Voluntary Right to Buy Midlands pilot: guidance on one for one replacement

This document was produced by the Ministry for Housing, Communities and Local Government (MHCLG) in March 2021 for National Housing Federation members.

This guidance brings together the information in the joint guide on the requirement by housing associations to replace homes sold under the pilot on a one for one basis, and further details on reporting requirements and a number of other areas where providers have requested further clarification.

1. Overview

1.1 For every home sold under the agreement, a new affordable property will be built, thereby increasing the overall supply of housing in England. Individually, housing associations do not have to replace on a one for one basis. Some housing associations may not be able to build at a ratio of one for one, but it is expected that this will be balanced by others delivering to a higher ratio to ensure the sector meets its commitment under the terms of the voluntary agreement.

1.2 Housing associations should always consider how they could deliver replacement through new supply in the first instance, either through self-development or through partnership arrangements with developing housing associations. Housing associations should consider entering partnership arrangements if they are unable to self-develop. If this applies to you, contact the NHF who can help to facilitate such arrangements if required.

1.3 Homes must be sold at full market value, with housing associations fully compensated for the discount. All net sales receipts (the sales price plus compensation payment, less any allowable deductions) should be spent on replacement homes. Guidance on how to calculate net sales receipts is set out in Section 3.

1.4 Housing associations have up to 3 years to invest receipts through achieving a start on site for replacement units (though 2 years is encouraged wherever possible). The participating housing associations shall use all amounts received from the Department within 10 years of the date of receipt by the association of those amounts. The 10 year backstop period is for situations where – exceptionally – housing associations are not able to otherwise use the compensation to fund a replacement.

2. What constitutes a replacement property

2.1 Housing associations have flexibility over the type, tenure and location of replacement homes, so they can best respond to housing need. In practice this means replacements can be social rent, affordable rent, shared ownership, starter homes or any other form of part rent/part buy, and may be located anywhere in England.

2.2 Housing associations may replace the home with a property of any size and in any location, but the property must be self-contained (i.e. have its own front door).

2.3 Under exceptional circumstances, if an association is clear that it has exhausted all possibilities, homes purchased on the open market, empty properties brought back to use, and non-grant funded new build purchases of affordable homes from a developer will count as a replacement home, but will not contribute to the national one for one commitment through new supply.

2.4 Where this is the case, housing associations are required to submit a business case to be considered by the Department. The business case will need to set out what other possibilities the housing association has explored and considered in order to meet the requirements of the guidance, and why alternative options for investing receipts (e.g. homes purchased on the open market) are appropriate in terms of delivering value for money and increasing overall housing supply and the supply of affordable homes. Further details on preparing a business case are set out in Section 4.

2.5 Housing associations must not count any property as a replacement home if it has been delivered through Section 106 planning agreements. In exceptional circumstances, Homes England will provide consent for a housing association to use the funding where housing associations can demonstrate additionality (a business case is required – see section 4.6).

2.6 In practice it is rare that providers would be in a position to demonstrate additionality in such cases (given that the planning consents would have been granted on the basis of viability, with developers given the opportunity to negotiate this at the planning stage, the direction of additional funds would be unlikely to constitute additionality).

2.7 Housing associations must not count any property as a replacement home if it has grant funding attributed to it from the Affordable Homes Programme or a Strategic Partnership Grant Agreement.

2.8 Properties can only be counted toward one for one replacement once a start on site has been made using Voluntary Right to Buy receipts, where the receipts have been already received by the housing association. The definition for a start on site can be found in the Housing statistics and Housing Survey glossary.

3. Calculating net receipts to be invested in replacements

3.1 Homes must be sold at full market value, with housing associations fully compensated for the discount. It is expected that the full receipt (the sale price plus the compensation payment from government) will be spent on replacement homes, with allowable deductions for debt repayment, to be calculated as follows.

3.2 Debt repayment is calculated by taking the amount of the Total Scheme Costs, **minus** the capital subsidy (grant, RCGF, Disposal Proceeds Fund, Other Public Subsidy), and your own resources that went in to the property or scheme. Repayment is on the original borrowing for the build/scheme.

3.3 Example: original build/scheme cost – capital subsidy – providers own resources = original borrowing (debt). Where the debt is on a scheme basis rather than an individual property basis then the debt should be apportioned across the homes in the same way Homes England grant would be for RCGF purposes (either equally or according to property size).

3.4 A £2,000 administration payment is paid to all housing associations on completion of a sales, which is intended to cover any transaction costs. As such it is not possible for further costs to be deducted from the receipts. Where a property sold under the pilot has been part funded by capital grant, it is expected that this will be reinvested (see Section 5 for further details).

4. Demonstrating exceptional circumstances – preparing and submitting a business case

4.1 Where housing associations wish to make a case for using Voluntary Right to Buy receipts toward a property or properties under exceptional circumstances, they should submit a single business case to be considered by the Department, who may seek advice from Homes England. Business cases can be sent to the following:

vrtb@communities.gov.uk

4.2 There are no guarantees a business case will be granted. The following sets out guidelines on aspects to consider including should you wish to submit a business case.

4.3 All business cases should set out why an exceptional circumstances request has been made (i.e. why it is not possible to use the receipts for replacement properties within the standard categories that count towards the national one for one replacement commitment through new supply). Housing associations should also look to make a case for why they think the property delivered through exceptional circumstances demonstrates additionality of social housing and/or new supply.

4.4 If making a case for buying a home on the open market, the business case could set out the following:

- the open market value of the property
- the cost to value ratio of the purchase, and details of how this is calculated
- the amount of receipts that would be used towards acquisitions, including the percentage of overall receipts that would be used toward new build properties
- whether the property had already been registered as a private unit, if applicable
- whether the property purchased meets design standards for space, design or quality - an example could be the standards for grant funded properties).

4.5 If making a case for bringing an empty property back into use, the business case could set out the following:

- Details of current/previous ownership
- How long the property/properties have been vacant for and why the property is empty
- Reasons why it has not been or will not be possible for the housing association to bring the property back into use through their organisation's asset management strategy.

4.6 If making a business case for delivering a property through Section 106, it is unlikely that housing associations will be able to demonstrate additionality as set out in 2.6. It will be for housing associations to show that delivery through such means constitutes additionality in each circumstance. An example of circumstances that might be considered is where a site is being delivered as 100% affordable housing by the provider and all units on the site are fully compliant SOAHP affordable housing products.

5. Directing additional resources towards replacement properties

5.1 Housing associations may choose to direct additional resources towards replacement properties. Receipts from the pilot cannot be combined with any grant classified as Social Housing Assistance or Local Housing Assistance for replacement property.

5.2 Where a property sold under the pilot has been part funded by capital grant, housing associations will need to recycle the grant retrieved from the sale through their Recycled Capital Grant Fund, of which a replacement unit has been designated an acceptable use for the purposes of the pilot (to note, this only applies to the grant attached to the properties being sold under VRTB – Recycled Capital Grant Funding more widely cannot be used alongside the receipts to invest in replacement properties).

5.3 Recycling of grant into replacement properties would nevertheless need to be subject to the existing wider guidance on the recycling of funds, as is set out in the Grant Recovery chapter of the Capital Funding Guide.

5.4 As set out in the Voluntary Right to Buy chapter of the Capital Funding Guide, compensation is paid by Homes England as Financial Assistance and is therefore not recyclable by Registered Providers, who must account for and hold recovered compensation payments outside of their Recycled Capital Grant Funds.

5.5 Whilst compensation payments must be invested in replacement as set out in the guidance and the voluntary agreement, these payments are not subject to Capital Funding Guide rules on the recycling of grant. That is not the case for any RCGF that is reinvested into replacement.

5.6 Any replacement homes built using or Recycled Capital Grant Funding have to be a Shared Ownership and Affordable Homes Programme compliant product, as outlined in the Capital Funding Guide.

6. Reporting on replacement

6.1 Housing associations are required to report to the Department annually on their delivery of replacement homes for monitoring and evaluation purposes, which will be done through the Department’s DELTA system. Guidance on the DELTA system and VRTB data collection will be circulated to housing associations prior to each annual collection.

6.2 Data submitted will be shared with housing associations and the Federation, as provided for by the Data Sharing Agreement. Information needed on homes sold includes:

- Number of homes sold to date
- Discount compensation received from MHCLG
- Net receipts received from pilot sales
- Amount of RCGF made available from sales
- Location of sales (grid reference)
- Type of home (e.g. detached, bungalow etc.)
- Rent type (e.g. social/ affordable rent)
- Number of bedrooms
- Floor area

Information needed on replacement homes will include:

- Name of scheme development
- Location of replacements (grid reference)
- Type (e.g. detached, bungalow)
- Rent/ownership type (e.g. social/ affordable rent, shared ownership)
- Number of bedrooms
- Floor area
- Actual development cost (totalling acquisition of land, works, on-costs)
- Funding (by receipts, additional resources etc.)
- Open Market Value
- Receipts invested through exceptional circumstances (e.g. purchased off-plan, purchased on the open market, empty property back into use)

The Department will also look to collect information from housing associations to provide an overview of planned-for replacement.

6.3 A replacement can be counted once a start on site has been made using the retained Voluntary Right to Buy receipts. Replacement therefore should not be counted before the first Right to Buy Receipts have been received by housing associations.

6.4 Reporting will begin from October 2019. Housing associations will need to provide details of users to be registered on the DELTA system in August/September 2019, and will be given advance instructions on how to provide this data, which will be required annually. Further information on one for one replacement may also be collected via the pilot evaluation.

7. Disposals of replacement properties

7.1 It is the expectation that housing associations would not ordinarily look to dispose of replacement properties (except in the case of shared ownership replacements), unless circumstances arise that make retention of the property unsustainable. As a minimum, disposals of any replacement properties should not take place until at least one tenant or shared owner has been placed in the property.

7.2 If the replacement property is subsequently disposed of at a later date, any Recycled Capital Grant Funding that is reinvested in replacement would need to be recycled through the Recycled Capital Grant Fund in the usual way, in accordance with the guidance in the Capital Funding Guide.