BABERGH DISTRICT COUNCIL and MIDSUFFOLK DISTRICT COUNCIL

From Joint Housing Board	**Report Number: M37**
To: Strategy Committee	**Date of meeting: 14 June 2012**

REINVIGORATION OF THE RIGHT TO BUY

1. Purpose of Report

1.1 On 12 March 2012 the Government announced the details of its policy to reinvigorate the Right to Buy (RTB) scheme and provide one for one replacement homes which came into effect on 2 April 2012. This briefing provides a summary of the new policy.

1.2 To enable members of the Executive Committee to decide whether they wish to enter into an agreement with the Department for Communities and Local Government to retain Right to Buy receipts to spend on replacement housing stock, as described in sections 9 to 14 of this report.

2. Recommendations from the Housing Board

2.1 That a Local Agreement be entered into with the Department for Communities and Local Government to retain and reinvest capital receipts for additional Right to Buy sales in new affordable housing.

2.2 That the changes to the Right to Buy regulations are communicated to tenants through the media of new tenancy packs and tenants newsletters.

The Committee can resolve these matters.

3. Financial Implications

3.1 Based on the Government's proposals, it is estimated that 10 Right to Buy (RTB) sales a year over the next 3 years would result in estimated additional capital receipts of around £200k over that period. This will be available for re-investment in affordable housing (either through the HRA or with housing associations). If this were to increase to 20 a year, the additional amount would rise to just over £1m.

3.2 Based on 10 RTB sales a year, matched funding over the 3 years of around £470k would be needed from the HRA, rising to nearly £2.5m based on 20 sales a year. There should be sufficient financial headroom in the HRA to achieve the lower level of funding but more thought would have to be given to the larger sum that would be needed.

3.3 Depending on the above and whether the money is invested in new homes through the HRA or via Housing Associations, there will obviously be impacts on the initial HRA Business Plan. These will be assessed in more detail as part of the annual review of the Business Plan and Members will be updated on this later in the year, once a clearer impact of the new policy on RTB sales is emerging.

3.4 If the council does not enter a Local Agreement with the Department for Communities and Local Government (CLG), this will reduce the funding available to both Councils to secure replacement affordable housing for those dwellings sold.

3.5 Failure to invest the additional capital receipts within 3 years will incur interest on the receipts at the rate of 4% above the base rate as described in paragraph 12.7.

4. Risk Management

4.1 This report is most closely linked with the Council's Corporate / Significant Business Risk No. 1 Political and Managerial Leadership. Key risks are set out below:

Risk Description	Likelihood	Impact	Mitigation Measures
Failure to deliver intended outcomes	Significant	Marginal	Ensure there are clear plans to invest the additional receipts
Failure to meet objectives could lead to bad reputation for the Authority	Significant	Marginal	Reporting to Members and externally to explain progress

5. Consultations

5.1 The Government consulted with local authorities and other interested parties in a document entitled "Reinvigorating the Right to Buy and one for one replacement" from 22 December 2011 to 2 February 2012. The National Federation of ALMO's (NFA) responded to the draft agreement consultation as follows:

- The proposed interest rate for unused receipts is too high at 4% over the base rate. Once councils have entered into agreement with the Secretary of State, they will be genuinely trying to get developments off the ground, but will fear being financially disadvantaged by this agreement should plans fail or be delayed through no fault of their own.

- The agreement states that land held by the council cannot be counted as a value in the scheme. Land has a market value, but if councils cannot include it in their costs, it will result in councils needing to find additional funds from elsewhere, which may or may not be available. This appears to disincentivise councils from making the best use of their land assets to provide replacement housing and deliver value for money.

5.2 The Housing Board received a report on the Re-invigoration of the Right to Buy on Thursday 24 May 2012. The Board made the recommendations in section 2 of this report.

6. Equality Analysis

6.1 There are no groups disadvantaged by the proposal to reinvest capital receipts from Right to Buy sales in new affordable housing.

7. Shared Service / Partnership Implications

None.

8. Background information

8.1 The Right to Buy scheme was introduced in 1980, giving qualifying tenants the right to buy their home at a discount. The discount is a set percentage of the value of the property dependant on the length of time someone has held a public sector tenancy. To qualify for RTB, tenants must have spent at least 5 years as a public sector tenant. Once eligible, the discount rates for houses are 35% of the property's value plus 1% for each year beyond the qualifying period up to a maximum of 60%. On flats, discount rises from 50% by 2% per year beyond the qualifying period up to a maximum of 70%.

8.2 In effect, the discount has been limited by a regional cap introduced in 1998 and further reduced in 2003 in order to provide a ceiling to avoid excessive discounts in high value areas. Since 2003, the discount in Babergh has been limited to £34,000.

9. New Arrangements

9.1 The discount cap has now been increased to £75,000 across the country. The discount rates which operate beneath the cap remain unchanged.

9.2 The Department for Communities and Local Government (CLG) is hoping this will reinvigorate the Right to Buy scheme and reverse the effect of the previous discount caps which had led to RTB sales falling from 84,000 in 2003/4 to under 4,000 in 2010/11. The table below provides details of RTB sales and applications in Babergh and Mid Suffolk.

Table 1: Right to Buy sales and applications

Council	Sales					Applications	
	2003/04	2010/11	2011/12	2011/12 April-May	2012/13 April-May	2011/12 April-May	2012/13 April-May
Babergh	54	5	6	2	2	3	6
Mid Suffolk	44	10	4	1	0	2	11

9.3 The effect of the increase will be to raise the discount rate in Babergh and Mid Suffolk from an average of 26% to a minimum of 35% for houses and 50% for flats.

9.4 For example, a house with a gross sale price of £130,000 can now sell for as little as £65,000 compared to £96,000 previously. A flat with a gross sale price of £80,000 can now sell for as little as £24,000 compared to £46,000.

9.5 The Government is anticipating that the increase in the discount cap will result in 100,000 sales by 2019. However, the impact will be different around the country and it is difficult to predict what effect the increased discounts will have on Babergh and Mid Suffolk. Other factors apart from the increased discount can influence the success of the new scheme. The economic climate is very different now compared with the 80's when Right to Buy was at its peak. House prices were lower and mortgages were more freely available. Banks have since tightened their lending criteria.

9.6 We have already seen a significant increase in the number of enquiries from tenants since the changes were introduced and it is anticipated that this will increase as the benefits of the revised cap are communicated to our tenants.

10. Cost Floor

10.1 Section 131 of the Housing Act 1985 (the cost floor) limits the RTB discount to ensure that the purchase price of the property does not fall below what has been spent on building, buying, repairing or maintaining it over a period of time. So as not to provide a disincentive to build new homes, the Government is retaining the cost floor and extending the period it covers from 10 years to 15 years.

11. RTB receipts (old system)

11.1 Local authorities have been entitled to keep 25% of the net capital receipt arising from Right to Buy sales for any local authority capital purpose – housing or general fund. The remaining 75% of the receipt has been surrendered to the Government (after allowable deductions for administrative costs and recent improvements). These arrangements, known as pooling, continued under the self financing system. In order to allow for this, an estimated number of RTB sales were included in the self financing debt settlement, reducing debt take-on. The assumed Right to Buys for Babergh in the first three years of self financing are (rounded) 5, 5, and 6.

11.2 Babergh has been using the (reducing) RTB capital receipts over the years to support the General Fund capital programme, which includes private sector housing activities, with the aim of reducing borrowing costs to the General Fund. The retained 25% amounted to £135,000 in 2011/12.

12. Local Agreement Delivery Model (from April 2012)

12.1 The Government's preferred option of delivering new homes is through the "Local with Agreement" model where local authorities retain the receipts to spend on replacement housing in their own areas, supporting the principles outlined in the Localism Act. Replacement stock could mean newly built council homes, newly acquired council homes (i.e. existing homes bought on the open market) or affordable housing provided through local authority grants to Housing Associations.

12.2 RTB receipts will be available for re-investment in new affordable housing, after setting aside an amount for transaction costs, debt relating to sold properties and an assumed amount of income for Central Government and the local authority – the old 75%/25% split.

12.3 Local authorities may retain their net additional RTB receipts for reinvestment locally provided that these receipts amount to no more than 30% of the scheme costs of the new affordable housing. In other words, the council must match fund at least 70% of the costs from other resources.

12.4 In order for a local authority to keep these additional receipts, it will have to enter into an agreement with the CLG by 27 June 2012. (The draft agreement has been circulated to local authorities).

12.5 Where Council's do not wish to enter into such an agreement, the receipt will have to be returned to CLG and re-distributed for new affordable rented housing (80% market rents) via the Homes and Communities Agency (HCA).

12.6 Appendix 1 provides a high level explanation of how the Government's formula for deriving additional net capital receipts for reinvestment in affordable housing works and the estimated additional sums that might be available over the next 3 years as a result. Appendix 2 gives more technical detail on this.

12.7 The Secretary of State will allow local authorities 3 years (from commencement of agreement) to invest those receipts before asking for the money to be returned. The build needs to commence within 3 years but the agreement will not require a local authority to complete the building of any home within 3 years. After 3 years, any unused receipts will have to be returned to the Secretary of State with interest at 4% above the base rate.

12.8 Councils will be free to repay receipts to Government early where they identify that the money will not be spent within the 3-year time frame, thereby reducing interest accrued.

12.9 An authority may choose not to build itself, but instead to grant fund another body. Where this is the case, CLG recommends that authorities do not pay grant until scheme completion. This will mean that they will be able to demonstrate clearly to auditors that their contribution (and the contribution of other public bodies) did not constitute more than 30% of total scheme costs.

12.10 The Secretary of State can terminate an agreement at any time, but would expect to do so only in extreme circumstances (for example, where there was absolutely no evidence that a local authority was commencing activity). The effect of termination would mean that an authority could, from that point, no longer retain any receipts but would still have the 3 years from the start of the agreement to invest the receipts it had already retained (or have to return them).

12.11 Equally an authority can terminate an agreement either by voluntarily returning all future receipts (and paying back what it had already retained) or by requesting the Secretary of State to terminate as set out above.

12.12 A council which chooses not to enter an agreement with CLG will effectively lose funds that it could otherwise re-invest in housing, albeit at affordable (80% of market rent) rather than social rents. Whilst there is a risk of incurring interest on the money if it is not invested quickly, this risk can be mitigated by careful control of the receipts and early repayment where appropriate (see paragraph 12.8). The interest cost, although unreasonably founded, would not be that significant (probably less than £15,00o over 3 years, depending on base rates).

13. Impact of the increased discounts

13.1 One of the risks in the HRA Business Plan is the loss of council housing stock through Right to Buy Sales and the consequent loss of income. The Business Plan assumes 5 RTB sales per year. Sales in excess of this level will reduce HRA revenue headroom (surpluses) and the amount of extra money available to fund other additional HRA capital investment. If the additional RTB sales are used entirely by the council to build new homes itself or buy existing properties, lost rent income from the sales will be reinstated.

13.2 The Government recognises the potential impacts on HRA Business Plans that this would cause and has introduced measures to enable local authorities to retain a greater proportion of RTB capital receipts than previously, enabling debt repayment and part funding new affordable housing. The HRA Business Plan review will reflect these changes.

13.3 Key to the Governments RTB reforms is an expectation at a national level that RTB properties will be replaced, one for one, by new affordable housing. To achieve this, councils are being asked to make a formal agreement that, after allowable deductions, the balance of RTB receipts retained locally will be used for new affordable housing. Those councils that do not enter this agreement will forfeit their RTB receipts to the Government.

13.4 The agreements are due to be signed by 27 June. However, an agreement can be signed post 27 June but will only take effect for the next quarters return (meaning that the council will lose all capital receipts prior to the next quarter).

13.5 This report contains some modelling for the next three years to show the effects of the new system in Babergh (Appendix 1). Appendix 2 provides more detailed technical background information on the Government's formula for arriving at the amount of net additional capital receipts. It should be noted that the figures are based upon the latest intelligence from the Department for Communities and Local Government (CLG). The Chartered Institute of Housing forecast minor amendments to the local authority and Government shares of the receipts.

14. Key conclusions

14.1 The Government share of the additional RTB receipts is fixed. Therefore, the more sales the greater the proportion of the capital receipts are retained by Babergh.

14.2 If the number of RTB sales falls below the number included within the self financing debt settlement, the fixed amounts for both the Government and Babergh is reduced proportionately with no available receipt for new provision.

14.3 The level of sales, therefore, drives the proportion and amount of receipts retained for reinvestment. Based on only 10 sales a year, a very modest amount of receipts is retained but, if there are 20 sales a year the proportion of receipts retained is higher than under the old 75/25 rule.

14.4 There is uncertainty about the position from 2015/16 onwards because from that year we do not know what the ring fenced shares to Central Government and the local authority will be. The position for the next 3 years is fixed though.

14.5 If the Council does sign up to the agreement and is unable to spend the receipts on new homes or match fund any development, it can return unused receipts on a quarterly basis in order to minimise the interest (4% above base rate) incurred.

14.6 Babergh could work with a housing association to use the investable receipts' if new provision cannot be afforded within the HRA.

14.7 The receipts could also be used to purchase properties on the open market so long as they account for no more than 30% of the cost. The HRA would still have to match fund the 70%, the same as for new build.

15. Information to tenants

15.1 Since 2005, landlords are required to provide their secure tenants with information specified in the Housing (Right to Buy)(Information to Secure Tenants)(England) Order 2005. Every RTB applicant receives a current full version of the document as part of their RTB information pack. The Order provides that the information should be sent to tenants again if it is revised in any way, and that it should be sent to all tenants every five years.

15.2 Evidence has shown that many RTB purchasers were not given (or did not pay regard to) sufficient advice regarding keeping mortgage payments up to date, cost of repairs etc. This has led to many repossessions and the need for those households going back on the housing waiting list.

15.3 The Government has published a package of measures for landlords to meet their legal duty in communicating the changes to their tenants in a 'user-friendly' way. They consider it is especially important in view of the current economic climate, to ensure tenants have clear information on what home ownership involves, the implications of any cuts in salary or job loss on the repayment of monthly mortgage payments so that the risks of them not being able to sustain home ownership are mitigated.

15.4 It is recommended that we communicate the changes to the Right to Buy through the media of new tenancy packs and Tenants Newsletters rather than engage in aggressive marketing. Financial advice around borrowing and repayment should be left to the appropriate experts.

16. Appendices

	Title
1)	Illustration of additional net receipt for re-investing in new affordable housing
2)	How the net receipt for re-investing in affordable housing is calculated

17 Background Documents

- Reinvigorating the Right to Buy and One for One Replacement Consultation.
- Reinvigorating Right to Buy and One for One Replacement – Information for Local Authorities.
- CIH Briefing Paper: Reinvigoration of the Right to Buy and One for One replacement within Local Authorities.
- Housing Report Summary: Changes to the Right to Buy Aimi Serjeant.
- NFA Right to Buy and one-for-one replacement: draft agreement consultation: NFA response.
- The Reinvigoration of the Right to Buy – notes for local authorities. Ben Taylor, Chartered Institute of Housing Consulting.

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Appendix 1

<u>Illustration of additional net receipt for re-investing in new affordable housing</u>

Based on 10 RTB sales on average a year i.e. 30 sales over the next 3 years:

Formula element	**£000**
Gross capital receipts (after discount, average £57k per property)	1,710
<u>Less:</u>	
Transaction costs	-39
Attributable debt on additional sales	-363
	1,308
LA share (25% - old scheme)	-333
Government share (fixed)	-775
Additional net receipts under new rules	**200**
Additional matched funding (minimum 70%)	465
Total additional investment in new homes	**665**

Appendix 2

How the net receipt for re-investing in affordable housing is calculated

1.Gross capital receipts (after discount)	Each RTB sale will result in a capital receipt. This will be the market value of the property, less the RTB discount. Using the latest sales over the last 2 years, the average valuation is £101,867 and the average discount for these properties (under the old system) is calculated at £28,956. Using this data we have calculated the new average discount to be £44,615 giving an average net receipt of £57,252 per property.
2.LESS	First call on the capital receipt (transaction costs). An amount retained by the Local Authority to cover the administration costs of the RTB sale. The Government has set this at £1,300 per sale. The Council will credit this money to the HRA and General Fund (depending where the administration costs are accounted for) as applicable to offset revenue costs incurred in administering RTB transactions.
3.LESS	Second call on the capital receipt (attributable debt additional sales). An amount retained by the Local Authority to cover the share of the HRA self-financing debt attributable to the RTB properties sold. This only applies if there are sufficient sales so that the debt attributable to the sold properties is greater than the amount of assumed debt in the self-financing settlement. The intention is to ensure that councils retain the capacity to service the debt they have been required to take on under self-financing and are compensated for the loss of property. The self-financing settlement for Babergh is based on an average debt level of £26,758 per property and assumed debt of £126,375 (2012/13) included in the settlement. So, if the total attributable debt on the RTB sales is greater than the assumed debt in the settlement, the authority can deduct the difference from the receipt. There will be an adjustment to the calculation to reflect the actual properties sold, against the average value. For example if the right to buy sales are primarily three bedroom houses then the calculation would be increased to reflect the higher rent levels against the average. There is no requirement to use the money to repay debt and it can be used to help fund the provision of new social housing.
4.LESS	Third call on the capital receipt (Government assumed income). A "top slice" for central government equal to the income they have assumed, when setting the self-financing payment, that would be paid over to the Government under RTB pooling. The top slice is a fixed sum that does not increase if the gross capital receipts increase. The Government has published the "top slice" amounts for the first three years only, for Babergh they are: 2012/13 - £229,554 2013/14 - £260,161 2014/15 - £285,667 No figures for 2015/16 onwards have been published.

5.LESS	Fourth call on the capital receipt (Local Authority assumed income). An amount retained by the Local Authority equal to the income the Government assumed, when setting the self-financing payment that would be retained by the local authority for RTB sales. This is a fixed sum that does not increase if the gross capital receipts increase. The Government has published the amounts for the first three years only, for Babergh they are: 2012/13 - £95,713 2013/14 - £111,998 2014/15 - £125,598 No figures for 2015/16 onwards have been published. This element of the retained receipts can be used by the local authority for any capital purpose including the repayment of debt and/or capital schemes including investment in existing stock, General Fund purposes or for new social housing provision. Note that if the amount of receipts is insufficient to cover the Government and local authority shares then they are reduced proportionately and no receipts are available for reinvestment.
EQUALS	Net RTB receipts and will be the amount that the local authority may retain to invest in new affordable housing subject to the signing of the agreement. This amount can be reduced by a 'buy-back' allowance. This allows 6.5% of the net receipts to be used to fund up to 50% of the cost of buying back any dwellings previously sold under the RTB. This will reduce the amount available for re-investment. The reinvested receipts cannot exceed 30% of the scheme costs of the new social housing e.g. if the retained sum is £300,000, the total amount spent on new social housing must be £1,000,000 or greater. The balance of 70% (£700,000 in this example) must be met from other resources. In theory this could come from HRA revenue headroom, the attributable debt element from above, the local authority share from above, S106 funds, external funding, additional borrowing up to the cap or capital receipts from housing land sales. The net RTB receipts will be forfeited to Government if the agreement is not signed. **If the agreement is signed but the authority cannot afford the 70% match funding, then the receipts can still be forfeited to Government. However, there are financial penalties for retaining the receipts and not using them.**