million to increase Right to Buy sales by improving applicants' access to mortgage finance. Details of the scheme and how this will operate are not available yet though some provisional indication from DCLG representatives suggests this funding may be targeted at defective and possibly non-traditional property type lending but this is not certain.

2.3.5 Enquiries undertaken with a number of Core Cities indicates that they are not providing mortgages to allow tenants to acquire their homes.

2.4 Effect on Tenants:

2.4.1 Tenants who acquire properties of defective or non-traditional build are advised of the potential issues which may affect them, however, many proceed to completion. These issues include:

- a) tenants may acquire their home by means of a Council mortgage (the debt is left outstanding and recovered over the term of the mortgage), the Council is not in a position to provide a loan to have improvement/repair works carried out to the property. Therefore they may be unable to secure any additional loans to carry out any necessary remedial works.

- b) Tenants are likely to have difficulty in re-selling their home on the open market because any prospective purchasers will have difficulty obtaining a mortgage for non-repaired/improved properties of the type highlighted.

2.4.2 The number of mortgages currently outstanding is 41. During the current financial year there have been 7 requests for a mortgage with 3 being provided. The remainder are currently in various stages of processing. It is anticipated that with the proposed changes in the Right to Buy this may generate a higher number of applications and a higher demand for mortgages.

4 Corporate Considerations

4.1 Consultation and Engagement

4.1.1 There has been no formal consultation on this policy matter. It is seen as a matter for the Council to determine taking into consideration the effects on the Housing Stock and the effect on the Council's HRA finances.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 This is not a decision-making report and as such there is no need for an EIA screening document to be completed.

4.3 Council policies and City Priorities

4.3.1 The proposed cessation of the Council acting as Lender in Last Resort is considered to be in line with the Council's current policies, eg provision of affordable accommodation.

4.4 Resources and value for money

4.4.1 The cessation of the policy will ensure that there is no conflict with the Council's current aims in providing more affordable Council accommodation to meet the growing housing needs within the City.

4.5 Legal Implications, Access to Information and Call In

4.5.1 It is considered that there are no specific legal implications.

4.5.2 It is not considered that this report will be subject to call in.

4.6 Risk Management

4.6.1 Where future requests for mortgages are refused the Council could be open to challenge on the likely basis as mentioned in the above Summary.

5. Conclusion:

5.1 The Council is under no legal obligation to provide mortgages to tenants who are seeking to purchase their homes under the Right to Buy.

- 5.2** The Council has a waiting list for housing accommodation in excess of 24,000 and is aiming to increase its housing stock through the acquisition of homes and through new build. The continued provision of mortgage to tenants to acquire their homes in conjunction with them wishing to exercise their Right to Buy conflicts with the aim.
- 5.3** The provision of mortgages for purchases under the Right to Buy effectively reduces the rental income to the HRA and creates a deferred loan which the Council is likely to recover over an extended period. In addition the loan repayments are required to be included as part of the governments Capital Receipts Pooling arrangement, part of which is required to be paid to the Government.
- 5.4** The Council is undertaking substantial improvement works to some multi-storey flats at present through the LLBH PPFi scheme. The full value of the works is not recoverable from existing leaseholders due to the contributions payment cap set by the Government . Where works are carried out and there are existing leaseholders they are entitled to loans to a prescribed value. Where the statutory loan is insufficient the Council may have to consider topping up the loans, or potentially deferring repayment to a point in the future. Sales of MSFs may generate similar problems in the future where improvement works are carried out to these blocks.
- 5.5** Requests to repurchase properties are received by the Council. The continued provision of mortgages for “defective” properties and MSFs may generate an increase in such requests, particularly where owner occupiers are unable to sell on the open market.
- 5.67** From a financial aspect each sale under the policy reduces the rental income to the HRA and creates a deferred repayment, which is subject to Capital Receipts Pooling a proportion of which is paid to Government.

6 Recommendation

Members of the Housing Advisory Board are requested to:-

- a) Note the contents of this report
- b) Agree the cessation of the Council acting as Lender in Last Resort, subject to the formal approval of the Environment and Housing Panel.