

Housing Select Committee		
Title	The Housing Revenue Account Debt Cap	
Key decision	No	Item 5
Contributor	Executive Director for Customer Services	
Class	Part 1	05 March 2014

Reason for lateness

This report is late owing to delays in collating all of the information required in order to provide Committee with a complete and rounded assessment of the matters at hand.

1. Purpose

- 1.1. To set out the position in respect of the Council's HRA "Debt Cap", to report on the lobbying in relation to borrowing caps by, among others, the London Government Association, London Councils and the Mayor of London, and to report on changes to the borrowing cap arrangements which were announced in the Government's Autumn Statement made in late 2013.

2. Recommendations

Members are recommended to:

- 2.1. Note the contents of the report.

3. Background

- 3.1. The Localism Act 2011 introduced a system of self-financing for local authority housing. This came into effect from 1st April 2012. The implementation of the new system included a one-off settlement and redistribution of existing housing debt, requiring each local housing authority to either take on new debt as at 1 April 2012 or to have some of its existing housing debt repaid.
- 3.2. Following the settlement local housing authorities were free to either repay debt or take on new borrowing (up to a centrally determined cap), taking account of local priorities and housing investment needs.
- 3.3. The cap was imposed as a tool to keep overall public borrowing down and took no account of the ability of the sector to service debt.
- 3.4. The principle of self-financing was to put each local authority in a position where it can meet its liabilities through its rent and other charges, without the need for financial support from government.

- 3.5. On 31 March 2012, Lewisham had debt to the value of £136.3m paid off. This reduced the level of HRA debt down from £219.9m to £83.5m. The centrally determined Debt Cap was set at £127.3m, giving Lewisham borrowing capacity of £43.8m.

4. The effect of the HRA Debt Cap on Lewisham

- 4.1. As previously stated, the principle of self-financing was to enable each Local Authority to be in a position where it can meet its liabilities through its rent and other charges. To ensure that Lewisham's HRA was sustainable and to enable medium and long term financial planning, a 30 year financial model was prepared based on the assumptions made in the self-financing settlement and relevant assumptions around future rates of inflation, rent rises and interest rates.
- 4.2. The outcome of the modelling exercise showed that the HRA could sustain a level of borrowing estimated to be in excess of £300m, significantly greater than the debt cap of £127.3m
- 4.3. In July 2012, a report to Mayor and Cabinet entitled "Housing Matters": New investment and delivery approaches for achieving Lewisham's housing objectives, set out the Council's objectives over the following 10 years. The report also indicated that, with the debt cap in place, there would be a funding shortfall of £85m in achieving those objectives in the desired timescales.
- 4.4. In addition to those objectives already reported to Mayor and Cabinet, a number of sites and estate regeneration opportunities have been identified as a pipeline of development. A relaxation of borrowing restrictions would assist to deliver these and enable a more ambitious long term plan.

5. HRA Debt Cap – Policy position

- 5.1. Councils have been lobbying for some time that the restrictions on borrowing should be lifted, arguing that "the artificial and unnecessary housing revenue account cap should be removed". Councils have already been using their extra capacity to create more homes for Londoners. However London Councils analysis shows that, if allowed to borrow against existing assets the London boroughs could release funding for an extra 14,000 homes in London by 2021.
- 5.2. In 2013 The Smith Institute and Price Waterhouse Coopers (PWC) issued a report on the HRA – One Year On, which reviewed the levels of success of self financing but was critical of the inclusion of a restrictive cap.
- 5.3. The key points of the report reflect a broad sector-wide consensus in relation to the cap, and on that basis they are set out below, alongside a summary of the how those points reflect the Lewisham specific position.
- 5.4. The first, most important point, is that there is general consensus that HRA reform has had an enabling effect for local authorities. In particular it had led to increased freedom and certainty enabling longer term business planning, allowing authorities to operate their HRA more like a social business. However, the Lewisham financial position as set out above clearly shows that further

reform will be required to level the playing field between housing associations and local authorities, with the borrowing cap placing an artificial limit on the ability of authorities to borrow against secure long-term revenue streams, that is not the case for housing associations.

- 5.5. The experience of other authorities taking part in the research is that, while HRA reform will lead to significantly greater levels of investment in housing over the long term, the artificial cap means that little of this capacity can be accessed in the short to medium term. This is also the case in Lewisham.
- 5.6. The research found that in the majority of HRA business plans, a greater priority had been afforded to the construction of new homes than other investment needs. Other priorities included attaining and maintaining the decent homes standard and estate regeneration, or reducing HRA debt. As set out above Lewisham is pursuing a range of priorities with the available funding, but is also prioritising new build. Committee will also be aware following previous reports that a range of means are being pursued to extend the capacity of available funds to deliver new homes, including delivering a mixed-tenure new build programme in which the proceeds of selling a small proportion of new homes are recycled into the programme to increase the number of affordable homes that can be built.
- 5.7. Most respondents to the research were confident in the success of their business plans but noted clear challenges. Welfare reform was seen as the issue most likely to undermine the viability of HRA business plans and, in particular, the introduction of Universal Credit was viewed as likely to result in a rise in rent arrears. The Lewisham HRA plan makes prudent long term assumptions about the effect of welfare reform, and these assumptions are reviewed on a regular basis.
- 5.8. Generally the research was highly critical of the debt cap, either because of its inclusion at all or because it was set at too restrictive a level. A debt cap was deemed inconsistent with the principles of self-financing, preventing parity with housing associations and the private sector.
- 5.9. Since the introduction of self financing, London Councils has been actively working with local authorities to increase the borrowing capacity to aid the delivery of new homes. They were particularly pushing for a new clause as part of the Growth and Infrastructure bill on the basis that an artificial cap on borrowing means that local authorities are not able to borrow against the full value of their housing assets to finance new homes, even though excessive borrowing is already controlled through Treasury regulation. The New Clause 10, proposed by the Local Government Association and supported by London Councils, would remove this cap on local housing authority debt, empowering councils with the freedom to borrow to meet local housing need.

6. London Housing Strategy

- 6.1. The GLA, in its draft London Housing Strategy, highlighted the need for more flexibility in the rules governing borrowing for housing purposes particularly for local authorities that are keen to finance house building, which Lewisham is.

6.2. In its proposals, however, it goes on to describe a level of detail that most local authorities would be unhappy with. Such as:

- Suggestion that the Mayor of London manages the process of approvals for additional borrowing with a focus on new development;
- administer a system where councils bid for an inflation linked debt cap in return for commitments such as new supply or improvements to existing homes;
- match funding borough commitments with GLA equity funding through a bridge financing model;
- boroughs could pool their borrowing capacity to invest in affordable housing;
- GLA could broker arrangements between boroughs and developers through the consolidation of investment into a single London wide programme – in exchange for nomination rights.

6.3. Lewisham commented on this issue specifically in the consultation response to the draft strategy:

- Lewisham supports the relaxation of the borrowing cap to enable us to make the best use of opportunities available. We do not support the proposal to make additional borrowing conditional on the borrowing being used for new supply. Lewisham is best placed to decide how to invest in our area and we should be free to manage our own resources.

7. Government's Autumn Statement 2013

7.1. It was announced in the Autumn Statement 2013 that the borrowing cap would be increased by £300m (split over two years – 2015/6 and 2016/7) and distributed through local enterprise partnerships through a competitive process. The £300m is expected to fund around 10,000 new affordable homes nationally.

7.2. Details of the criteria and the bidding process for allocating the additional headroom are yet to be released. Officers will give consideration to the criteria before making a decision whether or not to bid.

8. Financial implications

8.1. The purpose of this report is to advise members of the current position in respect of the debt cap and, as such, there are no financial implications arising from the recommendation to note the contents.

9. Legal implications

9.1. There are no specific legal implications arising from this report, save for noting the following Equality Act 2010 implications:

9.2. The Equality Act 2010 (the Act) introduced a new public sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

9.3. In summary, the Council must, in the exercise of its functions, have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- advance equality of opportunity between people who share a protected characteristic and those who do not.
- foster good relations between people who share a protected characteristic and those who do not.

9.4. The duty continues to be a “have regard duty”, and the weight to be attached to it is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.

9.5. The Equality and Human Rights Commission has recently issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at:

<http://www.equalityhumanrights.com/legal-and-policy/equality-act/equality-act-codes-of-practice-and-technical-guidance/>

9.6. The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:

1. The essential guide to the public sector equality duty
2. Meeting the equality duty in policy and decision-making
3. Engagement and the equality duty
4. Equality objectives and the equality duty
5. Equality information and the equality duty

9.7. The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice.

Further information and resources are available at:

<http://www.equalityhumanrights.com/advice-and-guidance/public-sector-equality-duty/guidance-on-the-equality-duty/>

10. Crime and disorder implications

10.1. There are no specific crime and disorder implications relating to this report.

11. Equalities implications

11.1. There are no specific equalities implications relating to this report.

12. Environmental implications

12.1. There are no specific environmental implications relating to this report.