Committee/Meeting:	Date:	Classification:	Report No:
Cabinet	September 5th 2012	Unrestricted	CAB 030/123

Report of:	Title:
Corporate Director - Development and Renewal **Originating officer(s)** Chris Holme – Service Head Resources, Paul Leeson – Finance Manager, Katherine Ball – Senior Accountant, Development & Renewal	Housing Revenue Account – Budget Outlook 2013/14 – 2015/16 New Right to Buy agreement governing the use of receipts Development and Renewal Capital Estimates (HRA and General Fund) – 2012/13 **Wards Affected:** All

Lead Member	Housing and Development
Community Plan Theme	One Tower Hamlets
Strategic Priority	Ensuring Value for money across the Council

1. SUMMARY

1.1 This report outlines the current position in respect of the Housing Revenue Account Medium Term Financial Plan to be further developed as part of the strategic and resource planning process for 2013/14- 2015/16, with the overall aim of providing sufficient flexibility to deal with the risks faced by the HRA over the medium-term period.

1.2 This report also updates Members on the changes to the Right to Buy scheme that came into effect in April 2012, and the likely implications for the Housing Revenue Account. Members are requested to approve the Authority entering into an agreement with the Secretary of State, allowing the Council to retain a portion of future right to buy receipts to be spent on the provision of social housing.

1.3 This report seeks Mayoral approval for the adoption of capital estimates to enable East London Renewal funding to be applied to finance the various Private Sector Renewal grant streams, and Section 106 funds to be passported in respect of schemes at Bromley by Bow station and Wellington Way Health Centre. Approval is also sought to delegate to the Corporate Director – Development and Renewal and Assistant Chief Executive – Legal Services, the authority to enter into a grant agreement with the Greater London Authority in relation to the proposed redevelopment of the St Clement's Hospital site.

2. DECISIONS REQUIRED

The Mayor in Cabinet is recommended to:-

2.1 Agree entry by the Council into an agreement with the Secretary of State governing the use of right to buy receipts received from the second quarter of 2012/13 as set out in Appendix 1 and authorise the Corporate Director, Development and Renewal in consultation with the Assistant Chief Executive (Legal Services) to make any necessary amendments to the agreement prior to execution.

2.2 Consider the HRA financial outlook and medium term projection set out in this report, and note the pressures and risks facing the HRA and the possible need for further savings over the medium-term financial plan period.

2.3 Agree that with regards to the HRA, the strategic and resource planning process should focus on agreeing savings proposals in order, as far as possible, to mitigate the risks presented by the changes to right to buy and the impact of forthcoming welfare reforms.

2.4 Agree the adoption of a capital estimate of £500,000 in respect of Private Sector Improvement Grants, including Empty Property Grants, for 2012-13, to be financed from ringfenced resources received from the East London Renewal Partnership (paragraphs 11.1 to 11.7).

2.5 Agree the adoption of a capital estimate of £3,500,000 to allow the passporting of specific Section 106 resources to Transport for London as a contribution towards the upgrade of Bromley by Bow station (paragraphs 12.7 to 12.10).

2.6 Agree the adoption of a capital estimate of £3,200,000 to allow passporting of specific Section 106 resources to NHS London as a contribution to support the refurbishment of the Wellington Way Health Centre (paragraphs 12.11 to 12.15).

2.7 Authorise entry by the Council into a grant agreement with the Greater London Authority in relation to the redevelopment of the St Clement’s Hospital site on terms to be agreed by the Corporate Director, Development and Renewal in consultation with the Assistant Chief Executive (Legal Services).

2.8 Authorise the Assistant Chief Executive (Legal Services) to enter into all necessary documents to implement the decisions in paragraphs 2.1 and 2.7 above.

3. REASONS FOR THE DECISIONS

3.1 The authority is under a duty to set a balanced and sustainable budget and needs to plan the use of resources in such a way that it can deliver its statutory responsibilities as well as meeting local people’s aspirations for services. A Medium Term Financial Plan is required to enable financial pressures and risks to be planned and to avoid having to make unforeseen decision which are more likely not to offer value for money. This is especially true in times of diminishing resources, when the authority needs to ensure it plans for necessary savings and needs to be particularly careful that it does not enter into unaffordable spending commitments.

3.2 Cabinet approval is required for the authority to sign the Right to Buy agreement, as, if the retained receipts were not used in accordance with the terms of the agreement, the authority would be required to repay the relevant sums, plus interest, to the Department of Communities & Local Government (DCLG).

3.3 In respect of capital schemes, although resources are earmarked for specific purposes, in accordance with Financial Regulations, capital projects must be included within the Council's capital programme, and capital estimates adopted prior to any expenditure being incurred. This report seeks the adoption of the necessary capital estimates in order that the schemes can progress.

4. ALTERNATIVE OPTIONS

4.1 The authority has no practical alternative other than to consider forecasts for available resources and spending pressures in order to optimise use of resources. The authority can take alternative approaches to how it sets about the process, for example of finding savings or providing in the budget for possible risks. This report highlights the risks facing the HRA over the next few years, particularly in relation to the reform of the welfare system and the likely significant increase in the number of properties sold under the right to buy system, and as a result indicative budget savings should be sought for 2013/14. As part of the budget process for 2013/14 therefore, Tower Hamlets Homes should bring forward possible savings proposals.

4.2 With regards to the agreement governing the use of right to buy receipts, the authority is under no obligation to sign this. If the authority does not sign the agreement however, it will be obliged to return any applicable right to buy receipts received to the DCLG. All returned receipts will be transferred to the Greater London Authority and re-distributed in the form of grant, which the authority could apply for whether or not the agreement is signed or not.

4.3 If the authority decides not to sign the agreement at the present time, it has the option of signing at a later date; similarly, if the authority signs up now, it is able to terminate the agreement in future.

4.4 The capital estimates sought relate to schemes where the funding has been received or generated for the specific purposes outlined in the report.

5. BACKGROUND

5.1 The Housing Revenue Account relates to the activities of the Council as landlord of its dwelling stock, with the items to be credited to the HRA prescribed by statute. Under HRA Self-Financing, Housing Subsidy has been abolished and authorities' income is primarily derived from tenants' rents and service charges.

5.2 Since 1990 the Housing Revenue Account has been "ring-fenced"; this was introduced as part IV of the Local Government & Housing Act 1989 and was designed to ensure that rents paid by local authority tenants reflect the associated cost of services. This means that it cannot subsidise nor be subsidised by Council Tax i.e. any deficits or surpluses that arise on the HRA cannot be met from or transferred to the General Fund. The HRA must remain in balance.

5.3 April 2012 saw the implementation of a radical change in council house financing with the abolition of the HRA subsidy system and the repayment of £236m of Tower Hamlets' housing debt. Under the new system each local housing authority now retains HRA rental income, from which it must finance all costs relating to council housing, including debt financing.

5.4 The authority operates a resource allocation process for both the General Fund and the Housing Revenue Account that is underpinned by a strategic and resource planning framework. Processes are designed to ensure that:

- Financial plans allocate resources to address changing community needs and the Mayor's priorities.
- Service plans are developed against the background of forward looking financial forecasts
- The financial consequences of proposed actions are identified and are seen as an integral part of service planning

6. HRA VIABILITY UNDER SELF-FINANCING

6.1 In preparation for the start of Self-Financing, work was carried out at the end of 2011 to develop and populate a 30 Year HRA Financial Model, which used assumptions about future revenue and capital income and expenditure in order to evaluate the viability of the HRA under self-financing. The model allowed capital to be funded by debt or revenue contributions, calculated financing costs, and compared the resulting debt level to the maximum HRA debt permissible (the 'debt cap'.)

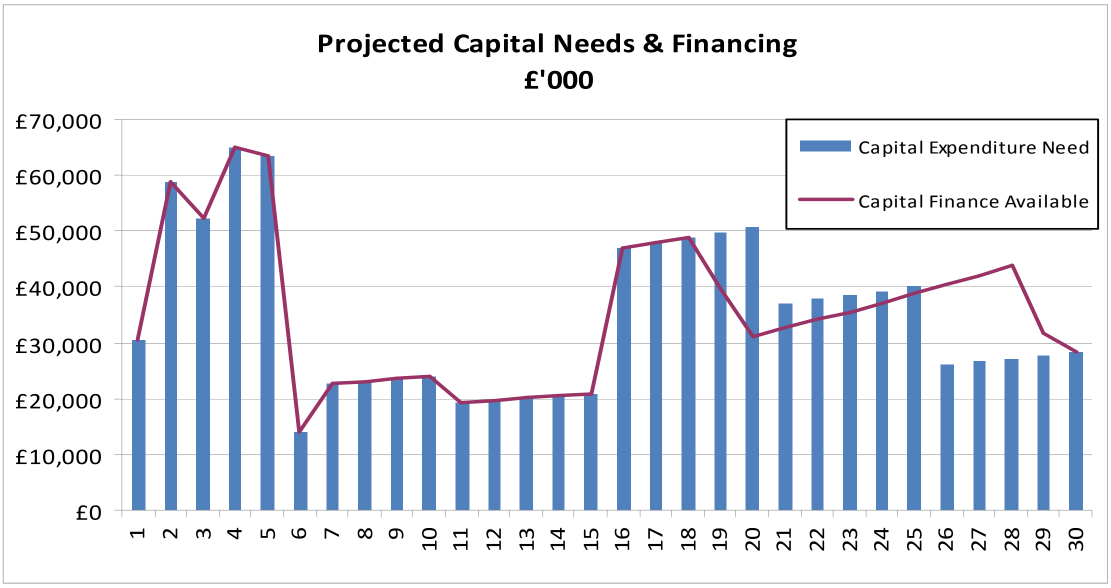
6.2 Initial Indicative HRA Viability over 30 Years

The model indicated that, subject to various assumptions, the Council could fund the capital works anticipated to be needed over the 30 years, including the Decent Homes programme. However, the model highlighted a shortfall in resources between year 18 and year 25, although this would be rectified over the remaining period of the business plan.

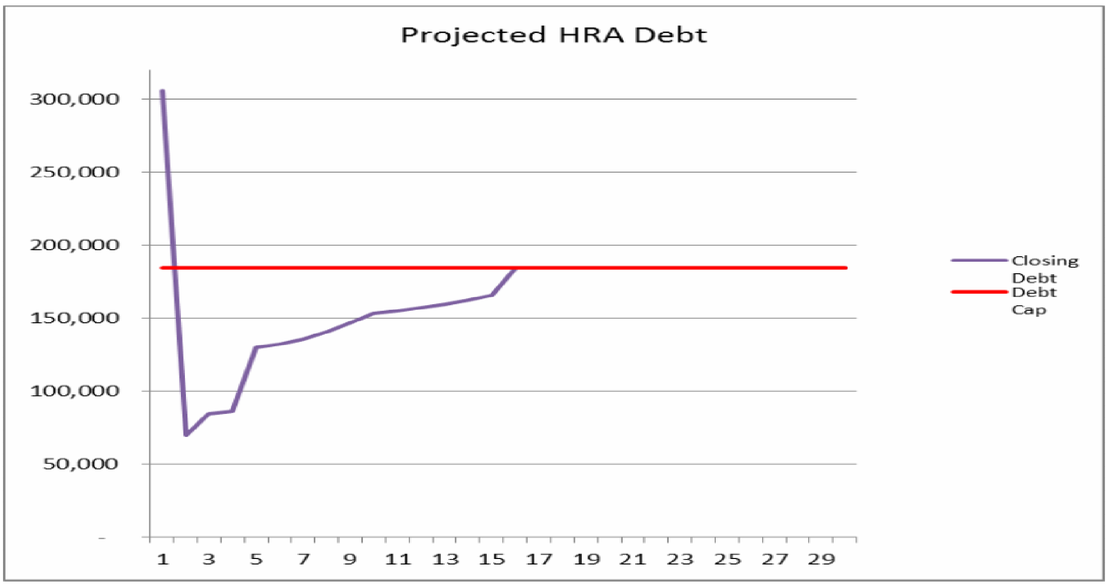
6.3 In summary, the initial modelling indicated that:

- to deliver and maintain decent homes, the Council would borrow up to its debt cap within 15 years;
- the HRA would be likely to require all its borrowing headroom to maintain and improve the existing stock;
- although HRA reserves were forecast to increase over the next 15 years, once the debt cap was reached then the Authority would need to use these reserves in order to fund the capital programme

6.4 Graph 1 below shows the projected capital needs compared to the projected available financing over the 30 year period. (NB the authority is now in Year 2 of the capital programme below.)



6.5 Graph 2 shows the projected level of HRA debt over the 30 years.



7. <u>2011/12 OUTTURN</u>

7.1 At its meeting on June 20th 2012, Members considered a report on the authority's 2011/12 outturn position. The 2011/12 HRA outturn was an underspend of £1.79m; the main variances relating to an underspend on bad debt provision movements, and additional rental income received from commercial properties. These additional resources increased HRA reserves which, as assumed in the HRA model, will be needed to fund the future HRA capital programme, and to mitigate against the risks detailed in the following section.

8. <u>2012/13 BUDGET</u>

8.1 Early indications are that the HRA will generate a surplus this year, with a report elsewhere on this agenda providing more detail regarding the Quarter 1 position.

9. <u>RISKS AND CHALLENGES</u>

9.1 The model contains a number of assumptions about future economic conditions, i.e. future inflation and interest rates, as well as factors such as future rent levels and stock figures. There are a number of risks and policy changes that could adversely affect some of these assumptions, as detailed below.

Right-to-Buy changes

9.2 In December 2011 the Government published a consultation document entitled *Reinvigorating Right to Buy and One for One Replacement*. Secondary legislation has subsequently been passed changing the level of discount offered to tenants, and guidance has been issued detailing how local authorities will be able to use additional right to buy (RTB) capital receipts to invest in replacement stock. The new rules came into place on 2nd April 2012.

9.3 <u>Agreement with the Secretary of State</u>

Prior to April 2012 all capital receipts generated from Right to Buy sales were subject to pooling i.e. 75% of every receipt was payable to the DCLG, with the Authority retaining the residual 25% for its own use. Under the new regulations, authorities must continue to pool Right to Buy capital receipts that are generated up to a specified level (£1.22 million in the case of Tower Hamlets) however the need to pool receipts that are generated in excess of this amount can be avoided if an agreement is entered into with the Secretary of State to retain additional RTB receipts for investment in new affordable rented homes. In order to retain receipts from Quarter 2 of 2012/13, authorities have to return agreements by 26th September 2012. However, authorities are able to sign the agreement at a later date and retain receipts from the subsequent relevant quarter.

Under these agreements the Secretary of State:-

i. Allows the authority to retain additional RTB receipts to fund the provision of affordable rented homes
ii. Stipulates that the receipts will constitute no more than 30% of the total investment in such homes
iii. Allows a period of three years for authorities to invest those receipts before requiring the money to be returned plus interest

A copy of the agreement is attached at Appendix 1. Properties acquired under certain conditions are excluded from the agreement, and must be detailed in the agreement. In the case of this Authority these are the properties repurchased under the Overcrowding Strategy, and built under the Building Britain's Future programme.

9.4 Increased Discount

The maximum discount in London is now £75,000; an increase of £59,000.

9.5 One for One Replacement

The government's aim is to deliver one-for-one replacement of homes sold under RTB at a national level – therefore there will be no requirement for individual local authorities to demonstrate one-for-one replacement.

9.6 Re-Provision of Social Housing

Each quarter the authority will report to the CLG the cumulative sum it has retained for replacement stock and the cumulative amount it has spent on replacement stock. The authority need only show that it has incurred a sufficient amount of expenditure towards the provision of social housing, it does not necessarily have to have completed the provision of the housing itself.

The re-provision of social housing could encompass newly built council homes, newly acquired council homes (i.e. existing homes bought on the open market) or social housing provided through local authority grants to housing associations. However, in order to ensure that the retention of RTB receipts results in the provision of genuinely new social housing, any expenditure incurred on the acquisition of existing social housing is excluded.

9.7 Calculation of receipts available for re-investment

The amount of additional RTB receipts available for the provision of affordable rented homes is obtained by deducting various elements from the gross RTB receipt. The calculation is shown in the notes in Appendix 2.

9.8 Permitted use of Right to Buy Receipts

As mentioned in paragraph 9.7 above, there are various elements that make up the RTB receipt. A summary of the use to which these may be put is detailed in the notes in Appendix 2. The receipts that are ultimately available for re-provision of social housing can be used to fund a maximum of 30% of the cost of the authority's re-provision capital scheme. Alternatively, the authority may use these funds to grant fund another body, such as a Registered Provider. Any receipts unused after three years must be paid to the CLG with interest; similarly, where these receipts constitute more than 30% of the authority's demonstrable spend on the re-provision of social housing, the excess amount is payable to the CLG with interest.

9.9 Entering into the Right to Buy Agreement

This report recommends that the authority enter into the agreement with the Secretary of State, to be valid from the second quarter of 2012/13. This will ensure that the authority maximises the potential resources that it has available to fund the provision of social housing.

(One Right to Buy receipt was generated in the first quarter of 2012-13, but this receipt has already been taken into account within the Authority's specified allocation (paragraph 9.3)).

9.10 Right to Buy – Modelling of Receipts

Appendix 2 shows initial modelling undertaken to demonstrate how the elements of the RTB receipt (detailed in per 9.7 above) would be split, depending on various levels of sales.

This initial modelling indicates that, assuming average gross RTB receipts of £116,000, there would need to be approximately 19 sales before any receipts would be available for re-provision.

The last three rows in the table in Appendix 2 show the impact of retaining receipts for re-provision, in terms of demonstrating that the money has been spent in accordance with the terms of the agreement with the Secretary of State:

(1) Spend on re-provision to be demonstrated within 3 yrs
This sum represents the total spend on re-provision that the authority would need to demonstrate within three years - such that the receipts available for re-provision constitute no more than 30% of this total spend.

(2) Other RTB receipts retained by LA (b+ci)
This sum represents the other elements of the RTB receipts retained by the authority that could be used to fund the remaining 70% of the total spend on re-provision.

(3) Additional non RTB resources required to fund re-provision
Where (2) above is insufficient to fund the remaining 70% of the total spend on re-provision, this sum represents additional resources such as borrowing/ HRA balances that would be needed to fund the gap.

NB. It should be noted that the re-provision sums in Appendix 2 represent amounts that would need to be spent on re-provision based on various RTB sales assumptions, and do not indicate a one-for-one replacement scheme.

9.11 Quarterly Reporting

The new RTB changes are further complicated by the need to report to CLG on a quarterly rather than annual basis. Due to the way in which the assumed figures will be split over the year, the breakdown of the different elements of the receipts will differ depending on when RTB sales take place during each year - if all RTB receipts are received in the first quarter of the year the amount retained by the local authority, and amounts available for re- provision could differ from if the same receipts were received steadily through the year. This added layer of complexity increases the difficulty of financial planning within the HRA.

9.12 Number of Right to Buy Sales

In terms of the number of future RTB sales, the initial financial modelling carried out last year used the assumptions in the HRA Self-Financing settlement, i.e. 13 right to buy sales in 2012/13, rising to 23 a year by the end of the 30 year period.

The subsequent change in RTB policy may have a large impact on the future viability of the HRA. If future RTB sales reflect peak level of sales from ten years ago, the HRA could lose over 500 properties a year. The resulting loss of rental income would be greater than the accompanying reduction in variable costs, meaning that the HRA would need to make additional savings in order to maintain the financial position that it would have been in had the sales not taken place.

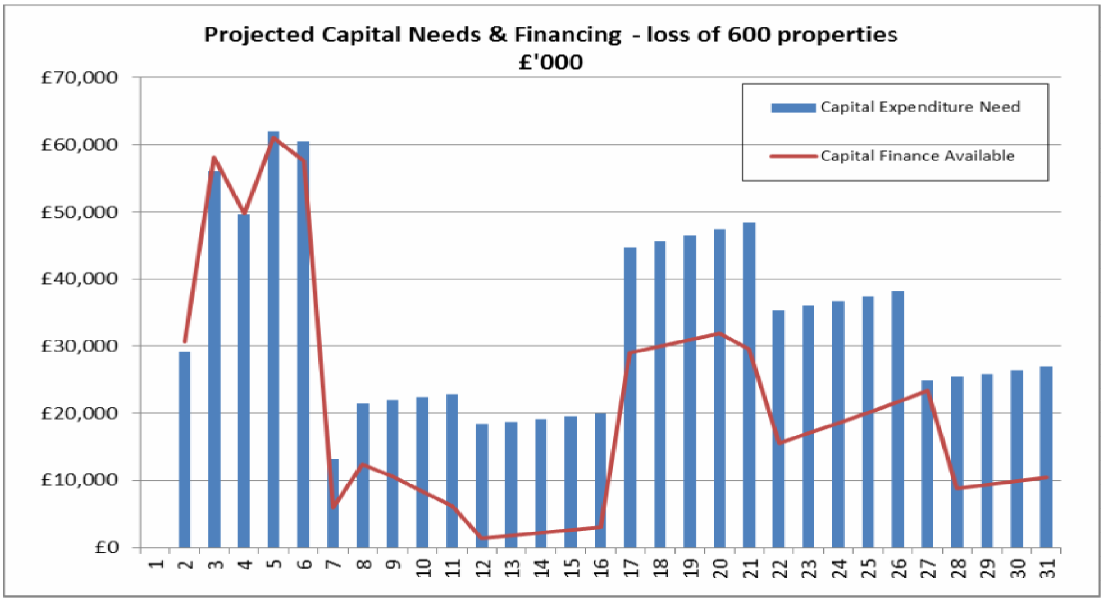
9.13 Right to Buy - Applications in 2012/13

During the first quarter of 2012/13, in excess of 400 RTB applications have been registered, compared with less than ten at the same stage in 2011/12. Although not all applications will lead to a sale, a significant number will.

The RTB process takes between five and 18 months from application to sale completion, and the trend in RTB sales will not be apparent until the end of this year. It is likely that the Q1 figures have been inflated by applications from the end of 2011/12 that were put on hold until the enhanced maximum discount came into effect from April 2012. The levels of applications will continue to be closely monitored and reported.

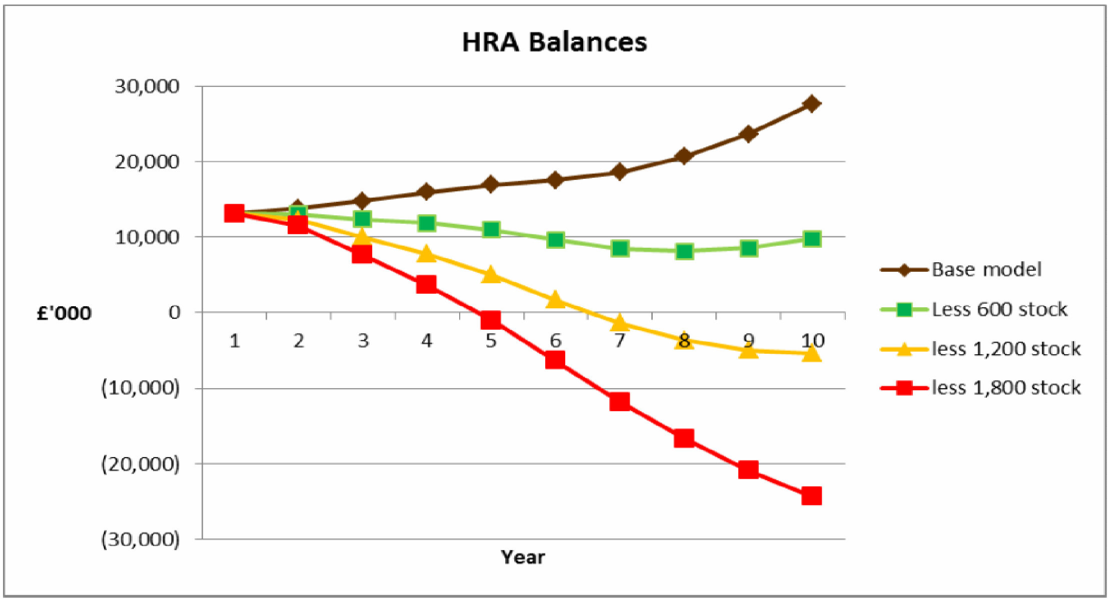
9.14 Impact on the HRA

Graph 3 below indicates how the loss of 600 properties could affect the ability of the HRA to finance the capital programme.



Graph 3: Projected capital programme and available financing – loss of 600 properties

In terms of revenue resources, Graph 4 below indicates how the loss of 600, 1,200 and 1,800 properties could affect the level of HRA balances over the first 10 years of the model. As can be seen, the more properties that are lost, the more significant the effect on HRA balances and hence the viability of the HRA in the longer term.



Graph 4: Projected HRA balances– loss of 600, 1,200 or 1,800 properties

Welfare Reform

9.15 The Welfare Reform Act received Royal Assent in March 2012, and constitutes the biggest change to the welfare system for over 60 years. A number of changes have yet to take effect, but as a large proportion of Tower Hamlets tenants are in receipt of benefits, it is likely that there will be pressures on rents and debt collection in future. Further details on the changes that are expected to have the most impact are detailed below.

9.16 Benefit Cap

From April 2013 the following weekly caps will be introduced:

- Family household – weekly benefit cap of £500
- Single household – weekly benefit cap of £350

Early estimates are that of Tower Hamlets Homes tenants, 450 households will find that their current benefits are higher than the capped amounts, and their benefits will therefore be reduced. The estimated weekly loss for these households is £60.56, (£3,149 a year) which could lead to £1.4m of rental income becoming harder to collect. Any non-collection of rental income would necessitate an equivalent increase to the bad debt provision.

9.17 Under-Occupation

From April 2013, if the tenant is of working age, the Government will no longer pay them full housing benefit if they are deemed to be under-occupying their home. The amounts deducted will be as follows:

- if under-occupying by one bedroom, housing benefit will reduce by 14% -this is estimated as approximately £12.50 for a three bedroom house;
- if under-occupying by two or more bedrooms, housing benefit will reduce by 25% -this is estimated as approximately £22.50 for a three bedroom house

Early estimates are that, of Tower Hamlets Homes tenants, 1,038 households will be affected by these changes, and that the estimated weekly loss for these households will be £17.86 (£928 a year) which could lead to £0.954m of rental income becoming harder to collect. Again, any non-collection of rental income would necessitate an equivalent increase to the bad debt provision.

9.18 Universal Credit and Direct Payments

Universal Credit is a new benefit to be introduced for working age people, combining the main out of work benefits; housing benefit, income support, job seekers allowance, income related employment and support allowance, child benefit, child tax credit and carer's allowance.

Universal credit will be administered by the Department of Work and Pensions (DWP), and will be paid monthly directly into claimants' bank accounts. In the case of Housing Benefit, this is a change to the current arrangements where weekly payments are made direct to the landlord, i.e. the local authority in the case of the HRA.

In addition, claims will need to be made online, which may be a particular issue in Tower Hamlets where IT literacy levels are low.

These changes will come into effect from October 2013 for new claimants and claimants who have had a change of circumstances, and will then be rolled out in a phased programme up to the end of 2017 for existing claimants.

Decent Homes funding

9.19 Decent Homes funding of £94.5m is assumed in the HRA model, however, it should be noted that the resources for 2013-14 and later years will not be confirmed until later in this financial year i.e. the £71m projected for 2013/14 and 2014/15 is not currently confirmed. It is critical that the Authority deliver the allocated funding in 2012/13 and maximise its Decent Homes returns, as funding for 2013/14 and 2014/15 is subject to meeting agreed performance targets. However it should also be noted that funding availability is also dependent upon the continuation of Government economic policy.

9.20 The Authority has committed to financing the Decent Homes backlog, and arising needs over the first five years of the programme; this equates to approximately £175m, of which the backlog funding element (£149.5m) was agreed by Cabinet on September 7th 2011.

Interest Rates and Debt

9.21 The Council began Self-Financing with HRA debt of approximately £70m, the majority of which relates to market loans, which exposes the HRA to interest rate risks. Modelling shows that the Authority will need to prudentially borrow at a future date in order to finance the capital programme, therefore a proactive Treasury Management strategy is necessary to ensure that the Authority borrows at the most appropriate and advantageous point in time.

Leaseholder Major Works monies

9.22 Leaseholders represent 40% of the HRA stock, and where capital works required are of an external or communal nature, leaseholders are required to contribute to their share of the costs. It is crucial that leasehold major works debt is pursued in a robust manner, as a failure to do so will result in budget pressure within the HRA.

10. MEDIUM TERM FINANCIAL PLAN

10.1 The Council has previously agreed a HRA financial strategy focusing on efficiencies with regard to:

- Costs of management and administration (including THH Core, and Council recharges);
- Costs that are recharged to leaseholders, whilst reducing service charge arrears;
- Capital investment and revenue maintenance (medium to long-term)

10.2 In addition to the medium term financial strategy outlined above, the following financial principles to facilitate viability under self-financing were agreed by Cabinet on July 7th 2010:

- Income from the management of non-dwelling related HRA activities should aim to cover the total cost of providing these services to avoid being subsidised from tenants rents;
- Rents should not subsidise service charges, nor vice versa;
- The Council aims to achieve rent convergence in line with Government guidelines (2015/16);
- High emphasis on debt collection, to minimise provision for bad debts;
- Treasury management strategy for the HRA focuses on longer term stability at a rate below the CLG discounted net present value.

10.3 Cabinet has previously agreed a 3 year efficiency target for management and administration of £4.7m for the 3 years from 2011-14. £3m of those efficiencies were achieved in 2011/12 and savings of £1.7m (to be delivered over the period 2011/12 to 2013/14) were identified as part of last year's Options Appraisal, and are reflected in Appendix 3.

10.4 Appendix 3 highlights the latest projected position on the HRA over the next three years, including changes to capital financing costs and planned demolitions for Phase 2 of the Blackwall Reach regeneration scheme. Also incorporated are the various income and expenditure assumptions contained within the 30 year business plan, and includes known changes to the budget, including the effects of changes to stock numbers due to the impact of various regeneration schemes.

10.5 As can be seen in Appendix 3, the HRA is projected to breakeven over the three years of the MTFP. However, this report highlights a number of likely risks to the HRA, particularly in relation to future loss of stock due to RTB changes (paragraphs 9.1 – 9.14) and the impact of Welfare Reform on rental income (paragraphs 9.15 – 9.18). Early estimates are that the impact on the HRA of these two factors could be in the region of approximately £1.5m per year compared to the MTFP shown at Appendix 3. These risks will be considered as part of the 2013/14 Service & Resource Planning process.

10.6 The 2012/13 Management Fee reflected savings of £1.517 million, encompassing £1.335 million savings agreed as part of the Options Appraisal, and £0.182 million savings to reflect a reduction in stock numbers owing to the transfer of properties on the Ocean Estate to East Thames Housing Group. The major budgetary savings must by necessity be delivered from the management fee.

11. ADOPTION OF CAPITAL ESTIMATES – EAST LONDON RENEWAL PARTNERSHIP FUNDED

11.1 The report is also seeking the adoption of a new capital estimate of £500,000 in respect of the award of Private Sector Renewal Grants, to be fully funded from ringfenced resources already received from the East London Renewal Partnership.

Private Sector Renewal Grant

11.2 The existing programme supports the aims and objectives of the Council's Private Sector Housing and Empty Properties Framework and targets financial assistance to owner occupiers and private tenants who are vulnerable due to age, disability or low household income, to help them live as safely, healthily and independently as possible in their homes.

11.3 The interventions that the programme supports are;

- Discretionary Disabled Facilities Grants.
- Home Repairs Grants for minor aids and adaptations, energy efficiency, minor repairs, home security, hazard removal and relocation assistance.
- Empty Property Grants.

11.4 These contribute to the strategic objectives of both the East London Renewal Partnership and the Mayor of London by:

- Reducing the number of private sector residents living in homes that do not meet the 'decent homes' standard.
- Improving energy efficiency and thereby reduce both carbon emissions and fuel poverty.
- Reducing the number of hospital admissions by providing minor adaptations aimed at falls prevention in the home.
- Reducing the number of long term empty properties in the borough and increasing the number of affordable private sector units of accommodation available for letting.

11.5 Funding streams for this programme are limited, and officers have investigated alternative ways of ensuring that these vital services to vulnerable private sector residents are maintained. The ending of the sub-regional empty property programme which had been delivered via the East London Renewal Partnership has transferred residual funding to partner boroughs with an attached condition that it must be used for empty property work. It is therefore proposed to apply £350,000 of these resources to finance empty property grants, and £150,000 of reimbursed prior year funding to fund the other discretionary grants in the private sector programme. Utilising these residual sub-regional resources will reduce funding pressures in the short term and will also comply with the conditions of use which are attached to the transferred funds. Officers will continue to assess funding options for the programme to be continued into 2013-14.

11.6 If Members agree the funding proposal, in addition to Empty Property Grants, the main areas of work supported will be:

- Provision of discretionary disabled adaptation works.
- Provision of extended warranties on existing disabled adaptations such as, stair and through floor lifts, automatic toilets and ceiling track hoists etc.
- Repairs to previously installed adaptations such as shower doors, shower units and pumps etc.
- Priority heating repairs or replacements.
- General repairs and removal of minor hazards in the home.

11.7 A capital estimate of £500,000 is therefore sought which will include £150,000 in respect of the Private Sector Discretionary Grant Programme for the year 2012-13 to maintain support for vulnerable private sector residents.

12. ADOPTION OF CAPITAL ESTIMATES – SECTION 106 FUNDED

12.1 This report also seeks Mayoral approval for the adoption of capital estimates in respect of the passporting of Section 106 resources to Transport for London in relation to the upgrade of Bromley by Bow station and to support the refurbishment of the Wellington Way Health Centre in conjunction with the Primary Care Trust.

12.2 Although the Section 106 resources are earmarked for these specific purposes, in accordance with Financial Regulations, capital schemes must be included within the Council's capital programme, and capital estimates adopted prior to any expenditure being incurred. This report seeks the adoption of the necessary capital estimates in order that the passporting of Section 106 resources can be progressed.

12.3 Section 106 of the Town & Country Planning Act 1990 allows a Local Planning Authority (LPA) to enter into a legally binding agreement or planning obligation with a developer to manage the impact of the development on its local environment. The S106 agreement is negotiated between the Local Planning Authority and the developer with the intention of making acceptable a development which would otherwise be unacceptable in planning terms.

12.4 The Corporate Director - Development and Renewal has put in place a Corporate Structure which allows the Council to review, assess and agree the expenditure of the S106 monies by third parties in a transparent manner. This initial stage of this process is the approval of the project by the officer Planning Contributions Overview Panel.

12.5 Following consideration by PCOP, this report seeks the adoption of the necessary capital estimates in order that the passporting of Section 106 resources can be progressed.

12.6 The Mayor in Cabinet is recommended to:-

- Adopt a capital estimate of £3,500,000 to allow the passporting of specific Section 106 resources to Transport for London as a contribution towards the upgrade of Bromley by Bow station (paragraphs 12.7 to 12.11).

- Adopt a capital estimate of approximately £3,200,000 to allow passporting of specific Section 106 resources to NHS London as a contribution to support the refurbishment of the Wellington Way Health Centre (paragraphs 12.11 to 12.17).

Bromley by Bow Station

12.7 The project comprises step free access onto each of the platforms at Bromley by Bow Station, an increase in the passenger capacity and safety in the ticket hall and over-cladding the existing ticket hall structures to provide enhanced ambience to the station exterior and interior. Works are necessary to increase capacity and ease of use at the station in response to significant and on-going development in the area.

12.8 The design and delivery of the works will follow standard London Underground practice, through the procurement of design and build elements as separate contracts. All activities will be overseen and monitored by the Underground's Capital Projects Directorate through a London Underground Project Team whose structure will mirror that of the contractor.

12.9 Approval is sought to commit to passport the specified resource of £3.5m received through the St Andrew's S106 agreement and to Transport for London, the funds being used to progress the implementation of the scheme. Prior approval is necessary in order to gain approval from the Rail Underground Board (Transport for London) to proceed with the project, provide its own funds and to allow it to contract with LTGDC or its successor to draw down further funds for the design work. The full amount of the s106 funds will be required for implementation which is currently spread over two phases.

12.10 The S016 contributions which will be utilised by this project are being secured through the Deed Creating Planning Obligations and Undertakings in Relation to Land at the Former St Andrew's Hospital Site, Devas Street, London E3 3NT dated 7th April 2009. The total financial contribution to LBTH under this agreement and Heads of Term is expected to be £3,500,000. The contribution is set out in Schedule 8 and states:

The Council shall apportion and utilise the Financial Contribution for the following purposes and for no other purposes:

a Three million five hundred thousand pounds (£3,500,000) for the Bromley by Bow Station and associated connectivity improvements;

<u>Wellington Way Health Centre Refurbishment Project</u>

12.11 The project comprises significant refurbishment of the Wellington Way Health Centre. Development of health services at Wellington Way will provide suitable, fit for purpose, premises and primary care services (GP and pharmacy) for the populations of LAPS 5, 6 & 7; working with St Andrews to provide some specialist local services.

12.12 There are clear needs to further develop healthcare services for the growing population of E3. Primary care services in E3 are under pressure, it is an area of high healthcare need with a growing population.

12.13 This initial phase of the Wellington way project includes the construction and fitting-out of a new three storey building at 30 Bow Road/2A Wellington Way. The new facility will provide eight consulting rooms to be used by GPs and practice nurses.

12.14 The Deed Creating Planning Obligations and Undertakings in Relation to, 22 Marsh Wall dated 13th March 2006. The total financial contribution to LBTH under this agreement is expected to be £3,051,418. The contribution is set out in Schedule 8 and states:

The Council shall apportion and utilise the Financial Contribution for the following purposes and for no other purposes:

- *towards mitigating the impact and effects of the Development on existing medical Facilities in the administrative area of the Primary Health Care Trust.*

12.15 The Deed Creating Planning Obligations and Undertakings in Relation to 69 Fairfield Road, Bow, London E3 2QA dated 26th July 2006. The total financial contribution to LBTH under this agreement is expected to be £155,808. The contribution is set out in Schedule 8 and states:

The Council shall apportion and utilise the Financial Contribution for the following purposes and for no other purposes:

- *towards the provision of health care facilities.*

13. <u>ST CLEMENT'S HOSPITAL – GREATER LONDON AUTHORITY TARGETED FUNDING (FORMERLY HOMES AND COMMUNITIES AGENCY)</u>

13.1 The Council was successful in attracting Targeted Funding Stream monies of £5.5 million from the Homes and Communities Agency (HCA) in 2009 to work in partnership with the HCA to bring St Clement's Hospital back into use as a housing development with community facility and the maximum amount of affordable housing as could be provided.

13.2 The grant was received from the HCA in March 2009, and a capital estimate for the full £5.5million was adopted by Cabinet on 29 July 2009 to enable the Council to negotiate and enter into a grant agreement to facilitate the regeneration of the site.

13.3 With the abolition of the HCA, functions have transferred to the Greater London Authority which now owns the site. The GLA has recently concluded a procurement process to attract a developer and a Registered Provider and will be entering into a legal agreement with them.

13.4 It is therefore intended that the grant held by the Council will be utilised to enable affordable housing to be developed on the site. Authority is therefore sought to enter into a grant agreement with the GLA to pay the remaining grant once the developer has successfully gained planning permission for the St Clement's site.

13.5 The grant agreement will have conditions attached to it to ensure that the affordable units will remain affordable in perpetuity.

13.6 Although Cabinet approval has already been granted for the funding of this scheme, delegated authority to the Corporate Director of Development and Renewal is sought to enter into this grant agreement to enable the St Clements hospital site to be bought forward for redevelopment.

14. <u>EQUALITIES</u>

14.1 The agreement with the Secretary of State about retention of receipts for the sale of homes under the amended Right to Buy system will have no effect on the equality for residents.

14.2 In relation to the decisions regarding the redevelopment of St Clements, the upgrade of Bromley by Bow station and the revamp of Wellington Way Health Centre, any equality implications have been considered within the equality analyses for each scheme (see Section 17 – One Tower Hamlets Considerations, below).

14.3 In respect of the private sector support grant, the aids and adaptations described are intended to have a positive impact on equality for specified vulnerable groups, including people with disabilities or limited mobility who may otherwise not be able to live independently, or afford to heat their homes. They are intended to have a positive and disproportionate impact on disabled and older residents and people on low incomes.

15. COMMENTS OF THE CHIEF FINANCIAL OFFICER

15.1 This report sets out the projected HRA medium term position, and the main risks facing the HRA over that period. The MTFP and HRA financial model will be further developed over the course of the Service and Resource Planning cycle and integrated into the 2013/14 budget process.

15.2 While the MTFP shows a balanced HRA over the 2013-14 to 2015-16 period, with resources available to fund the revenue contribution towards the backlog decent homes capital works as agreed by Cabinet in September 2011, the report highlights a number of risks that will impact on the HRA during the three year term. If additional costs arise as a result of these pressures, it will be necessary to find additional savings to balance the HRA. Whilst additional costs may be covered by use of reserves in the short-term, the HRA business plan depends upon putting sufficient reserves aside in the early years to continue to invest in the housing stock after the debt cap has been reached.

15.3 The likely increase in the number of properties sold under the amended right to buy legislation (paragraphs 9.12 to 9.14) will require a significant reduction in costs within the HRA to offset the loss in rental income.

15.4 The proposed changes to the welfare system could have major implications for the Housing Revenue Account. Paragraphs 9.15 to 9.18 outline certain issues that will affect the HRA, but a more detailed report on Welfare Reform will be submitted separately for consideration by Cabinet.

15.5 It is suggested that the impact on the Housing Revenue Account of these pressures could be in the region of £1.5 million per annum (paragraph 10.5). It should be noted that this is an indicative figure and could change significantly when the impact of the legislation can be better assessed. These risks will be considered as part of the on-going service and resource planning process. It is essential that ultimately any process to identify savings takes place in conjunction with Tower Hamlets Homes, to identify and generate further efficiencies and savings within this and future years' budgets, to ensure the Council complies with its statutory requirement to maintain a balanced Housing Revenue Account, and that the capital investment programme is fully financed.

15.6 The Council is required to maintain a reasonable level of reserves in the HRA to mitigate possible financial risks, and under Self-Financing, is now responsible for the financing of all expenditure necessary to maintain and improve the housing stock, including completion of the Decent Homes programme. All future capital work will be funded through a combination of, primarily, borrowing (within the constraints of HRA Business plan viability and the HRA's debt cap), contributions from reserves, leaseholder contributions and grants.

15.7 The report also recommends that the authority sign the agreement with the Secretary of State, which will allow the authority to retain and use future additional right to buy receipts. Under the terms of the agreement, the authority must show that the relevant receipts have been spent within three years on the provision of social housing, and that such receipts constitute no more than 30% of the cost of the projects. If the authority is unable to fulfil these conditions it will have to pay these receipts to the DCLG, with interest.

15.8 Due to the conditions of the agreement, it will be crucial for the authority to regularly monitor the number of right to buy sales, the receipts received, and the amount being spent on the provision of social housing, so that the authority can ensure that it is able to fulfil the conditions of the agreement, and that no receipts become payable to the DCLG.

15.9 This report seeks the adoption of capital estimates for Private Sector Renewal Grants and Section 106 funded schemes (sections 11 and 12). Resources are already held to fully finance these projects, however under the Council's Financial Regulations, capital estimates must first be approved in order that the schemes are included within the capital programme prior to any expenditure being incurred.

15.10 Approval is sought to enter a grant agreement with the Greater London Authority in respect of the of the St Clement's Hospital site (section 13). Grant resources were received from the former Homes and Communities Agency in 2009 in respect of this site, and it is now proposed that a grant agreement is entered into with the GLA which is leading the procurement process to deliver affordable housing on the site. Although Cabinet approval has already been granted for the funding of this scheme, delegated authority to the Corporate Director of Development and Renewal is sought to enter into the grant agreement to enable the St Clements hospital site to be bought forward for redevelopment.

16. CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL SERVICES)

16.1 Section 11 of the Local Government Act 2003 ("**LGA 2003**") authorises the Secretary of State to make provision about the use of capital receipts by local authorities. Such provision has been made in the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003. The Regulations require local authorities to pool capital receipts from housing land and make specified payments to the Secretary of State from those receipts. On 15 November 2011, section 11(6) was inserted into the LGA 2003, permitting the Secretary of State to enter into agreements with local authorities that remove or modify the requirement to make such payments. These provisions provide the statutory framework for the agreement proposed in Appendix 1 to the report.

16.2 The Council is subject to an obligation under Part VI of the Local Government and Housing Act 1989 to maintain a housing revenue account (HRA). The Council is required to prepare proposals in January and February each year relating to the income of the authority from rents and other charges, expenditure in respect of repair, maintenance, supervision and management of HRA property and other prescribed matters. The proposals should be based on the best assumptions and estimates available and should be designed to secure that the housing revenue account for the coming year does not show a debit balance.

16.3 The Localism Act 2011 abolished HRA subsidy in England and made consequential changes to the system of housing finance in England. In particular, section 171 of the Localism Act placed a limit on the maximum amount of housing debt that an authority may hold and authorised the Secretary of State to make determinations as to how that maximum should be determined. Against this background, it is consistent with sound financial management for the Council to take a longer-term view of its ability to maintain a positive balance in the HRA, to consider the factors that may impact the account and determine a general approach to the strategic and resource planning process. This approach accords with the Council's obligation under section 151 of the Local Government Act 1972 to make proper arrangements for the management of its financial affairs and under the Accounts and Audit (England) Regulations 2011 to have a sound system of internal control which includes arrangements for the management of risk.

16.4 The report seeks approval for capital estimates in relation to a variety of schemes. In compliance with section 151 of the Local Government Act 1972, the Council has in place Financial Regulations and Financial Procedures. The Financial Regulations set a threshold of £250,000, above for which Cabinet approval is required for a capital estimate. The Financial Procedures supplement this requirement.

16.5 It is important that any capital schemes are carried out within the Council's statutory powers. It will be for officers to ensure this is the case. Any procurement associated with works or projects must be carried out in accordance with the Council's procurement procedures and the requirements of the Public Contract Regulations 2006. The terms of any funding agreement will need to be complied with. The schemes appear capable of being carried out within the Council's powers and, in this regard, the following is noted –

- The Council administers the disabled facilities grant scheme under Part 1 of the Housing Grants, Construction and Regeneration Act 1996. The Secretary of State makes a contribution to the expenditure incurred, but there is no barrier to a further allocation being made by the Council if the cost of the scheme exceeds the government contribution.
- The Council has obligations to provide aids and adaptations under a variety of legislation.

- The Council has a statutory repairing obligation under section 11 of the Landlord and Tenant Act 1985 in circumstances where it is the landlord.
- By virtue of section 111 of the Local Government Act 1972, the Council has power to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions. This may involve expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights.
- The Council has power under section 1 of the Localism Act 2011 to do anything that individuals generally may do, subject to specified restrictions and limitations imposed by other statutes.

16.6 The proposals regarding the Bromley by Bow Station and Wellington Way Health Centre are in compliance with their respective Section 106 agreements. In entering into the grant agreement with GLA for the St Clement's Hospital Project the Council will have a duty of best value under Section 3 Local Government Act 1999 which requires best value authorities, including the Council, to "make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness".

16.7 When considering the recommendations in the report, the Council must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who don't. Information is contained in the report relevant to these considerations.

17. <u>ONE TOWER HAMLETS CONSIDERATIONS</u>

17.1 The budget and Medium Term Financial Plan is one of the main instruments through which the Council delivers its Strategic Plan, including its objective to promote One Tower Hamlets. It is important that decisions taken as part of the budget process take account of equalities and diversity issues.

17.2 In relation to the Section 106 funded projects, impact assessments in relation to diversity and equalities have been undertaken:

- Improving access and capacity of Bromley by Bow station to support the anticipated level of growth is a key objective and intervention for the Bromley by Bow Masterplan Supplementary Planning Document. The Masterplan was approved by Cabinet in May 2012 and forms part of the Council's Local Development Framework. The Bromley by-Bow Masterplan SPD was subject to an Equality Analysis where the objectives including the aspiration to improve the station were a key consideration to determine the equalities impacts of the Bromley by Bow Masterplan and proposed intervention.

- In relation to the Wellington Way Health Centre, the Council and the NHS developed a joint 'Health and Well-being Strategy' in 2010 to ensure services are provided for people living in the borough. This ten year strategy spans a period of dramatic change for the borough in terms of population growth and regeneration. The vision of the strategy is to create a co-ordinated and integrated network of community based services delivered in modernised buildings nearer to where people live and work. Services will be much more accessible to local people in terms of location and opening times. The Wellington Way project is identified as meeting the strategic aims of the Health and Wellbeing Strategy**.**

17.3 As referred to in the Equalities section above (Section 14), in respect of the private sector support grant, the aids and adaptations described are intended to have a positive impact on equality for specified vulnerable groups, including people with disabilities or limited mobility who may otherwise not be able to live independently, or afford to heat their homes. They are intended to have a positive and disproportionate impact on disabled and older residents and people on low incomes.

18. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

18.1 There are no specific implications arising from the recommendations in this report.

19. RISK MANAGEMENT IMPLICATIONS

19.1 The absence of a forward financial forecast would expose the Council to the risk of making decisions which are not sustainable in the longer term, or of missing opportunities which might only be identified through a longer term planning horizon. Furthermore, inadequate integration of service and financial planning gives rise to the possibility of service planning without regard to affordability, or a budget that does not direct resources to service priorities.

19.2 This report, and its subsequent development, is intended to substantially address those risks.

20. CRIME AND DISORDER REDUCTION IMPLICATIONS

20.1 There are no significant implications arising from these specific recommendations.

21. EFFICIENCY STATEMENT

21.1 The efficiency and value for money implications of individual budget proposals will be set out as part of the budget process as it progresses.

22. APPENDICES

Appendix 1 – Right to Buy agreement
Appendix 2 – Indicative Modelling of Right to Buy receipts
Appendix 3 – HRA Medium Term Financial Plan projections 2013-2016

Local Government Act, 1972 Section 100D (As amended)
List of "Background Papers" used in the preparation of this report

There are no working papers applicable to this report

APPENDIX 1

RIGHT TO BUY AGREEMENT

Agreement – Section 11(6) of the Local Government Act 2003

This agreement is made pursuant to section 11(6) of the Local Government Act 2003.

Parties

The Secretary of State for Communities and Local Government ("the Secretary of State") and

London Borough of Tower Hamlets ("the Authority").

This agreement comprises 10 pages

General

1. In this agreement :

   "the due date", "quarter" and "the relevant quarter" have the same meaning as in the Regulations;
   "receipts" means the receipts to which Schedule 1 to the Regulations applies;
   "retained amount" means the amount calculated in Part 1;
   "the Regulations" mean the Local Authority (Capital Finance and Accounting) (England) Regulations 2003;
   "social housing" means low cost rental accommodation as defined by section 68(1)(a) of the Housing and Regeneration Act 2008;
   "the sub-liability" means the sub-liability calculated under Schedule 1 to the Regulations;
   the terms "A", "E", "F","G", "J" and "K" used in this agreement have the same meaning as in Schedule 1 to the Regulations.

2. This agreement applies to receipts received on or after 1st April 2012 ("the commencement date").

3. The Authority is not required to pay to the Secretary of State such portion of the sub-liability calculated in accordance with Part 1 of this agreement provided the Authority complies with the conditions set out in this agreement.

4. The Authority must use the retained amounts for the provision of social housing. Any amounts not used for this purpose must be paid to the Secretary of State and interest will be payable calculated in accordance with paragraph vi of Part 1.

5. The Authority must provide the information set out in Parts 1 and 4 of this agreement to the Secretary of State at the times and in any format the Secretary of State may request.

6. This agreement may be terminated by the Secretary of State by giving notice of one quarter.

7. This agreement may be amended by agreement.

Part 1 - Calculation of the portion of the sub-liability that the Authority may retain.

i. Where in any quarter –

   A is more than (3.39847729 x G) + E + F + J

   the Authority may retain an amount ("the retained amount") up to–

   K less (2.398347729 x G).

ii. The Authority must inform the Secretary of State of the following by the due date of the relevant quarter-
   (a) the value of K less (2.398347729 x G);
   (b) the retained amount; and
   (c) any amount not retained by the Authority.

iii. Where the Authority has informed the Secretary of State (under paragraph ii(c)) that an amount will not be retained, the Authority must pay that amount to the Secretary of State by the due date of the relevant quarter.

iv. Where the Authority has informed the Secretary of State that an amount will not be retained and fails to pay that amount on the due date of the relevant quarter, interest is payable and incurred from the due date until the Authority pays that amount to the Secretary of State.

v. Where the Authority does not inform the Secretary of State of the amount it will not retain by the due date of the relevant quarter, it will be assumed that the retained amount for that quarter is the full amount the Authority may retain and where an amount is not retained and is paid to the Secretary of State, interest will be payable and incurred from the due date until the date the Authority pays that amount to the Secretary of State.

vi. The Authority may pay any part of the retained amount to the Secretary of State and where it does so, interest is payable and incurred from the due date of the relevant quarter in which the retained amount was retained by the Authority until the date it is paid to the Secretary of State.

Part 2– Return of retained amounts

i. This Part applies where 13 quarters have expired since the commencement date.

ii. In this Part :

“the reckonable quarter” means the quarter 12 quarters prior to the relevant quarter;

“quarter 1” means the quarter in which the commencement date falls;

A is the total of the retained amounts for all quarters from quarter 1 to the reckonable quarter;

“the total amount spent on the provision of social housing” is the amount spent on the provision of social housing from quarter 1 to the last day of the relevant quarter;

R is the total of the returnable amounts calculated under paragraph iv of this Part and amounts paid to the Secretary of State under paragraph vi of Part 1 for all the quarters from quarter 1 to the reckonable quarter.

iii. The total retained amount is calculated as follows –

$$A – R.$$

iv. Where on the last day of the relevant quarter, the total retained amount exceeds 30% of the total amount spent on the provision of social housing, the Authority must pay to the Secretary of State the portion of the total retained amount in excess of 30% of the total amount spent on the provision of social housing (“the returnable amount”).

v. Where the Authority must pay a returnable amount to the Secretary of State under paragraph iv of this Part, interest is payable, calculated and incurred from the due date of the reckonable quarter until the date the returnable amount is paid to the Secretary of State.

Part 3 - Calculation of interest

Where interest is payable under this agreement, it will be calculated at a rate of 4% above the base rate on a day to day basis compounded with three-monthly rests and “base rate” has the same meaning as in the Regulations.

Part 4 - Provision of information

On the due date of each relevant quarter the Authority must provide to the Secretary of State the details of the number of starts on site since the commencement date.

“Start on site” means the earlier of commencement of the following by the Authority or other body to which the Authority has paid all or part of the retained amount for the purpose of providing social housing:

(a) excavation for strip or trench foundations or for pad footings;

(b) digging out and preparation of ground for raft foundations;

(c) vibrofloatation, piling, boring for piles or pile driving; or

(d) drainage work specific to the buildings forming part of the scheme.

RIGHT TO BUY AGREEMENT

Part 5 – The amount spent on the provision of social housing

i. The amount spent on the provision of social housing shall not include any expenditure which has been used or which the authority intends to use to-

(a) reduce a capital receipt under regulation 15(1)(c) of the Regulations (capital allowance); or

(b) buy back a relevant interest defined in paragraph 3(1)(b) of the Schedule to the Regulations and claim buy back allowance in respect of that expenditure under paragraph 3 of the Schedule to the Regulations.

ii. The amount spent on the provision of social housing shall not include any expenditure on dwellings which are social housing at the time of the expenditure.

iii. The amount spent on the provision of social housing is the amount spent by the Authority or by a body to which the Authority has paid some or all of the retained amounts (such body must not be a body in which the Authority holds a controlling interest) on the development costs associated with the provision of social housing for the benefit of the Authority's area.

iv. Where the Authority has paid all or some of the retained amounts to a body for the purpose of contributing towards the cost of providing social housing, the Authority must ensure that only retained amounts provided by the Authority have been used by such body for the provision of social housing for the benefit of the Authority.

v. Social housing is provided for the benefit of the Authority where it is situated in the area of the Authority or the Authority has nomination rights in respect of the social housing.

vi. The amount spent on social housing includes the following:

(a) the development costs associated with the acquisition of dwellings to be used as social housing;

(b) the development costs associated with the acquisition of land for the construction of dwellings to be used as social housing;

(c) the development costs of the construction of dwellings to be used as social housing.

vii. In this Part “development costs” means the costs set out in Part 6.

Part 6 – Development costs

Development costs means the costs relating to the development of social housing in respect to the heads of expenditure set out below.

Heads of expenditure

1 ***Acquisition***

1.1 *Purchase price of land/site.*

1.2 *Stamp Duty Land Tax on the purchase price of land/site.*

2 ***Works***

2.1 *Main works contract costs (excluding any costs defined as on costs).*

2.2 *Major site development works (where applicable). These include piling, soil stabilisation, road/sewer construction, major demolition.*

2.3 *statutory agreements, associated bonds and party wall agreements (including all fees and charges directly attributable to such works) where applicable.*

2.4 *Additional costs associated with complying with archaeological works and party wall agreement awards (including all fees, charges and claims attributable to such works) where applicable.*

2.5 *Irrecoverable VAT on the above (where applicable).*

3 ***On costs***

3.1 *Legal fees and disbursements.*

3.2 *Net gains/losses via interest charges on development period loans.*

3.3 *Building society or other valuation and administration fees.*

3.4 *Fees for building control and planning permission.*

3.5 *Fees and charges associated with compliance with European Community directives, and any requirements relating to energy rating of dwellings, Eco-Homes certification and Housing Quality Indicators.*

3.6 *In-house or external consultants' fees, disbursements and expenses (where the development contract is a design and build contract) (see note 1 below).*

3.7 *Insurance premiums including building warranty and defects/liability insurance (except contract insurance included in works costs).*

3.8 *Contract performance bond premiums.*

3.9 *Borrowing administration charges (including associated legal and valuation fees).*

3.10 *An appropriate proportion of the development and administration costs of the Authority or the body in receipt of funding from the Authority.*

3.11 *Irrecoverable VAT on the above.*

Note 1

Where the development contract is a design and build contract, the on-costs are deemed to include the builder's design fee element of the contract sum. The amount included by the builder for design fees should be deducted from the works cost element referred to above, as should other non-works costs that may be submitted by the builder such as fees for building and planning permission, building warranty, defects liability insurance, contract performance bond and energy rating of dwellings.

Note 2

Some items will not qualify as development costs unless the Authority can clearly demonstrate that such costs are properly chargeable to the social housing, i.e. for the sole use of the residents or to comply with any statutory obligations that may have been imposed.

Examples of these are as follows:

- *works to any roads which do not exclusively serve the social housing;*
- *landscaping to areas of land which lie outside the boundaries of the land on which the social housing is situated;*
- *district heating systems;*
- *trunk sewers and sewage disposal works;*

- *special refuse treatment buildings;*
- *public conveniences;*
- *community halls, club rooms, recreation rooms.*

Note 3

Subject to the above, where any cost incurred or to be incurred by the Authority or a body in receipt of funding from the Authority is common both to the development of the social housing and to any other activity, asset or property of the Authority or a body in receipt of funding from the Authority, only such part of that cost as is attributable to the development of the social housing may be treated as a cost in respect of which the retained amount may be paid.

Part 7 – Exclusions

a. The authority wishes to exclude from this agreement all properties acquired since July 2008 as listed in Appendix A to the agreement

Signed on behalf of the Authority by ………………………………………………

(insert name and position in capitals)

………………………………………………………………….. (add signature and date)

Signed on behalf of the Secretary of State by Graham Duncan – Deputy Director – Affordable Housing Regulation and Investment

………………………………………………………………………… (add signature and date)

APPENDIX 1

RIGHT TO BUY AGREEMENT

Agreement - Section 11(6) of the Local Government Act 2003

Exclusions from the Agreement

Properties re-purchased under the Overcrowding Strategy					
Property Reference Number	**Address Number**	**House Name**	**Street Name**	**Post Code**	**Date of Buy Back**
1003667	46		Aston Street	E14 7NG	09/12/2009
1028027	9	Gainford House	Ellsworth Street	E2 0AS	22/01/2010
1057593	9	Elderfield House	Pennyfields	E14 8HW	04/12/2009
1002603	57	Arbour House	Arbour Square	E1 0PP	11/03/2010
1003763	21	Allonby House	Aston Street	E14 7NH	01/09/2009
1004516	27		Barleycorn Way	E14 8DE	05/11/2009
1006309	60	Howcroft House	Benworth Street	E3 2AU	26/11/2009
1006310	61	Howcroft House	Benworth Street	E3 2AU	27/11/2009
1007220	16	Ponsonby House	Bishops Way	E2 9HS	18/12/2009
1008854	1	Dowson House	Bower Street	E1 0LE	11/12/2009
1012903	11		Burwell Walk	E3 4HF	28/09/2009
1013425	14	Chamberlain House	Cable Street	E1 0AL	03/12/2009
1015037	93		Campbell Road	E3 4DP	12/10/2009
1018327	45	Delafield House	Christian Street	E1 1QD	16/12/2009
1018360	19	Delafield House	Christian Street	E1 1QB	15/09/2009
1018574	4	Burley House	Chudleigh Street	E1 0RQ	23/04/2010
1018583	18	Burley House	Chudleigh Street	E1 0RG	17/07/2009
1021291	416B	Sims House	Commercial Road	E1 1LD	14/08/2009
1021781	26	Azov House	Commodore Street	E1 4PX	11/03/2010
1021946	3	Elland House	Copenhagen Place	E14 7EZ	25/01/2010
1021949	10	Elland House	Copenhagen Place	E14 7EZ	26/01/2010
1021950	9	Elland House	Copenhagen Place	E14 7EZ	13/10/2009
1021974	9	Aitham House	Copenhagen Place	E14 7EU	12/11/2009
1022043	16	Cheadle House	Copenhagen Place	E14 7EY	17/12/2009
1022962	79		Cottage Street	E14 0AA	30/04/2010
1030116	82		Fairfoot Road	E3 4EH	09/11/2009
1032419	17		Gales Gardens	E2 0EJ	12/01/2010
1036037	24		Guerin Square	E3 2DP	15/01/2010
1036768	72	Leyland House	Hale Street	E14 0BU	10/05/2010
1036780	16	Willis House	Hale Street	E14 0BX	27/01/2010
1037833	66		Harpley Square	E1 4EA	18/12/2009
1038254	26		Headlam Street	E1 5RT	16/12/2009
1040748	365		Jamaica Street	E1 3HU	21/12/2009
1042234	15	Longford House	Jubilee Street	E1 3EH	20/08/2009
1045036	30		Lipton Road	E1 0LJ	22/02/2010
1045038	32		Lipton Road	E1 0LJ	13/12/2010
1045831	24	Ames House	Mace Street	E2 0QR	26/10/2009
1045853	19	Doric House	Mace Street	E2 0RE	01/10/2009
1046340	11	Braintree House	Malcolm Road	E1 4HN	21/01/2010
1046451	108		Malmesbury Road	E3 2EE	12/10/2009
1048384	2	Taranto House	Trafalgar Gardens	E1 3NB	16/10/2009
1050922	21	Bradley Lynch Court	Morpeth Street	E2 0PS	25/01/2010
1053310	31	Kiln Court	Newell Street	E14 7JP	05/02/2010

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Property Reference Number	Address Number	House Name	Street Name	Post Code	Date of Buy Back
1055176	7		Old Church Road	E1 0QA	09/11/2009
1056789	105		Parnell Road	E3 2RT	28/09/2009
1057545	134		Pennyfields	E14 8HS	04/12/2009
1057939	14	Hanson House	Pinchin Street	E1 1PD	12/11/2009
1058031	11	Corringham House	Pitsea Street	E1 0JJ	02/11/2009
1058651	11	Martindale House	Poplar High Street	E14 0AP	18/11/2009
1058662	10	Norwood House	Poplar High Street	E14 0AR	26/03/2010
1060010	18	Penang House	Prusom Street	E1 9RF	07/03/2011
1060925	58		Ramsey Street	E2 6HU	25/09/2009
1061496	47	Reardon House	Reardon Street	E1 9QJ	30/07/2009
1062192	362		Rhodeswell Road	E14 7UF	09/11/2009
1062647	34		Roberta Street	E2 6AW	16/04/2010
1063982	50		Rosebank Gardens	E3 5EF	29/01/2010
1064037	32		Rosefield Gardens	E14 8ER	17/12/2009
1064683	104	Ring House	Sage Street	E1 0BY	09/12/2009
1065068	28	East India Buildings	Saltwell Street	E14 0DH	29/01/2010
1065126	34		Sandalwood Close	E1 4QL	24/08/2009
1066524	43	Mark House	Sewardstone Road	E2 9QA	03/11/2009
1067467	14	William Fenn House	Shipton Street	E2 7RX	14/10/2009
1067647	35	Kerry House	Sidney Street	E1 3EL	21/05/2010
1068026	8	Louise De Marillac House	Smithy Street	E1 3HP	12/03/2010
1068032	16		Smythe Street	E14 0HF	07/07/2009
1068033	18		Smythe Street	E14 0HF	18/01/2010
1068049	44		Smythe Street	E14 0HF	08/09/2009
1068090	12	Abbott House	Smythe Street	E14 0HD	10/09/2010
1070839	9	Sinclairs House	St Stephens Road	E3 5JF	08/02/2010
1071725	184		Stepney Way	E1 3ED	09/02/2010
1071784	21	Apsley House	Stepney Way	E1 3DS	25/11/2009
1074912	61	Northesk House	Tent Street	E1 5DS	14/04/2010
1076770	47	Padstow House	Three Colt Street	E14 8AJ	14/12/2009
1079515	13	Cruden House	Vernon Road	E3 5HE	16/11/2009
1082615	28	Melwood House	Watney Market	E1 2QX	01/10/2009
1082707	56	Colstead House	Watney Market	E1 2QY	10/12/2009
1083152	1	Pattison House	Wellesley Street	E1 3DR	15/12/2009
1083163	5	Pattison House	Wellesley Street	E1 3DR	05/11/2010
1085477	11		Westport Street	E1 0RA	08/12/2009
1085498	37		Westport Street	E1 0RA	26/01/2010

APPENDIX 1

RIGHT TO BUY AGREEMENT

Properties Built Under the Building Britain's Future Programme					
Property Reference Number	**Address Number**	**House Name**	**Street Name**	**Post Code**	**Date of Buy Back**
1368197	1G	Buckthorn House	Stayners Road	E1 4AH	01/10/2011
1368224	1E	Whitebeam House	Stayners Road	E1 4AH	01/10/2011
1368230	1F	Silverbirch House	Stayners Road	E1 4AH	01/10/2011
1368673	11		Quinn Close	E2 9BZ	01/10/2011
1368933	9		Quinn Close	E2 9BZ	01/10/2011
1800080	43		Prusom Street	E1W 3RE	01/10/2011
1800081	45		Prusom Street	E1W 3RE	01/10/2011
1800087	27		Raine Street	E1W 3RE	01/10/2011
1800088	29		Raine Street	E1W 3RE	01/10/2011
1800089	31		Raine Street	E1W 3RE	01/10/2011
1800090	16		Penang Street	E1W 3RE	01/10/2011
1800091	18		Penang Street	E1W 3RE	01/10/2011
1800092	20		Penang Street	E1W 3RE	01/10/2011
1800191	8		Quinn Close	E2 9BZ	01/10/2011
1800193	10		Quinn Close	E2 9BZ	01/10/2011
Total Number of Properties to be excluded from the Agreement				**96**	

APPENDIX 2

MODELLING OF RIGHT TO BUY RECEIPTS

	Right to Buy Sales	**20**	**40**	**60**	**80**	**100**	**150**	**200**	**250**
	Gross receipt	***2,320,000***	***4,640,000***	***6,960,000***	***9,280,000***	***11,600,000***	***17,400,000***	***23,200,000***	***29,000,000***
a	*Less: transaction costs*	*(57,000)*	*(114,000)*	*(171,000)*	*(228,000)*	*(285,000)*	*(427,500)*	*(570,000)*	*(712,500)*
b	*Less: debt on additional sales*	*(308,481)*	*(808,679)*	*(1,308,877)*	*(1,809,075)*	*(2,309,273)*	*(3,559,769)*	*(4,810,264)*	*(6,060,759)*
	Available share to meet LA/ Government share	*1,954,519*	*3,717,321*	*5,480,123*	*7,242,925*	*9,005,727*	*13,412,731*	*17,819,736*	*22,226,741*
ci	*Less: LA share*	*(509,251)*	*(509,251)*	*(509,251)*	*(509,251)*	*(509,251)*	*(509,251)*	*(509,251)*	*(509,251)*
cii	*Less: Government share*	*(1,221,362)*	*(1,221,362)*	*(1,221,362)*	*(1,221,362)*	*(1,221,362)*	*(1,221,362)*	*(1,221,362)*	*(1,221,362)*
	Total shares	*(1,730,613)*	*(1,730,613)*	*(1,730,613)*	*(1,730,613)*	*(1,730,613)*	*(1,730,613)*	*(1,730,613)*	*(1,730,613)*
	Total available for re-provision	***223,906***	***1,986,708***	***3,749,510***	***5,512,312***	***7,275,113***	***11,682,118***	***16,089,123***	***20,496,128***
	Max. buy back allowance (50% of previous year buy backs)	*314,500*	*314,500*	*314,500*	*314,500*	*314,500*	*314,500*	*314,500*	*314,500*
	Cap on buy back allowance (6.5% of net receipts)	*14,554*	*129,136*	*243,718*	*358,300*	*472,882*	*759,338*	*1,045,793*	*1,332,248*
d	*Buy back allowance used*	*(14,554)*	*(129,136)*	*(243,718)*	*(314,500)*	*(314,500)*	*(314,500)*	*(314,500)*	*(314,500)*
e	*Net available for re-provision*	*238,460*	*1,857,572*	*3,505,791*	*5,197,812*	*6,960,613*	*11,367,618*	*15,774,623*	*20,181,628*
	Summary								
	Government receives (cii)	*1,221,362*	*1,221,362*	*1,221,362*	*1,221,362*	*1,221,362*	*1,221,362*	*1,221,362*	*1,221,362*
	LA retains (a+b+ci+d)	*889,286*	*1,561,067*	*2,232,847*	*2,860,827*	*3,418,025*	*4,811,020*	*6,204,015*	*7,597,011*
30%	*LA retains for re-provision (e)*	*238,460*	*1,857,572*	*3,505,791*	*5,197,812*	*6,960,613*	*11,367,618*	*15,774,623*	*20,181,628*
	Total	***2,349,108***	***4,640,000***	***6,960,000***	***9,280,000***	***11,600,000***	***17,400,000***	***23,200,000***	***29,000,000***
100%	***Spend on re-provision to be demonstrated within 3 yrs***	*794,866*	*6,191,906*	*11,685,972*	*17,326,038*	*23,202,045*	*37,892,061*	*52,582,076*	*67,272,092*
70%	***Other RTB receipts retained by LA (b+ci)***	*0*	*1,317,931*	*1,818,129*	*2,318,327*	*2,818,525*	*4,069,020*	*5,319,515*	*6,570,011*
	Additional non RTB resources required to fund re-provision	*0*	*3,016,403*	*6,362,051*	*9,809,900*	*13,422,906*	*22,455,422*	*31,487,938*	*40,520,454*

APPENDIX 2

MODELLING OF RIGHT TO BUY RECEIPTS

NOTES:

A Calculation of receipts available for re-investment

The amount of additional RTB receipts available for the provision of affordable rented homes is calculated as the gross RTB receipts, less:

a) transaction costs (in London this is £2,850 per sale)
b) the attributable debt (calculated via a CLG model)
c) the local authority & government share cap (stipulated in the Capital Regulations)
d) the Buy Back allowance (capped at a maximum of 50% of the cost of buying back properties in the previous year, and also subject to a cap of 6.5% of any receipts remaining after a-c above have been deducted)
e) if there are receipts remaining after the deduction of a-d above, this is the amount available for re-provision

B Permitted use of Right to Buy Receipts

As detailed in A above, there are various elements that make up the RTB receipt. A summary of the use to which these may be put is detailed below.

1. Transaction costs
These will be credited to the HRA to meet the costs of administering the scheme.

2. Attributable debt
The CLG assumes that the authority will use this part of the receipt to repay the HRA debt associated with the properties sold. However, this is not mandatory, although regard needs to be had to the long-term ability of the HRA to service its debt following the loss of rental income due to RTB sales.

ci) Local Authority share cap
This amount is assumed in the local government settlement to fund the authority's capital programme. This amount (or, if receipts are insufficient to cover the whole amount, a proportion of it) is available to fund both HRA and General Fund capital schemes.

MODELLING OF RIGHT TO BUY RECEIPTS

cii) Central Government share cap
This amount (or, if receipts are insufficient to cover the whole amount, a proportion of it) must be paid to central government.

d) Buy Back allowance (if available)
This allowance is used to offset buybacks from the previous year, and cannot be used towards funding the remaining 70% of the cost of any schemes for the re-provision of social housing.

e) Receipts available for re-provision of social housing (if available)
These can be used to fund a maximum of 30% of the cost of the authority's capital schemes for the re-provision of social housing. Alternatively, the authority may use these funds to grant fund another body, such as a Registered Provider. Any receipts unused after three years must be paid to the CLG with interest; similarly, where these receipts constitute more than 30% of the authority's demonstrable spend on the re-provision of social housing, the excess amount is payable to the CLG with interest.

	2013/14 £000	2014/15 £000	2015/16 £000
INCOME			
Dwelling Rents (net)	(66,058)	(68,687)	(71,454)
Non Dwelling Rents	(3,590)	(3,680)	(3,753)
Tenant Charges	(6,979)	(7,142)	(7,311)
Leaseholder Charges	(10,436)	(10,752)	(11,023)
Contributions towards expenditure	(115)	(115)	(115)
GROSS INCOME	**(87,178)**	**(90,375)**	**(93,657)**
EXPENDITURE			
Repairs & Maintenance	22,055	22,675	23,129
Supervision & Management	25,133	25,510	26,020
Special Services	14,416	14,776	15,072
Rents, Rates, taxes & other charges	3,158	3,237	3,302
Bad Debt Provision	1,859	1,930	1,987
Interest Payable (Item 8)	3,384	3,602	4,202
Depreciation (HRA dwellings)	15,475	15,739	15,889
Depreciation (non HRA dwellings)	1,802	1,847	1,893
Debt management costs	75	93	120
GROSS EXPENDITURE	**87,357**	**89,409**	**91,614**
NET COST OF HRA SERVICES	**178**	**(966)**	**(2,042)**
Amortisation of Premiums & Discounts	(79)	(182)	(182)
Supporting People contribution	0	0	0
Interest & Investment Income	(360)	(440)	(548)
(SURPLUS)/ DEFICIT ON HRA	**(261)**	**(1,589)**	**(2,773)**
APPROPRIATIONS			
Revenue Contribution to Capital Expenditure	2,063	3,436	4,666
NET POSITION	**1,802**	**1,847**	**1,893**
Contribution from Major Repairs Reserve	(1,802)	(1,847)	(1,893)
NET POSITION AFTER RESERVE DRAWDOWN	**0**	**0**	**0**
HRA BALANCES			
Balance b/f	14,279	14,279	14,279
Balance c/f	14,279	14,279	14,279