

Transfers between the Housing Revenue Account and the General Fund**Background**

- 1.1 At 31 March 2016 the Council owned 10,298 dwellings, 3,113 garages and 21 shops and a number of parcels of land that are accounted for in the Housing Revenue Account (HRA).
- 1.2 International Financial Reporting Standards require that these properties are categorised according to the purposes for which the Council holds them. As part of the Council's continuous review of its assets, properties have been identified where the Council's reason for holding them has changed since the original acquisition, which requires that the properties be moved from one class of asset to another.
- 1.3 Where the purpose for holding a property is not related to the provision of housing under Part II of the Housing Act 1985 (Part II), the property should not be held within the HRA. If such a property is currently held within the HRA, usually as a result of being originally acquired or constructed under Housing powers, it should be transferred ("appropriated") to the General Fund.

Detail

- 1.4 The HRA garage stock is currently let to both HRA tenants and private individuals of which 67% are let to private individuals and are not primarily held for the provision of housing under the 1985 Act.
- 1.5 The shops were originally provided as part of neighbourhood development but no longer contribute to the achievement of a housing objective as they are now let on a purely commercial basis rather than for the provision of housing.
- 1.6 The HRA holds a number of miscellaneous assets that were originally provided as part of the neighbourhood development, these include sub-stations and telephone masts. It is proposed that where these assets are not attached to residential premises then they will be transferred to the General Fund.
- 1.7 The HRA also holds various parcels of "amenity land" that were part of the original green space requirements when the estates were established. These incur annual maintenance costs that are solely borne by the HRA tenants. On most estates approximately 50% of the properties are in private ownership following Right-to-buy sales, and these owner occupiers make no contribution towards the upkeep of these green spaces. It is therefore proposed that these are transferred to the General Fund, with the corresponding £50,000 liability for upkeep.
- 1.8 There are a number of properties that are proposed to transfer from the General Fund to the HRA. These include the land and building at Townsend House which is currently being converted into 15 HRA properties, and the Hawthorns site which is being used to develop 24 HRA properties. The HRA would ordinarily have had to have paid market value to the General Fund for these sites, and it is therefore considered sensible to include these in the wider valuation exercise.

These sites should generate an annual income of around £180k per annum to the HRA when operational.

- 1.9 The General Fund holds a number of residential properties as part of its estates portfolio, a number of these properties have both a commercial and residential elements. However there are 28 street properties that are proposed to be transferred to the HRA.
- 1.10 Any shops where there are separately let flats above the shops are to be excluded from transfer to the General Fund, as separation of the maintenance responsibilities is impractical. In addition any miscellaneous properties that are intrinsically linked to a residential property will be excluded from transfer to the General Fund, e.g. Telephone masts attached to multi storey flats.
- 1.11 All assets will be kept under regular review and should any subsequent changes be required these will be reported to Cabinet.

Financial Impact

- 1.12 The financial consequences of appropriations between the HRA and General Fund are that the costs and any income relating to the properties will subsequently be accounted for in the relevant fund. All risks associated with the properties would also transfer, for instance uninsured losses and health and safety works.
- 1.13 Any transfer of properties between the HRA and General Fund needs to be accounted for at market value, and a payment made between the funds if the transfer is unequal. As the value of the properties to be transferred from the HRA is higher than that to be transferred into the HRA, then a payment will need to be made to the HRA to compensate for this.
- 1.14 Asset transfers between the funds are dealt with by means of adjusting the debt levels attributable to each, as represented through the Capital Financing Requirement or “CFR”. Work is currently ongoing to establish the capital value of each of the assets, for each £1m of asset transferred there will be a consequential impact on annual debt interest of £33.2k per annum (a saving to the HRA, and a cost to the General Fund).
- 1.15 The HRA currently has a limit to the amount of borrowing it can take out. Reducing HRA debt will therefore effectively increase the amount of debt “headroom” available for future development opportunities.

Legal Implications

General appropriation power

- 1.16 Section 122 of the Local Government Act 1972 (the 1972 Act) provides that the Council may appropriate for any purpose for which the Council is authorised to acquire land, any land which belongs to the Council and is no longer required for the purpose for which it is held immediately before the appropriation.

Power to appropriate HRA land

- 1.17 Section 19(2) of the Housing Act 1985 (the 1985 Act) provides that the Council shall not appropriate land held for the purposes for Part II of the 1985 Act without the consent of the Secretary of State if any part of the land consists of a house or part of a house for any other purpose.

Garages and Shops specifically

- 1.18 For those pieces of HRA land which consist entirely of garages, Section 19(2) of the 1985 Act has no relevance as the land to be appropriated to the General Fund does not consist of a house or part of a house as the definition of "house" in Section 56 of the 1985 Act does not include freestanding garages or shops. To appropriate the garages and shops from the HRA to the General Fund, the Council will rely on the power in Section 122 of the 1972 Act. However, in order to avail itself of the appropriation power in Section 122 of the 1972 Act, the Council needs to be able to confirm that the land is no longer required for the purpose for which it was held immediately before the appropriation.
- 1.19 The view is that the garages, shops and open space are no longer held for housing purposes. For example, the majority of the garages are not let to secure tenants of the Council and are, therefore, no longer being held for the purposes of meeting housing needs (as ancillary to the houses) under Part II of the 1985 Act. In these circumstances, the Council would in any event need to consider whether to appropriate the garages from the HRA to the General Fund.
- 1.20 In summary, in order for the Council to rely upon the power under Section 122 of the 1972 Act to appropriate the garages to the General Fund, the Council needs to be satisfied that the garages, shops and open space are no longer required for the purposes for which they were held immediately prior to the appropriation. It is considered that, given the circumstances that now pertain on our estates e.g. the mix of tenures that has arisen through right to buy and other changes in tenure and the actual status of the majority of garage tenants, this would be a reasonable position to take.