www.communities.gov.uk
community, opportunity, prosperity

Appendix A

15 May 2012

All Chief Executives
English stock holding local authorities

cc Housing Directors

Dear colleague,

RIGHT TO BUY: RE-INVESTING RECEIPTS IN NEW AFFORDABLE RENTED HOMES

1. I am writing to invite your authority to enter into an agreement with the Secretary of State that will enable the authority to retain additional Right to Buy receipts for investment in new affordable rented homes. If you wish to retain receipts for the quarter ending on 30 June 2012, **we must receive your signed copy of the agreement no later than noon on Wednesday, 27 June**.

2. As you know, the Government increased the cap on Right to Buy discounts to £75,000 on 2 April 2012. We expect this to lead to an increase in the number of Right to Buy sales. The Government is committed to ensuring that the additional receipts which result from the increase in sales are reinvested to provide replacement homes.

3. In announcing the final scheme on 12 March, the Government indicated that it would be prepared to enter into an agreement with any local authority which wished to retain receipts to reinvest in new affordable rented housing. Following a technical consultation, Ministers have now agreed the final form of the model agreement which we are offering to authorities.

4. Please find attached:

    i. an unsigned agreement made under section 11(6) of the Local Government Act 2003;
    ii. technical guidance for your finance officers;
    iii. a worked example; and
    iv. a simple explanation of the process (which you may find useful in sharing with others).

Department for Communities and Local Government Tel
zone 1/J10
Eland House
Bressenden Place
London SW1E 5DU

5. In short, the Secretary of State is prepared to agree that your authority should retain additional Right to Buy receipts, on condition that your authority agrees:-

    i. to use those receipts for the provision of affordable rented homes;
    ii. that those receipts will constitute no more than 30% of total investment in such homes (net of any contribution from another public body);
    iii. that if, after three years, any of those receipts are not used as set out above, it will pay the un-used sums - plus interest - to the Secretary of State.

6. The agreements are designed to be ‘light touch’; there are no conditions on the number of new homes that must be built or acquired, their type, size, location or the rent that must be charged on them. These are decisions for your authority to make.

7. It is current Government policy that any new council homes built since July 2008 are eligible for exclusion from the provisions in the pooling regulations relating to Right to Buy sales; this includes any new homes built or acquired using receipts covered by these agreements. This means that, if these replacement homes were subsequently sold under the Right to Buy, the authority would be able to retain the whole receipt (provided it is spent on affordable housing, regeneration, or paying down housing debt).

8. As soon as you are able clearly to identify such homes, you should contact us to make sure they are excluded.

<u>The 30% benchmark</u>

9. Drawing on evidence from the 2011-2015 Affordable Homes Programme, we are satisfied that it should be possible to fund new homes let at Affordable Rent levels, with *no more than* 30% of the cost of the new homes needing to come from the Right to Buy receipt (the total pot of money, not each individual sale).

10. As in the Affordable Homes Programme, the remainder of the cost will come from borrowing against the net rental income stream from the new property, and cross-subsidy from the landlord’s own resources. (However, unlike the Affordable Homes Programme, landlords will not be permitted to generate cross-subsidy by converting existing social rented homes to Affordable Rent.)

<u>Three years</u>

11. The Government wishes to see replacement homes provided as quickly as possible. Our original proposal was that two years was a sufficient timescale in which to invest. However, in response to comments raised in our technical consultation, Ministers have agreed to extend this by a year to maximise the opportunity for local authorities keen to participate.

Interest

12. Interest will be charged at 4% above the base rate compounded with three monthly rests. It is important that these receipts are invested in new homes as quickly as possible. We therefore wish to create a disincentive to hold onto the receipts until such time as it becomes necessary to pay them over to the Secretary of State. Given the extension to the period within which authorities must re-invest – set out in paragraph 11 above - we are satisfied that authorities should be in a position to avoid having to pay any interest to the Secretary of State.

13. Equally authorities will have the option of re-paying retained receipts early (and therefore incurring less interest) if they decide that they would not be able to incur sufficient investment within the time period.

Other Investment

14. Our intention is to encourage an increase in the supply of new housing: new build should always be the favoured option. However, this does not exclude these receipts being used to buy existing properties for conversion into affordable rent.

15. It is equally acceptable to fund new supply by grant funding another body, such as a housing association - but not a body in which your authority has a controlling interest. There is nothing to prevent you contracting with a subsidiary (for example, your ALMO) to deliver the homes, but such homes must be in the ownership of your local authority and sit within the Housing Revenue Account.

Receipts passed to the Secretary of State

16. Receipts passed to the Secretary of State will be given to the Homes and Communities Agency or, where receipts have arisen in London, the Greater London Authority for investment by them (further details on the process for accessing such funding will follow in due course). There is nothing to stop a local authority that has entered into an agreement with us from having access to funding from the these two bodies as well.

Rent Rebate Subsidy Limitation

17. Where an authority increases its average weekly rent above a limit set in England by the Secretary of State, when it submits its final subsidy claim form to the Department for Work and Pensions (DWP) it will receive subsidy on rebates only up to a limit and will have to fund the cost of the additional rebates above the limit rent itself. However, this does not apply to properties in this Right to Buy Scheme.

18. Up to 80% of market rents may be charged. If your authority can meet the 30% benchmark and still charge social rents, it is free to do so, but charging an Affordable Rent (i.e. up to 80% of market rents) is likely to maximise your investment.

19. My colleague, Peter Ruback, wrote to you in July 2011, setting out a process we had agreed with our colleagues in the Department for Work and Pensions (DWP) for local authorities to charge Affordable Rents: i.e. rents above the Limit Rent.

20. We have agreed with DWP to adopt a similar process for homes built using Right to Buy receipts. In this case, it will be necessary to show your auditor a copy of this agreement, plus a statement signed by your section 151 officer confirming that the home in question had been built or acquired using Right to Buy receipts in line with the conditions set out in the agreement. (Because the 30% benchmark will ensure a maximum return on the investment of Right to Buy receipts, it will not be necessary to engage with the Homes and Communities Agency or the Greater London Authority.)

Bringing the agreement into effect

21. If your authority wishes to enter into an agreement with the Secretary of State, would you please
    i. insert the full formal name of your authority at the head of the agreement
    ii. have it signed by someone in your authority with the appropriate delegated authority to do so (an electronic signature is acceptable)
    iii. return it (we are happy to accept scanned copies) to the Department.

22. Signed copies should be sent to Henry Boye, 1st Floor, Eland House, Bressenden Place, London SW1E 5DU. Henry.Boye@communities.gsi.gov.uk. .

23. If you wish to retain receipts for the quarter ending on 30 June 2012, **we must receive your signed copy no later than noon on Wednesday, 27 June**. If you fail to meet this deadline you will not be able to retain receipts arising in quarter 1 of 2012/13 (i.e. April, May and June). These receipts will immediately be passed on to the Homes and Communities Agency or the Greater London Authority for investment.

24. Once we receive a signed copy, we will arrange to have it signed by a Senior Civil Servant and a copy returned to you.

25. We recognise that your authority may not wish to enter into an agreement at this stage. If this is the case, we would be happy for you to respond to this invitation at a later date, but it would be very helpful to have written confirmation that you do not wish to pursue at this stage.

26. If you have any questions on the detail of this letter please contact stephen.biddulph@communities.gsi.gov.uk or ross.buchanan@communities.gsi.gov.uk.

27. I have copied this letter to your Director of Housing

Yours sincerely,

GRAHAM DUNCAN
Deputy Director – Affordable Housing Regulation and Investment