

Addendum to Item 10: Housing Revenue Account (HRA Business Plan)

Recommendations

Cabinet is asked to:

- (1) Approve the use of 1-4-1 capital receipts to be applied for the provision of replacement social housing to 2015/16 spend against the existing 'Improving Temporary Accommodation Capital Programme' up to the value of £1.862m (subject to audit).
- (2) Approve the use of 1-4-1 capital receipts for the provision of replacement social housing against the existing 'Improving Temporary Accommodation Provision Capital Programme' in the General Fund from 2016/17–2018/19 to the value of £2.075m.
- (3) Note the change of capital financing against the currently existing approved mainstream borrowing funded programme. The total existing approved budget for 'Improving Temporary Accommodation Provision' from 2016/17-2018/19 of £6.916m will now be funded by 70% borrowing and 30% 1-4-1 receipts as outlined below:
 - 2016/17 £0.600m
 - 2017/18 £0.900m
 - 2018/19 £0.575m
 - Total £2.075m**

Further information can be found in the financial implications Table 3.

- (4) Note that from 2016/17 onwards, in line with the HRA business plan assumptions, the HRA will receive preferential call on usage of the 1-4-1 receipts.
- (5) Note that the capital programme as set out in the Budget Strategy 2017/18 Cabinet report will be amended to reflect the above financing changes.
- (6) Note that the HRA Business Plan as set out in the Cabinet report will be updated to reflect the above changes.

Background

In order to utilise 1-4-1 capital receipts there has been a review of the existing Capital Programme and officers have identified opportunities for which it can be used retrospectively and in current plus future years.

The use of 1-4-1 receipts must be for social housing which is defined as low cost rental accommodation (See legal implications).

So long as the accommodation falls within the legal definition, then expenditure on providing it may constitute 1-4-1 expenditure.

Under the terms of the Right to Buy Retention Agreement entered into with the DCLG in 2012/13, the Council is able to retain Right To Buy receipts from sales received on or after 1st April 2012 provided those receipts are: (i) used for the provision of social housing; (ii) the receipts are used within three years; and (iii) the retained sum does not constitute more than 30% of the total development costs of the social housing investment. The remaining 70% of costs must be match funded.

The Council has spent during 2015/16 and 2016/17 approximately £6.140m of receipts to support the provision of new social and affordable rent units in the borough as set out in Table 1.

There is a constraint on the HRA, the fact that Right to Buy receipts can only be used to fund 30% of capital schemes, the remaining 70% must be match funded. The HRA is constrained in the amount of borrowing it can utilise (the borrowing “headroom”), hence the use of TA spend by the general fund will alleviate the level of expenditure and borrowing headroom limits within the use of 1-4-1 capital receipts requirements.

Financial Implications

1-4-1 Receipts Background

Table 1 Current 1-4-1 position

		Cumulative Spend Required	Cumulative Capital spend Forecast	Cumulative shortfall	Cumulative Potential Interest payable on unused 1-4-1 receipts
		£m	£m	£m	£m
2015/16	30% 1-4-1 Receipts	1.921	1.914	0.007	0.001
	70% Matched Spend	4.478	4.467	0.011	
		6.399	6.381	0.018	
2016/17	30% 1-4-1 Receipts	8.883	6.140	2.743	0.395
	70% Matched Spend	20.727	14.328	6.400	
		29.610	20.468	9.143	

Explanations of the amounts shown in table:

£29.610m - Cumulative Spend required: This is based on the retention agreement and conditions set by DCLG, the Council is required to spend against RTB receipts

on a quarterly basis receipts from three years prior. The conditionality is the RTB receipt is 30% of spend and 70% must be match funded.

£20.468m - Cumulative Capital Spend Forecast: This shows the spend which the Council has incurred as well as forecast spend to the end of the financial year 2016/17.

£9.143m - Cumulative Shortfall: This shows the variance between the spend required and the forecast spend, as a result of not spending 1-4-1 receipts within the three year duration. Based on the current application of the 1-4-1 receipts there is a shortfall in spend of £9.143m which would result in the requirement to return £2.743m 1-4-1 receipts.

£0.395m- Cumulative Potential Interest payable: The retention agreement states non usage of 1-4-1 receipts will result in the requirement to return the receipts back to DCLG. The interest charged at 4% plus base rate for the duration the receipt is retained by the Council. The £0.395m interest charge payable would be funded from revenue and will result in a pressure on the HRA in future years.

Table 2 shows the impact of applying 1-4-1 capital receipts to Temporary Accommodation spend in the General Fund. This utilises the Council shortfall as set out above.

Table 2 Revised 1-4-1 position (after applying TA spend)

		Cumulative Spend Required	Cumulative Capital spend Forecast	Cumulative shortfall	Cumulative Potential Interest payable on unused 1-4-1 receipts
		£m	£m	£m	£m
2015/16	30% 1-4-1 Receipts	1.921	3.777	(1.856)	Nil
	70% Matched Spend	4.478	8.812	(4.334)	
		6.399	12.589	(6.190)	
2016/17	30% 1-4-1 Receipts	8.883	8.603	0.280	0.041
	70% Matched Spend	20.727	20.073	0.654	
		29.610	28.676	0.934	

Based on current projections of spend, the forecast amount of receipts to be returned reduces from £2.743m to £0.280m with interest charge reducing from £0.395m to £0.041m.

It should be noted that quarter 4 spend for 2016/17 is based on projections and may increase which would result in no return of 1-4-1 receipts to the DCLG and no interest charge.

Revised funding sources on General Fund Temporary Accommodation Scheme

The table below shows the existing approved General Fund Temporary Accommodation Scheme with the proposed change in funding sources.

Table 3

	2016/17	2017/18	2018/19	Total
	£m	£m	£m	£m
Budget (approved)	2.000	3.000	1.916	6.916
Funded by (Current):				
Borrowing	2.000	3.000	1.916	6.916
Funded by (Revised):				
1-4-1 Receipts	0.600	0.900	0.575	2.075
Borrowing	1.400	2.100	1.341	4.841
	2.000	3.000	1.916	6.916

Any spend applied against the 1-4-1 Capital Receipts will be monitored to ensure compliance with the conditions as set out in the retention agreement and following guidance from the DCLG.

Legal Implications

S.11(6) of the Local Government Act 2003 provides that the Secretary of State and a local authority in England may enter into an agreement with the effect that Councils are permitted to retain all surplus RTB receipts if the receipts were used for one-to-one replacement housing.

The Council entered into such an agreement with DCLG in June 2012, the "Agreement".

The Agreement makes it clear that the Council must use the retained amounts for the provision of social housing. DCLG have confirmed that the provision of both temporary accommodation and non-HRA accommodation can be covered by the Agreement provided it meets the definition of social housing. Social housing is defined in the Agreement as low cost rental accommodation as defined by s68(1)(a) of the Housing and Regeneration Act 2008 ("the Act").

S.68 (1)(a) of the Act states the following:

(1) In this Part "social housing" mean—

(a) low cost rental accommodation (defined by section 69),

S.69 of the Act states:

Accommodation is low cost rental accommodation if–

(a) it is made available for rent;

(b) the rent is below the market rate; and

(c) the accommodation is made available in accordance with rules designed to ensure that it is made available to people whose needs are not adequately served by the commercial housing market.

Temporary accommodation (including the provision of hostels) could fall within the definition of social housing for the purposes of the Agreement. However, the rent/licence fee charged by the Council to occupants must be below market rate. 'Below market rate' is not defined in legislation. However, guidance from DCLG does suggest that it may cover rents up to 80% of market rents. However it could also include rents which are higher than affordable rent levels but still below market rent level.

Part 5 of the Agreement sets out what can be included in the amount spent on the provision of social housing and it includes but is not limited to development costs.

Part 6 defines development costs and includes acquisition costs e.g. amounts paid to acquire properties for use as social housing through a lease premium.