

2 March 2022		ITEM: 8
Housing Overview and Scrutiny Committee		
Right to Buy Receipt and PHI		
Wards and communities affected: All	Key Decision: N/A	
Report of: Mike Jones, Strategic Lead – Corporate Finance		
Accountable Assistant Director: Ewelina Sorbjan – Assistant Director Housing		
Accountable Director: Ian Wake, Corporate Director Adults, Housing and Health		
This report is Public		

Executive Summary

In response to Committees request, this report set out the overview and details of the Councils approach to the use of retained Right to Buy (RTB) receipts and the PHI property portfolio growth project.

1. Recommendation(s)

Housing Overview and Scrutiny Committee are asked to comment on:

1.1 the retained right to buy receipts position and the partnership agreement with PHI limited.

2. Introduction and Background

2.1 At the previous Housing Overview and Scrutiny Committee in January 2022, Members requested that a report was brought to this meeting to provide further details on the use of Right to Buy receipts. This report provides that information, and also explains further the PHI project, which is intrinsically linked to the usage of RTB receipts.

3. Issues, Options and Analysis of Options

Retained Right to Buy receipts

3.1 In April 2012, the government raised the maximum cash cap on Right to Buy discounts to £75,000 and confirmed that receipts generated by additional sales resulting from the discount increases (against a baseline of sales forecast before the increases) would be used to fund replacement stock on a

one-for-one basis nationally. At the same time, the government offered to enter into an agreement with any local authorities that wished to retain their own receipts from additional RTB sales so that they could reinvest them in new affordable housing themselves.

3.2 At this time, if the authority cannot spend the required amount within three year (since extended to five years), it must send the receipts to MHCLG through a process known as Local Authority Housing Capital Receipts Pooling. The deadline in which the receipts needed to be spent was across quarterly periods, rather than by the end of each financial year.

3.3 **How the level of retainable additional receipts is calculated**

The level of an authority's additional retainable receipts in any year is the total amount of its receipts arising from RTB sales, net of the following elements:

i. Transaction costs (retained by authority unconditionally) a set amount per RTB sale to partially cover the authority's costs of administering the RTB scheme;

ii. Allowable debt (retained by authority unconditionally) calculated to cover that part of the authority's housing debt it is obliged to pay off that is in excess of the debt its 2012 Self-Financing Payment has allowed for;

iii. Local authority share (retained by authority unconditionally) calculated to approximate to what authorities would have retained had the pre-2012 pooling system continued when they retained 25% of all net RTB receipts;

iv. Treasury share (paid to the Secretary of State) calculated to approximate to what authorities would have paid the Secretary of State had the pre-2012 pooling system continued when authorities paid over 75% of all net RTB receipts;

3.4 From 1 April 2021 the rules on spending retained additional receipts have changed:

The changes

- Increasing the time limit for the use of the receipts from three to five years.
- Requiring yearly rather than quarterly pooling returns and payments – this adds to the benefit of the extra two years by removing the complexity of four rolling deadlines each year.
- Increasing the cap on the cost of a replacement home that can be met from RTB receipts from 30 percent to 40 percent
- Setting a percentage cap on the use of RTB receipts for acquisitions – i.e. "a percentage of a local authority's total delivery each year using Right to Buy receipts". This will be phased in: 50 per cent in 2022/23, 40 per cent in 2023/24 and 30 per cent from 2024/25 onwards. The first 20 units each year will be excluded.

3.5 Thurrock Council current right to buy receipt position

Table 1 - Current and planned use of RTB receipts		
	£'s	£'s
Opening Balance 2021/22		(21,072,858)
Actual utilisation 2021/22 - Period 10		
PHI leasing properties	6,824,669	
PHI Direction Acquisition	927,574	
HRA Buy Backs	1,495,204	
		9,247,447
Further Estimated Expenditure 2021/22		
PHI leasing properties	1,775,994	
PHI Direction Acquisition	2,158,380	
HRA Buy Backs	873,185	
		4,807,559
Total planned utilisation		14,055,006
Closing Balance c/f		(7,017,852)
Additional receipts 2021/22		(3,617,168)
Closing Balance		<u>(10,635,020)</u>

Table 2 - Future Use of RTB and projection:

Opening year 2 position		(10,635,020)
Yr. 2	(3,617,168)	
Yr. 3	(3,617,168)	
Yr. 4	(3,617,168)	
Yr. 5	(3,617,168)	
Additional Receipts		(14,468,672)
Total 5 year receipts		(25,103,692)
<u>Development Schemes</u>		
Vigerons Way	977,078	
Teviot Avenue	2,657,673	
Blackshots	8,678,967	
CO1	11,684,280	
		23,997,998
Remaining Receipts		(1,105,694)

The profile of the expenditure of the RTB receipts is linked with the development plans. This forms the basis of a five year development programme, and the funding from the RTB elements will be allocated accordingly.

PHI leasing scheme

- 3.6 The PHI leasing scheme was agreed to ensure retained Right to Buy (RTB) receipts which are due to expire during the current financial year were used. Any receipts that cannot be fully spent before the due date must be returned to central government, including a three year compound interest charge.
- 3.7 The leasing model was been reviewed at length including legal and financial due diligence, before agreement. The Council entered into a Process Agreement with Phi Capital Investments (PHI) and their investment partner Topland Olympus Ltd enabling the company to source suitable properties for the Council to use as social housing, under a leasing agreement of 41 years. The model gives the local authority the ability to purchase Topland's property at the end of the Council's lease term (41 years) for a nominal sum of £1. This gives Thurrock Council the opportunity to ultimately own the capital asset for a relatively low up front contribution of RTB receipts. Up to 40% RTB receipts can be applied to the leased properties (including additional works and fees).

- 3.8 The financial viability of this product against outright borrowing, and the lease terms were comparable with long term PWLB, as well as offering a diversified form of borrowing for the Council. In addition, an element of capital works are also included in the lease costs as part of the acquisition process.
- 3.9 PHI are an agent in this transaction. The main financial backing company is Topland Olympic Ltd. (TO). TO becomes the freehold or head leasehold owner of properties, depending on the property type (house v flat). TO forms part of the Topland Group. Topland Group have a wider significant financial and investment portfolio. TO has backing of Topland Group.
- 3.10 Given the amount of RTB receipts, spending timescales and a limited resource capacity internally, Council entered into a partnership arrangement with PHI. This enables the Council to maximise its RTB receipts usage, increase the level of housing stock and avoid interest penalties on the balance of RTB receipts. The service offered by PHI enabled agreed property types to be identified and purchased quickly alongside any associated works required to the property.
- 3.11 Through the PHI scheme, the Council has to date successfully increased the number of units within the HRA by 74. This has been financed through a combination of RTB receipt for 40% of the purchases value and eligible costs, and the remainder through a long-term finance lease. The second part of the project was to directly acquire further additional units, with PHI acting on behalf of the Council as the purchasing agent.
- 3.12 Once a property has been identified, it goes through the full approval, and conveyancing process. A long term lease is entered into between Topland and the Council (2 leases to be precise at 20,5 years each, running consecutively). The Council becomes the leasehold/sub-leasehold owner with leases registered at Land Registry.
- 3.13 PHI Capital are capital investment company backed by TO, that provide working as a property agency services to secure leases on housing properties for the Council.

The key benefits to this scheme are:

- Ability to provide affordable housing supply in short timescales
- No upfront capital cost required from local authorities
- The Council retain full control over use, rent and management of the property
- The Council has the option to purchase the property for a nominal sum at the end of the lease period
- The scheme can be applied to different scenarios from single properties to larger developments
- No costs incurred relating to aborted property purchases

PHI - Direct Acquisition

- 3.14 The purpose of a switch to an outright purchase model for the second phase of the project, was to support residents awaiting secure tenancies who were currently housed in temporary accommodation. This enabled a reduction in the cost of providing this service.
- 3.15 The key benefits to the second phase of the programme is part of the TA enablement scheme are:
- Increasing the number of HRA units presents the opportunity to reduce the amount of temporary accommodation. It also offers the potential to release the stock back to general needs housing or replace it entirely once another property has been purchased or acquired through a different stream.
 - It also enables the council to address the current inflated demand for one-bed property through the use of decommissioned Sheltered Housing stock, with an appropriate exit strategy in place for when this subsidises, and these particular properties become surplus to requirements.
 - The provision of more temporary accommodation within the borough offers the opportunity for better outcomes and experiences for homeless households. By remaining in Thurrock, households remain closer to support networks, their places of education and work, and other locations which are significant in their lives.
 - By directly managing the properties, the council can ensure that properties are maintained to a good standard and are safe for those living in the property.
 - It provides a financial solution for pressures facing the General Fund by transforming the delivery of a key service.
- 3.16 The repairs and maintenance will be undertaken within then current Council contracting arrangements for HRA stock. The assumed maintenance costs have been reflected in the 2022/23 budget setting. The Housing asset and maintenance team will ensure that the properties are maintained at the decent homes standard.

4. Reasons for Recommendation

The report is to provide the Committee with further information on the background and the proposed use of right to buy receipts, and the partnership agreement with PHI.

5. Consultation (including Overview and Scrutiny, if applicable)

None

6. Impact on corporate policies, priorities, performance and community impact

The management and operation of the HRA strives to support vulnerable residents. Financial decisions are made on the basis of the long term 30 year business plan, set out to ensure there is value for money within the Housing Service. The service is committed to the delivery of decent homes for its tenants, and compliance with legislation.

7. Implications

7.1 Financial

Implications verified by: **Jonathan Wilson**
Assistant Director – Corporate Finance

Financial Implications are set out in the body of the report.

7.2 Legal

Implications verified by: **Gina Clarke**
Corporate Governance Lawyer and Deputy Monitoring Officer

This report is a factual update on the current position of the Councils retained right to buy receipts position and its agreement with PHI. There is no decision to be made.

7.3 Diversity and Equality

Implications verified by: **Roxanne Scanlon**
Community Engagement and Project Monitoring Officer

The Councils Housing Revenue Account works to reflect the Council's policy in relation to the provision of social housing with particular regard to the use of its own stock. In addition to the provision of general housing, it incorporates a number of budgetary provisions aimed at providing assistance to disadvantaged groups. This included adaptations to the stock for residents

7.4 Other implications (where significant) – i.e. Staff, Health Inequalities, Sustainability, Crime and Disorder, and Impact on Looked After Children

None

- 8. Background papers used in preparing the report** (including their location on the Council's website or identification whether any are exempt or protected by copyright):

None

- 9. List of Appendices**

None

Report Author

Mike Jones

Strategic Lead – Corporate Finance