



## Mayor and Cabinet

### Buyback programme

**Date:** 3 November 2021

**Key decision:** Yes

**Class:** Part 1

**Wards affected:** All wards within the Lewisham Borough

**Contributors:**

### Outline and recommendations

- a) Approve the purchase of up to 100 homes from the open market to let as London Affordable Rented homes utilising right to buy receipts and HRA borrowing. Note that if GLA Right to Buyback grant is secured this will replace the use of right to buy receipts.
- b) Approve the the purchase of up to 20 four bed homes for The Afghan Refugee programme utilising GLA Right to Buyback grant and General Fund borrowing. Note that these purchases are subject to securing GLA grant.
- c) Delegate authority to the Director of Inclusive Regeneration to approve the purchase of individual properties, and associated administrative, refurbishment or alteration/extension works costs for the Buyback Programme.
- d) Delegate authority to the Executive Director for Housing, Regeneration & Public Realm in consultation with the Executive Director for Corporate Resources and Director of Law, Governance and Elections to bid for and accept any local, regional or national financial grants to support the delivery of the Buyback Programme.
- e) To note and agree that all properties acquired under the Buyback Programme will be added to and managed by Lewisham Homes under the existing Management Agreement.

## Timeline of engagement and decision-making

13<sup>th</sup> March 2019 Mayor and Cabinet approved the acquisition of 120 homes from Hyde Housing Association

15 January 2020 Mayor and Cabinet approved the commencement of the Building for Lewisham Programme, a continuation of the Council's housebuilding programme.

On 19<sup>th</sup> March 2021, government guidance was amended to increase councils' ability to spend up to 40%, up from 30%, of right to buy receipts on the build or purchase of new homes but will cap the number of homes that can be purchased from April 2022.

In March 2021, the GLA launched their right to buy back ex-council homes fund, and in August 2021, the GLA extended that fund to support the purchase of larger homes for refugees from Afghanistan.

### 1. Summary

- 1.1. This report seeks approval from Mayor and Cabinet to purchase homes from the open market as an additional way to address housing need.
- 1.2. The Council desperately needs to increase its affordable housing supply to meet housing need. A relatively quick and risk free way to contribute towards addressing this need is to purchase stock and in particular, stock which was previously in Council ownership, to benefit from existing and nearby management and maintenance resources and economies of scale.
- 1.3. The proposal is to purchase 100 homes, with a focus on buying back ex-council homes but will include private properties where appropriate. The buyback programme would run from November 2021 to March 2023.
- 1.4. Additionally, it is proposed to buy up to 20 four bed homes as part of the Afghan Refugee Programme, subject to suitable grant levels being available from the Greater London Authority (GLA).
- 1.5. The buyback programme will also seek to optimise the use of the homes by adapting, altering and extending homes which have the potential to provide more room or to address specific identified housing needs.
- 1.6. The Ministry of Housing, Communities and Local Government (MHCLG), now known as DLUHC (Department for Levelling Up, Housing and Communities) but referred to as MHCLG in this report, have increased the amount of Right to Buy (RtB) receipts Councils can spend to deliver housing. However, with that increase in spend comes conditions, which cap the numbers of homes that can be purchased each year, using RtB receipts, after April 2022.
- 1.7. The GLA have invited councils to bid for funding to support buying back ex-council homes (Right to buy back programme) and have specifically asked Councils to bid for larger amounts to purchase multi-generational (4+ bedrooms) homes to accommodate families from Afghanistan.
- 1.8. Officers recommend using this opportunity to buy back ex-Council homes with the financial support newly available from Central and Local Government.

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- 1.9. The commercially sensitive and confidential financial considerations of the proposal have been set out in the Part 2 of this report.

## 2. Recommendations

- 2.1. Mayor and Cabinet are recommended to:
- 2.2. Approve the purchase of up to 100 homes to let as London Affordable Rented homes utilising right to buy receipts and Housing Revenue Account borrowing and to note that if GLA Right to Buyback grant is secured this will replace the use of Right to Buy receipts;
- 2.3. Approve the purchase of up to 20 four bed homes for the Afghan Refugee programme utilising GLA Right to Buyback grant and General Fund Borrowing, subject to securing GLA grant and the costs being contained within the programme budget;
- 2.4. Delegate authority to the Director of Inclusive Regeneration to approve the purchase of individual properties, and associated administrative, refurbishment or alteration/extension works costs for the Buyback Programme subject to the costs being contained within the programme budget;
- 2.5. Delegate authority to the Executive Director for Housing, Regeneration & Public Realm in consultation with the Executive Director for Corporate Resources and Director of Law, Governance and HR to bid for and accept any local, regional or national financial grants to support the delivery of the Buyback Programme; and
- 2.6. To note and agree that all properties acquired under the Buyback Programme will be added to and managed by Lewisham Homes under the existing Management Agreement.

## 3. Policy Context

- 3.1. The Council's Corporate Strategy (2018-2022) outlines the Council's vision to deliver homes for residents within a four year period. Delivering this strategy includes the following priority outcomes that relate to the provision of new affordable homes:
  - Tackling the Housing Crisis – Providing a decent and secure home for everyone.
  - Building an Inclusive Economy – Ensuring every resident can access high-quality job opportunities, with decent pay and security in our thriving and inclusive local economy.
  - Building Safer Communities – Ensuring every resident feels safe and secure living here as we work together towards a borough free from the fear of crime.
- 3.2. Lewisham's Housing Strategy (2020-2026), includes the following themes that relate to the provision of new affordable homes:
  1. delivering the homes that Lewisham needs
  2. preventing homelessness and meeting housing need
  3. improving the quality, standard and safety of housing
  4. supporting our residents to live safe, independent and active lives
  5. strengthening communities and embracing diversity.
- 3.3. Themes 1 – 5 directly relate to the purchase of new homes for the benefit of Council residents on the housing waiting list.
- 3.4. The Council's Building for Lewisham housing delivery programme is currently in the process of building and acquiring sites with planning permission to build to add to the

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Council's depleted stock of homes sold through right to buy, and to accommodate the borough's housing needs. This programme will complement that programme and aim to accelerate delivery.

- 3.5. Purchasing existing properties in order to increase the number of immediately available homes to those waiting on the Council's housing list is in line with Corporate Strategy and Housing Strategy objectives and would contribute to key national objectives, particularly by increasing the supply of affordable housing.

## 4. Background

- 4.1. The London Borough of Lewisham faces a distinct housing challenge in terms of demand, supply and affordability. To help combat this, the Council's Building for Lewisham (BfL) programme was established to deliver more Council homes.
- 4.2. Under current Right to Buy legislation, Council tenants have the right to buy their home at a discount, with the amount of discount dependent upon the length of time as a social tenant. Right to Buy discounts are currently a maximum of £112,800 in London.
- 4.3. All ex-Council leases have a 'right of first refusal' clause which requires anyone who intends to sell their ex-council home to ask the Council if it wants to buy it back first for a period of ten years from the date they purchased (unless the disposal is exempt, for example under a will or a divorce settlement). This requirement also binds any subsequent owner who purchases on the open market during that ten year period (in circumstances where the Council has rejected the right of first refusal). This means that the Council will get another right of first refusal should the property be sold again during the 10 year period
- 4.4. Therefore, the Council has the opportunity to 'buyback' the Council home, albeit at a market value, prior to it becoming available on the open market.
- 4.5. In 2018, Government statistics confirmed that councils were unable to replace the number of homes lost to right to buy; i.e. councils could not build and/or purchase new homes as quickly as council homes were being sold under right to buy.
- 4.6. The BfL programme alone cannot realistically keep pace with housing demand given current housing needs, the loss of Council homes through Right to Buy and the ever growing gap between the borough's average household income levels and the affordability of homes to buy or rent on the open market.
- 4.7. Over recent years, the number of social housing properties available for letting has been steadily decreasing and on average we let around 1,000 properties per year.
- 4.8. There are now over 10,000 households on the housing register. It would take over nine years to provide social homes to everyone on the housing register if the number of available homes stays the same, and if no more households are added to the register. Therefore, it is likely that many of those on Lewisham's housing register will never move into social housing. The table below provides an overview of the scale of the need, where 2 and 3 bed properties are most in need.
- 4.9. Over the past years, in light of the severe lack of genuinely affordable housing in Lewisham there has been a significant rise in the number of homeless households who require Temporary Accommodation (TA). As of August 2021 2,600 households are in TA arranged by the Council, an increase of 736 compared to March 2017. TA cost the Council £2.1m in 2020/21.
- 4.10. In addition to the above, the Council leads a large and ambitious refugee resettlement programme, with an ambition to welcome 100 families to the borough. As a result of the recent crisis in Afghanistan, the Council has committed initially to welcome up to ten Afghan families, with a view to increase this number if properties are available at the price and pace required. Any opportunity to secure accommodation for these

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refugee families – most of whom are larger multi-generational families – is welcomed.

### **Previous acquisitions programme (Lessons learned)**

- 4.11. From 2016 to 2019 Lewisham Homes managed an acquisition programme and purchased 153 homes within that time. Those homes are now providing good quality accommodation to residents who would have otherwise remained on the Council's housing list and may have been in unsuitable, unstable and expensive TA.
- 4.12. In 2019, Mayor and Cabinet approved the purchase of a portfolio of homes from Hyde Housing Association.
- 4.13. Lewisham Homes and Council officers have worked collaboratively to record the lessons learned from both programmes. As a result, a set of processes and assumptions that will underpin the programme have been created and approved by all parties to ensure the efficiency of the programme. It is important that prospective vendors have confidence in the Council's ability to purchase their homes in a timely manner and that the Council and Lewisham Homes are able to bring these homes into use for Social Housing at pace.
- 4.14. In addition to these purchases, on 25th March 2020 the Council's Housing needs team gained Mayor and Cabinet approval for the purchase of Morton House from the open market which was previously used as a care home. The intention is to convert the property to create more TA. In November 2020, Mayor and Cabinet also approved the acquisition of the Sydney Arms Pub with the intention to convert it into TA.
- 4.15. Whilst the Council has taken advantage of the opportunities presented above, there is currently no programme in place to deliberately acquire homes which were previously owned by the Council, or larger or adaptable homes which are required to address specific identified needs.

## **5. Proposal**

- 5.1. Officers consider it prudent to add the proposed buyback programme to the existing Building for Lewisham (BfL) programme of delivering Council homes to maximise the number of homes available to Lewisham residents.
- 5.2. This programme would result in savings to the Council by reducing the reliance on private, nightly paid TA and avoids the risks associated with building new homes. The key benefit however, is that the homes are ready for occupation much sooner than homes being directly delivered. Many homes will be in existing council blocks potentially cutting down on management and maintenance costs.

### **Deliverables**

- 5.3. The proposal is to purchase up to 120 homes from November 2021 to March 2023.
- 5.4. Over 80% of families listed on the Council's housing register are looking for 2 bedrooms or more. Therefore the programme will focus on those properties where feasible.
- 5.5. The 120 homes purchased will include at least 20 larger homes. Some of these homes will be adapted to address an existing, specific housing need as identified by the Housing Needs team. Additional funding will be secured for these adaptations, as required. The waiting occupiers will either be in expensive TA or otherwise less suitable accommodation.
- 5.6. It should be noted that the Council's Planning Service is currently in the process of reviewing its Strategic Housing Market Assessment (SHMA). The SHMA will consider the demand of the tenure, types and sizes of homes. The buyback programme will consider the findings in the SHMA when purchasing homes to ensure that up to date housing need is being addressed.

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## **Purchasing ex-council homes**

- 5.7. The primary reason for the proposed programme is to almost instantly create more social homes by replacing those lost through right to buy.
- 5.8. However, the additional benefit of purchasing ex-council homes is that they will either be within a building for which the Council owns the freehold or will be close to such buildings or properties.
- 5.9. Investing in properties which were previously owned or are close to existing Council homes would reduce the number of unknowns in the purchase, and would reduce management and maintenance costs for Lewisham Homes, and in turn the Council.
- 5.10. For the properties purchased within a building where Lewisham Council own the freehold, purchases can be made in the knowledge of any previous or pending capital works, estate regeneration proposals and current maintenance and ground rent costs.
- 5.11. Officers will also purchase homes which are not ex-council, where they can satisfy an identified need and where this need is not met through available ex-council homes on the open market. For example, the majority of ex-council homes available through the 'first refusal' process, or are available on the open market are 1 or 2 bedroom properties. There is greater housing need for 2 and 3 bedroom homes, than 1 bedroom homes. Further, homes which are close to existing council stock or can help a wider programme for new housing delivery will also be considered or homes which can satisfy a specifically identified housing need, such as keeping carers close to their families. Therefore, officers will seek to purchase private homes that address specific housing need, if they would provide wider Council benefit.
- 5.12. Homes within the 100 home buyback programme would be let at London Affordable Rent levels. The larger 4+bed homes for Refugees from Afghanistan will be let at Local Housing Allowance (LHA) levels.
- 5.13. As of the writing of this report, there were circa 5 homes available on the open market which may be suitable to purchase under the proposed Afghan Refugee programme. We envisage other houses becoming available during the purchase window.

## **Timing**

- 5.14. The proposal is to achieve an average conveyancing period of 12 weeks.
- 5.15. It is important that those who would like to sell their homes to the Council are confident that the transaction will proceed at pace.
- 5.16. The previous acquisitions programme was carried out by Lewisham Homes, so this is the first, targeted acquisitions programme to be delivered by the Council. Therefore it is imperative that the process from making an offer on a property to completion is as efficient as possible.
- 5.17. The cost of purchasing the properties, especially larger homes, combined with the cost of works to improve the homes will at times exceed the limits in the Mayoral Scheme of Delegation and therefore require approval from Mayor and Cabinet. For that reason, officers are seeking delegation to the Director of Inclusive Regeneration to approve the purchase of individual properties, and associated administrative, refurbishment or alteration/extension works costs for the buyback programme. This delegation will be limited to the purchase of all homes within the programme, up to the budget of the entire programme.
- 5.18. The delegation will also cover other grants such as the Green Homes grants or any grants which may have required Mayor and Cabinet Approval to seek permission to bid for, and accept the grant award.
- 5.19. The success of the buyback programme will largely depend on the Council's ability to be able to act as a timely purchaser. The delegations within this report will support

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this, as well as enabling the Council to comply with the statutory timeframe which applies when the Council is exercising its right of first refusal.

### **Cost Floor (refusing right to buy applications)**

- 5.20. The properties purchased through this programme would still be susceptible to right to buy if subsequently rented under a secured tenancy. However, the Council can refuse to sell a property below the cost the Council paid to purchase and upgrade it, regardless of the amount of discount applicable. This is known as the cost floor. An example is provided below:

Consideration	Cost
Purchase price	£100k
Cost to purchase inc. legal fees, refurbishment and upgrade works	£20k
Total Council spend/cost floor	£120k
New Market Value	£125k
Right to buy discount available to occupier	£50k
Right to buy request inc. £50k discount	£75k (£125-£50k)
Council loss	-£45k (refuse to sell)

Table 3: Cost floor example

- 5.21. Officers are satisfied that by virtue of affordability criteria required to be on the Housing Register, only a limited number, if any residents will be able to afford one of the recently purchased properties and therefore risk these homes leaving Council ownership though the right to buy option. However, as the modelling for the properties sees the new homes paying for themselves after 40 years, it could be that any right to buy applications between years 16 and 40 could result in a loss for the Council on the initial purchase and renovation costs. However officers are confident that again, due to the average income levels in the borough compared to market values and affordability challenges, such events will be rare. Further, savings in providing that home against the provision of TA will still limit any losses for the Council.

### **First Refusal**

- 5.22. It is proposed that the first port of call for acquisitions will be “first refusals” i.e. exercising the Council’s right to buy back former council properties purchased using right to buy that come to the market for the first time. This is a condition of the lease for all homes sold through right to buy since 18 January 2005. The Council has not previously exercised its right to do this.
- 5.23. Since the beginning of 2021, the Council has rejected (refused to purchase) 20 first refusal notifications, allowing those properties to be sold on the open market. The intention is that all ‘first refusal’ applications will be considered by the programme and the homes purchased, subject to housing need and financial viability.

### **Dwelling mix**

- 5.24. The programme will purchase a balance of one, two and three bedroom units subject to market availability and sales values. Larger homes of 4+ bedrooms will be purchased only if affordable and/or financially supported by sufficient GLA grant.
- 5.25. All purchases completed prior to March 2022 will be included in the BfL 2018-2022 programme, and all homes purchased thereafter will be included within the 2022-26 delivery programme.

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## **Optimising Assets**

- 5.26. For the homes that have the potential, the programme will include funds to alter and/or extend properties to optimise the amount of living space. In particular, to create additional bedrooms or to convert exceptionally larger dwellings into multiple dwellings, to combine smaller dwellings (studios) into larger dwellings, or create wheelchair adapted homes.
- 5.27. All homes will be considered against a checklist of requirements provided by the Council's Occupational Therapists (OTs) and Housing Needs team. This is to consider whether a property, with adaptations, alterations and/or extensions could address complex or otherwise challenging housing need.
- 5.28. Once the sale has completed, the property will be handed over to Lewisham Homes to carry out any necessary works and let to families on the Council's housing list in the usual way.
- 5.29. Any homes purchased and/or adapted to address an identified need, will be upgraded and managed by Lewisham Homes under the direction of the OTs and Housing Needs team.
- 5.30. The 20 homes purchased by the Council for refugees from Afghanistan will be allocated through the Borough of Sanctuary programme, but will also be managed by Lewisham Homes in the usual way. The purchase of these homes is subject to securing GLA funding. This is explained further in the Part 2 report.

## **Climate Emergency**

- 5.31. The fact that these proposals seek to use existing housing stock follows the principles of sustainability. Purchasing existing homes to use, alter and extend will in itself result in a sustainable way of delivering housing for the Council.
- 5.32. All homes in the programme will achieve an EPC D or equivalent, prior to first occupation. This is in line with Lewisham's lettable standards for homes currently managed by Lewisham Homes. It would be financially unviable and in some cases practically impossible to achieve net zero by retrofitting. The Council's Sustainability team have agreed with this approach.

## **Resource**

- 5.33. The programme will include the cost for officers and external consultants to support the programme. Further detail can be found in the Part 2 report.

## **Lewisham Homes**

- 5.34. Whilst the programme is to purchase up to 120 homes, the number of homes sold through right to buy over the last few years has reduced the Council's stock and will continue to do so. The programme would result in the replacement of some of that stock.
- 5.35. As the managers of most Council homes, Lewisham Homes are integral to the success of this programme. Lewisham Homes has a budget to maintain existing properties and to bring void homes back into use.
- 5.36. Lewisham Homes have confirmed that their existing framework of contractors can be used to bring homes up to lettable standards, but also any other works necessary including the following:
  - Alterations and extensions
  - All applications to Planning
  - All building control permissions
  - Turnkey ready for 1<sup>st</sup> occupation

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- All necessary liaison with the Council officers.
- Any other work required to render the property fit for first occupation to Lewisham's lettable standards or above.

5.37. Lewisham Homes' only request is that they are involved prior to the property being purchased. This ensures that Lewisham Homes are aware of the property, its condition and the works required, prior to the Council purchasing and committing to it. This request is as a result of the lessons learned from previous acquisition programmes.

#### **Funding – HRA borrowing and Right to Buy receipts**

5.38. The financing of the Buyback Programme will be through a combination of right to buy (RtB) receipts and Housing Revenue Account (HRA) borrowing. In addition officers have submitted Expressions of Interest (EOI) for the GLA's Right to Buyback Fund and the extension to the fund which is to fund the homes for the Afghanistan refugee families. This funding, if secured will reduce the Council's HRA borrowing and would negate the need to use RtB receipts.

5.39. To use the RtB receipts, the Council will need to raise (HRA borrowing) 60% of the funds to purchase the homes in order to utilise the 40% receipts given back to the Council from MHCLG.

5.40. The 20 Afghan refugee Units will be funded through a combination of GLA Grant and General Fund Borrowing.

5.41. Further information regarding the use of RtB receipts and borrowing can be found in the Part 2 report.

#### **Funding - GLA grant**

5.42. The GLA have announced a funding programme that mirror the goals of this proposal. In July 2021, the GLA Housing and Land Team announced they would be offering Councils at least £100,000 grant per home to buy back ex-council homes under the existing, Building Council Homes for Londoners Programme, which is a fund to help the financial viability of Council developments.

5.43. In August 2021, in response to the Afghanistan refugee crisis, the GLA advised that any buyback programme could also be used to purchase larger homes, advising that the grant award would be higher for the larger homes, subject to demonstrating value for money.

5.44. The Council is bidding for both the lower and higher grant levels to purchase the 120 homes but demonstrating value for money for expensive, larger homes, which will be offered at affordable rents, is challenging.

5.45. However, the programme will form an essential contribution to the delivery of homes to the Council. Therefore, if the GLA grant is not forthcoming, the Council will use RtB receipts instead of GLA grant.

5.46. A wholly RtB funded programme will not be able to financially support the acquisition of larger homes. And RtB rules prohibit the use of both RtB receipts and GLA funding on each home. Therefore the programme will not be able to afford the 20 homes for the Afghanistan refugee families and they will be omitted from the programme if the GLA funding is not secured.

## **6. Programme**

6.1. The proposed programme and key milestones are set out below:

Key milestones	Date
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Apply for GLA grant	September 2021
Regeneration Capital Programme Delivery Board approval	8 <sup>th</sup> October 2021
Mayor and Cabinet approve Buyback Programme	3rd November 2021
Acquisitions officer (agency) and all other resources procured and internal solicitor engaged through SLA.	November 2021 - January 2022
Lewisham Homes approve proposed programme	5th November 2021
1st Offer on property	December 2021
Conveyancing commences on 1st property	December 2021- January 2022
First property purchased	January 2022
First property handed to Lewisham Homes for works	January 2022 (earliest)
Appointment of Acquisition Officer (Fixed term contract)	March 2022
First property occupied	March 2022
Programme completion	May 2023

6.2. The programme has budgeted for an acquisitions officer appointed via an agency in the first instance to ensure that the programme can commence immediately once approved. The intention would be to appoint an agency worker at the beginning of the programme, then offer a fixed term contract for the remainder of the programme.

6.3. The aspiration is to have each property occupied within 2 weeks from the date the Council formally owns the property, unless adaptations or extensions are required.

#### **Review**

6.4. The benchmark for success of this programme would be the purchase of a minimum 15 homes, by March 2022. The remaining 105 homes (120 homes in total, subject to GLA grant award), or circa 9 per month will be purchased up to March 2023.

6.5. If the trajectory of purchases suggests there would be insufficient properties available on the open market to achieve the programme ambitions, officers will seek to invite existing leaseholders to contact the Council in the first instance if they are considering selling their property.

## **7. Financial implications**

7.1. The financial implications for this programme largely depend on whether the GLA grant will be awarded, at the levels the Council needs in order to deliver homes to address housing need.

7.2. If GLA grant is awarded, the programme will use marginally less HRA borrowing and will not make use of available RtB receipts. Therefore the available HRA borrowing and RtB receipts could be available to deliver more housing for the Council via other projects.

7.3. Further details on the financial implications are set out in the Part 2 report.

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## 8. Legal implications

- 8.1. The Council has the ability to acquire property for the purposes of its statutory functions. Property can be acquired into the HRA using Housing Act 1985 powers or into the General Fund using Local Government Act 1972 powers, depending on the proposed use.
- 8.2. All properties (freehold and leasehold) sold under Right to Buy legislation since 18 January 2005 contain a covenant which requires any owner intending to sell their property within 10 years of purchase to offer the property back to the Council. The Council has 8 weeks to accept or reject the offer. If the Council rejects the offer, the property may be sold on the open market (although the covenant will remain binding on any successor until the 10 year period expires). If the Council serves an acceptance notice, the Council must enter into a binding contract for the purchase of the property within 12 weeks of accepting the offer, or within 4 weeks of receipt of a written notice from the owner saying that they are ready to complete the transaction, whichever is the longer. If the time limit is not complied with then the owner is free to dispose of the property as they see fit. If the purchase price cannot be agreed by the party, then either party can refer it to the District Valuer for determination (with the 12 week period being suspended whilst that determination takes place). The delegations in this report will enable officers to comply with these time frames.
- 8.3. Under the Mayoral Scheme of Delegation, any decision to acquire property with a value of more than £500,000 is reserved to members. For the reasons set out in this report, it is proposed that authority is expressly delegated to the Director of Inclusive Regeneration to approve the purchase of individual properties, and associated administrative, refurbishment or alteration/extension works costs for the Buyback Programme. That delegated authority applies even if the value exceeds £500,000 provided the costs can be met from within the available budget. However, any decision taken under delegated authority to acquire a property with a value exceeding £500,000 will be a Key Decision under the Constitution and will need to be taken in accordance with the requirements of the Executive Procedure Rules set out in Part IV of the Constitution
- 8.4. Under the Mayoral Scheme of Delegation, approval of any application for external funding which would either (i) require match funding from the Council in excess of £250,000, or (ii) have revenue implications in excess of that amount per annum, or (iii) exceed £1 million is reserved to members. For the reasons set out in this report, it is proposed that authority is expressly delegated to the Executive Director for Housing, Regeneration & Public Realm in consultation with the Executive Director for Corporate Resources and Director of Law, Governance and Elections to bid for and accept any local, regional or national financial grants to support the delivery of the Buyback Programme. That delegated authority applies even if the values in the Mayoral Scheme of Delegation are exceeded. However, any decision taken under delegated authority to make an application for funding from any external body which if successful would also require Council match funding of £500,000 or more, or entail a revenue commitment of at least £500,000 in total by the Council will be a Key Decision under the Constitution and will need to be taken in accordance with the requirements of the Executive Procedure Rules set out in Part IV of the Constitution.
- 8.5. In taking the decisions in this report, the Council's public sector equality duty must be taken into account. It covers the following protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 8.6. 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

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share a protected characteristic and those who do not; foster good relations between people who share a protected characteristic and those who do not.

- 8.7. It is not an absolute requirement to eliminate unlawful discrimination, harassment, victimisation or other prohibited conduct, or to promote equality of opportunity or foster good relations between persons who share a protected characteristic and those who do not. It is a duty to have due regard to the need to achieve the goals listed above. The weight to be attached to the duty will be dependent on the nature of the decision and the circumstances in which it is made bearing in mind the issues of relevance and proportionality and understanding the impact or likely impact of the decision on those with protected characteristics who are potentially affected by the decision. The extent of the duty will necessarily vary from case to case and due regard is such regard as is appropriate in all the circumstances.
- 8.8. The Equality and Human Rights Commission (EHRC) has issued Technical Guidance on the Public Sector Equality Duty and statutory guidance. The Council must have regard to the statutory code in so far as it relates to the 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 on the EHRC website.
- 8.7 The EHRC has issued five guides for public authorities in England giving advice on the equality duty. 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.

## 9. Equalities implications

- 9.1. A briefing published by the Joseph Rowntree Foundation entitled 'What's causing structural racism in housing?' (September 2021) sets out the factors of why BAME communities of which some are refugees are disproportionately affected by housing poverty. This disparity culminates from a series of decisions relating to unfair access to work opportunities and pay and accessibility to benefits. These issues make finding and living in genuinely affordable housing particularly difficult for these groups.
- 9.2. The Buyback Programme will help to address these issues through the provision of more, genuinely affordable and secure homes. The homes will be allocated using either the Council's allocations policies, or policies relating to the Refugee resettlement programme or the Borough of Sanctuary programme.
- 9.3. In light of the above, officers are satisfied that the Buyback Programme will enable the Council to comply with its public sector equality duty.

## 10. Climate change and environmental implications

- 10.1. The Council has made a commitment to making the borough carbon neutral by 2030. This requires every service area to consider how to embed low-carbon and environmental policies and practices in our approach to service delivery. Therefore it was incumbent on officers to consider how the programme could improve the energy and carbon implications of the programme.
- 10.2. However, purchasing properties at market value significantly limits the amount of money that can be spent on the properties while keeping them financially viable.
- 10.3. Officers are satisfied that the majority of homes (located in Council blocks) to be

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purchased would already be included in any programmes to retrofit energy saving measures.

- 10.4. The attainment of lettable standards includes measures to improve energy performance to EPC D or equivalent.

## 11. Crime and disorder implications

- 11.1. There are no crime or disorder implications applicable to this report.

## 12. Health and wellbeing implications

- 12.1. The proposed programme will have direct, positive health and wellbeing implications through the availability of homes for the Council's residents.
- 12.2. The Council will be able to provide more good quality, secure affordable homes creating a peace of mind for families who have become homeless or are currently in over-crowded accommodation.

## 13. Background papers

- 13.1. Morton House acquisition Mayor and Cabinet dated 25<sup>th</sup> March 2020  
<https://councilmeetings.lewisham.gov.uk/ieDecisionDetails.aspx?AllId=25404>
- 13.2. MHCLG Consultation outcome: Use of receipts from Right to Buy sales  
<https://www.gov.uk/government/consultations/use-of-receipts-from-right-to-buy-sales>
- 13.3. Mayor and Cabinet report for BfL programme 15 January 2020  
<https://councilmeetings.lewisham.gov.uk/documents/s71007/Building%20for%20Lewisham%20part%201.pdf>
- 13.4. Mayor and Cabinet report for the acquisition of the Sydney Arms Pub November 2019  
<https://councilmeetings.lewisham.gov.uk/documents/s75927/Acquisition%20of%20Sydney%20Arms%20to%20use%20as%20Temporary%20Accommodation%20part%201.pdf>
- 13.5. The Joseph Rowntree Report September 2021 ' What's causing structural racism in housing' <https://www.irf.org.uk/report/whats-causing-structural-racism-housing>
- 13.6. Lewisham's financial regulations and scheme of delegation  
<https://councilmeetings.lewisham.gov.uk/ieDecisionDetails.aspx?AllId=21834>

## 14. Glossary

- 14.1. Below are useful links and definitions used throughout this report.
- 14.2. [Link to Oxford English Dictionary here.](#)

Term	Definition
Right to buy (RtB) receipt	The money raised from the sale of Council homes under right to buy
Right to buy (RTB)	A Council tenant's right to purchase their home at a discounted rate
MHCLG	Ministry of Housing and Local Government (now known as DLUHC)
DLUHC	Department for Levelling Up, Housing and Communities (referred to in this report as MHCLG)

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<b>Term</b>	<b>Definition</b>
BfL	Building for Lewisham (Lewisham's housing delivery programme)
Buyback Programme	Lewisham's purchase of ex-council housing and private properties from the open market
HRA	Housing Revenue Account

## **15. Report authors and contact**

- 15.1. Monique Wallace T: 0208 314 3414 E: Monique.wallace@lewisham.gov.uk
- 15.2. Comments for and on behalf of the Executive Director for Corporate Resources
- 15.3. Financial Implications: Tony Riordan
- 15.4. Legal Implications Katherine Kazantzis

## **16. Appendices**

N/A

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