

GREATER LONDON AUTHORITY

REQUEST FOR MAYORAL DECISION – MD2761

Title: Delegation of the Affordable Homes Guarantee Scheme 2020 to Homes England

Executive Summary:

To ensure consistency between London and the rest of England in access to guaranteed borrowing under the Affordable Homes Guarantee Scheme 2020, this decision seeks approval to issue a delegation to Homes England to administer that Scheme in London. Administration of the scheme will involve appraising applications for loans and making recommendations to the Ministry of Housing, Communities and Local Government on whether a guarantee should be issued and managing the loans to full repayment or cancellation. The Scheme will increase the financial capacity of Private Registered Providers of Social Housing and will therefore contribute to the Mayor's strategic housing priority to support the supply of new affordable homes in London.

Decision:

That under section 38(1) of the Greater London Authority Act 1999 (as amended) ("GLA Act") the Mayor authorises:

Homes England (legal entity Homes and Communities Agency), as of the date of this Mayoral Decision, to exercise such of the GLA's powers under sections 30 and 34 of the GLA Act as Homes England considers necessary or expedient for the purposes of undertaking, or continuing all or any of the activities specified in the Instrument of Delegation in relation to the Affordable Homes Guarantee Scheme 2020 insofar as it concerns London:

1. Appraise applications received by 31 March 2024 for loans from Private Registered Providers of Social Housing ("RPs") who intend to operate within London, and make recommendations to the Ministry of Housing, Communities and Local Government ("MHCLG") on whether such loans are acceptable and whether a guarantee should be issued;
2. Appraise the scheme delivery partner, ARA Venn's, proposals in relation to funding of the loans in the capital markets; and
3. Manage the loans until 31 March 2054 or full repayment, whichever is the later.

Mayor of London

I confirm that I do not have any disclosable pecuniary interests in the proposed decision and take the decision in compliance with the Code of Conduct for elected Members of the Authority.

The above request has my approval.

Signature:



Date:

25/2/24

PART I - NON-CONFIDENTIAL FACTS AND ADVICE TO THE MAYOR

Decision required – supporting report

1. Introduction and background

- 1.1 The Affordable Homes Guarantee Scheme 2020 (“the Scheme”) is a new £3bn guarantee programme announced by the-then Chancellor of the Exchequer in March 2019. The Scheme’s objective is to support the delivery of new affordable housing to contribute to meeting overall housing delivery targets, and meeting the requirements of those whose needs are not met by the market. It provides access to long-term, low cost loans for RPs. The loans are funded by bonds issued in the capital markets which are guaranteed by MHCLG, creating a pricing benefit which is passed on to RPs in the form of lower interest costs. Loans will operate for up to a maximum term of 30 years.
- 1.2 The Scheme will be open for new applications from spring 2021 for a period of three years from the go-live date. Loans provided will be managed until their maturity. The size of the programme may be increased by MHCLG depending on demand from Registered Providers.
- 1.3 The Scheme will be operated as a Concession by ARA Venn, who were selected after a public procurement exercise, which did not involve the GLA. The Concession will be managed by Homes England on behalf of MHCLG. Homes England will be responsible for appraising capital raising and loan (and associated guarantee) proposals from ARA Venn in order to make recommendations to MHCLG on whether or not to provide loans, raise capital and/or issue guarantees accordingly. This will include making recommendations in respect of applications from RPs operating within London. Homes England will also maintain oversight on the management of the loan portfolio by ARA Venn and make decisions or provide recommendations to MHCLG in respect of matters arising during the life of the loans.
- 1.4 RPs will be eligible to apply for the scheme alongside seeking grant funding through the Homes for Londoners: Affordable Homes Programme(s).

Decision

- 1.5 This decision seeks approval to authorise Homes England to exercise the GLA’s powers under sections 30 and 34 of the GLA Act as Homes England considers necessary or expedient for the purposes of undertaking or continuing all or any of the activities specified in the Instrument of Delegation (attached at Annex A) for the following activities. To:
 - i. appraise applications received by 31 March 2024 for loans from RPs who intend to operate within London, and make recommendations to MHCLG on whether such loans are acceptable and whether a guarantee should be issued;
 - ii. appraise the scheme delivery partner, ARA Venn’s, proposals in relation to funding of the loans in the capital markets; and
 - iii. manage the loans until 31 March 2054 or full repayment, whichever is the later.
- 1.6 By virtue of the Localism Act 2011 from 1 April 2012 Homes England’s powers to operate in Greater London ended, and from this date the GLA has undertaken Homes England’s former role in the capital using its new powers in relation to land and social housing contained in Part 7A of the GLA Act, and its general and subsidiary powers under sections 30 and 34 of that Act, which are exercisable by the Mayor.
- 1.7 Homes England is responsible for administering the Scheme in England. GLA and Homes England officers view is that, on grounds of efficiency and consistency, Homes England should administer the Scheme in London, including assessing applications from RPs who intend to operate in London and overseeing management of loans provided. Homes England is the sole body responsible for the

management of the concession award to ARA Venn to operate the loan guarantees. There are not considered to be any tangible benefits to the Mayor or to bidders to the Scheme that would arise if the GLA and Homes England were to co-manage the concession award to ARA Venn.

- 1.8 The role of Homes England, as detailed at 1.5-1.7, will primarily be to make commercial assessments that loans be awarded to organisations in a manner that is financially prudent, and is justifiable on the basis of the creditworthiness of the recipient organisation. The design of the Scheme is such that it does not provide an opportunity for policy requirements to be set, and so if the GLA were to co-manage the concession to ARA Venn, there would be no substantive opportunity for the Mayor to promote his strategic housing priorities through involvement in the Scheme. MHCLG have not provided any guarantees on how administration costs for the Scheme will be funded, and it is not clear how administration of the programme would be funded within the GLA's existing resources, if the GLA were to co-manage the concession to ARA Venn.
- 1.9 In view of the above, and given that Homes England does not have the legal power to operate in London, the Mayor is asked to authorise Homes England to exercise such of the GLA's powers under sections 30 and 34 of the GLA Act accordingly, upon the basis and upon the terms and conditions set out in the Instrument of Delegation attached at Appendix A. This decision will enable Homes England to administer the Scheme in London.

2. Objectives and expected outcomes

- 2.1 As announced by the Government, the Scheme will provide loans to support the delivery of new affordable housing to contribute to meeting overall housing delivery targets and meeting the requirements of those whose needs are not met by the market, including homes for social rent and affordable home ownership.
- 2.2 Granting the delegation for Homes England to assess loan applications from and oversee management of loans provided to RPs operating within London is expected to enable the smooth and efficient running of the scheme and ensure consistency in access to finance across England.

3. Equality comments

- 3.1 The public sector equality duty requires the identification and evaluation of the likely potential impacts, both positive and negative, of this decision on those with protected characteristics (age, disability, gender reassignment, pregnancy and maternity, race, gender, religion or belief, sexual orientation) and to set out how the organisation is addressing the duty. The granting of the delegation in this decision is not expected to have any impacts on individuals with protected characteristics. In addition, Homes England is subject to the public sector equality duty and, where relevant, is required to give consideration to that duty in future activities and decisions pursuant to this delegation.

4. Other considerations

Key risks

- 4.1 Homes England will be carrying out the activities and functions specified in the Instrument of Delegations on behalf of the GLA. This means that the GLA is, in law, legally responsible (and potentially liable) in respect of the discharge of these activities and functions. This risk is expected to be mitigated by the fact that all loan recipients will be registered with the Regulator of Social Housing and are therefore expected to be of sound creditworthiness. Homes England will be making recommendations regarding loans and guarantees in line with their role as a public authority, with a duty to act in a financially prudent way with appropriate use of public resources. Their

recommendations will be approved by MHCLG and issued and managed by a third party, ARA Venn.

Links to strategies and Mayoral and corporate priorities

- 4.2 The programmes delegated in this decision are relevant to the Mayoral priority to support the supply of affordable housing in London, in particular supporting the development of more homes for social rent. RPs receiving loans through the Scheme will be eligible to apply for grant funding under the Homes for Londoners: Affordable Homes Programme(s). Any such applications would need to meet the terms of the Mayor's programmes.

Impact assessments and consultation

- 4.3 No consultation has been carried out specifically in relation to the scheme, which was announced by HM Treasury and MHCLG. GLA officers have consulted with officers from Homes England in relation to arrangements for the administration of the Scheme that are the subject of this Mayoral Decision.

Declaration of interests

- 4.4 There are no conflicts of interest to note for any of the officers involved in the drafting or clearance of this decision form.

5 Financial comments

- 5.1 This decision requests approval for the Mayor to delegate appraisal of applications to access the Affordable Homes Guarantee Scheme 2020 until 2054 from Registered Providers and make recommendations to MHCLG on whether the loans are acceptable and whether to issue a guarantee.
- 5.2 There are no direct financial consequences from this decision. There are no known direct costs to the GLA arising from it.

6 Legal comments

- 6.1 Section 30 of the Greater London Authority Act 1999 ("the GLA Act") allows the Mayor, acting on behalf of the GLA, and after appropriate consultation, to do anything which the Mayor considers will further the promotion of economic development and wealth creation, social development or the improvement of the environment within Greater London. This MD indicates that the relevant purposes in this case are the promotion of economic and social development in Greater London, which will be achieved by administering the Scheme to contribute to meeting overall housing delivery targets and meeting the requirements of those whose needs are not met by the market, including homes for social rent and affordable home ownership. Previously the GLA was prohibited from using these general powers to incur expenditure in relation to housing. This prohibition was removed by section 186 of the Localism Act 2011, which came into force on 1 April 2012.
- 6.2 Section 32 of the GLA Act provides that the power under section 30 is exercisable only after consultation with such bodies or persons as the GLA considers appropriate in the particular case. Paragraph 4.3 above notes that GLA officers have consulted with Homes England in relation to arrangements for the administration of the Schemes that are subject of this Mayoral Decision.
- 6.3 Section 33 of the GLA Act requires the GLA, when exercising a section 30 power, to make appropriate arrangements with a view to securing that there is due regard to the principle that there should be equality of opportunity for all people. In addition, section 149 of the Equality Act 2010 requires that GLA and the Mayor have due regard to the need to eliminate unlawful discrimination, harassment and victimisation as well as to advance equality of opportunity and foster good relations between people who share a protected characteristic and those who do not. Homes England is also subject to statutory

duties under the Equality Act 2010. Paragraph 3.3 above identifies that the granting of the delegation in this decision is not expected to have any impacts on individuals with protected characteristics, and that Homes England is subject to the public sector equality duty.

- 6.4 Section 34 of the GLA Act provides a further power for the Mayor to do anything which is calculated to facilitate, or is conducive or incidental to, the exercise of any of his functions (including his functions under section 30).

Delegation to Homes England

- 6.5 Homes England’s objects are specified in the Housing and Regeneration Act 2008 (“the HRA 2008”) and include improving the supply and quality of housing in England and securing the regeneration or redevelopment of land or infrastructure in England. The HRA 2008 provides that Homes England may do anything it considers appropriate for the purposes of its objects or for purposes incidental to those purposes.
- 6.6 Homes England’s powers in the HRA 2008 used to cover the whole of England including Greater London. From 1 April 2012 Homes England’s powers in Greater London were devolved to GLA under the Localism Act 2011. As a consequence, Homes England no longer has the legal power to operate in Greater London and its property, rights and liabilities in Greater London were transferred to the GLA by statutory transfer scheme.
- 6.7 Sections 38(1) and (2) of the GLA Act allow the Mayor to authorise Homes England to exercise his functions under the Act, including those contained in sections 30 and 34. It is therefore necessary that the Mayor delegates his powers under sections 30 and 34 to Homes England to enable Homes England to carry on the activities specified in this MD in Greater London.
- 6.8 Section 38(3) of the GLA Act requires that Homes England must consent in writing to the delegation. Homes England have informally consented to the delegations and will, in due course, be providing formal written consent to the Mayor.
- 6.9 Section 38(7) of the GLA Act gives Homes England the power to exercise any functions delegated to it by the Mayor pursuant to section 38, whether or not Homes England would otherwise have had that power and irrespective of the nature of that function.
- 6.10 Section 38(10) of the GLA Act requires such delegations to be in writing. The proposed Instrument of Delegation is attached as Appendix A. The Mayor may impose conditions on any delegations under section 38(1) and a number of conditions have been included in the delegation.
- 6.11 The powers contained in sections 30 and 34 of the GLA Act, which are to be delegated to Homes England, are sufficient to enable Homes England to do all things it considers necessary or expedient to undertake the activities specified in the Instrument of Delegation at Appendix A.

7 Planned delivery approach and next steps

Activity	Timeline
Affordable Homes Guarantee Scheme launch	March 2021
Affordable Homes Guarantee New Application end date	March 2024
Affordable Homes Guarantee Scheme end date	March 2054

Appendices and supporting papers:

Appendix A – Instrument of delegation – Affordable Homes Guarantee Scheme

Public access to information

Information in this form (Part 1) is subject to the Freedom of Information Act 2000 (FoIA) and will be made available on the GLA website within one working day of approval.

If immediate publication risks compromising the implementation of the decision (for example, to complete a procurement process), it can be deferred until a specific date. Deferral periods should be kept to the shortest length strictly necessary. **Note:** This form (Part 1) will either be published within one working day after it has been approved or on the defer date.

Part 1 - Deferral

Is the publication of Part 1 of this approval to be deferred? NO

If YES, for what reason:

Until what date: (a date is required if deferring)

Part 2 – Sensitive information

Only the facts or advice that would be exempt from disclosure under FoIA should be included in the separate Part 2 form, together with the legal rationale for non-publication.

Is there a part 2 form – NO

ORIGINATING OFFICER DECLARATION:

Drafting officer to confirm the following (✓)

Drafting officer:

Francesca Lewis has drafted this report in accordance with GLA procedures and confirms the following:

✓

Sponsoring Director:

Rickardo Hyatt has reviewed the request and is satisfied it is correct and consistent with the Mayor's plans and priorities.

✓

Mayoral Adviser:

Tom Copley has been consulted about the proposal and agrees the recommendations.

✓

Advice:

The Finance and Legal teams have commented on this proposal.

✓

Corporate Investment Board

This decision was agreed by the Corporate Investment Board on 22 February 2021.

EXECUTIVE DIRECTOR, RESOURCES:

I confirm that financial and legal implications have been appropriately considered in the preparation of this report.

Signature

Date

D. Gove

23 February 2021

CHIEF OF STAFF:

I am satisfied that this is an appropriate request to be submitted to the Mayor

Signature

Date

D. Bellamy

22 February 2021

INSTRUMENT OF DELEGATION

MAYORAL DELEGATION TO THE HOMES AND COMMUNITIES AGENCY'S ACCOUNTING OFFICER IN RESPECT OF THE 'Affordable Homes Guarantee Scheme'.

Background

1. The Affordable Homes Guarantee Scheme is a guarantee programme provided by MHCLG to provide borrowing to support the new supply of affordable housing across England.
2. The Scheme was announced by HM Treasury and the Ministry of Housing Communities and Local Government (MHCLG). MHCLG has appointed ARA Venn to operate the Scheme as a concession. Homes England will manage the Concession for the duration of the scheme. The Scheme will launch in spring 2021 and be open for applications for three years. Due to the long-term nature of the Guarantees, loan repayments will continue for up to 30 years.
3. By virtue of the Localism Act 2011 from 1 April 2012 Homes England's powers to operate in Greater London have ended and the GLA is undertaking Homes England's former role in the Capital using its general and subsidiary powers under sections 30 and 34 of the Greater London Authority Act 1999 ("the GLA Act", as amended), which are exercisable by the Mayor.
4. The Scheme will be operated England-wide by ARA Venn. Homes England will have a role assessing applications for loans and making recommendations to MHCLG. Homes England and GLA have agreed that Homes England should appraise applications from RPs across England and not establish a separate assessment criterion for RPs who operate wholly or partially in London. Homes England is a body to whom the Mayor may authorise to exercise the GLA's powers under section 38 of the GLA Act and so the Mayor has agreed to delegate his legal powers to Homes England for that purpose.

Delegation

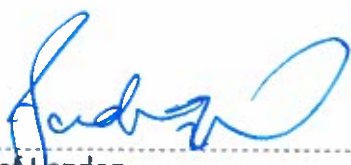
5. Accordingly, under Section 38(1) of the GLA Act I authorise Homes England to exercise such of the GLA's powers under sections 30 and 34 of the GLA Act as it considers necessary or expedient for the purpose of undertaking or continuing all or any of the activities required for the delivery of the Programme in Greater London, including (without limitation):
 - (i) Appraise applications received by 31 March 2024 for loans from Private Registered Providers of Social Housing ("RPs") who intend to operate within London, and make recommendations to the Ministry of Housing, Communities and Local Government ("MHCLG") on whether such loans are acceptable and whether a guarantee should be issued;
 - (ii) Appraise the scheme delivery partner, ARA Venn's, proposals in relation to funding of the loans in the capital markets; and
 - (iii) Manage the loans until 31 March 2054 or full repayment, whichever is the later.
6. The powers conferred by this Delegation are supplemental and without prejudice to any functions Homes England otherwise has at common law or under any relevant legislation.

Conditions

7. The authorisation conferred by paragraph 5 above to Homes England is made subject to the following conditions:
 - a) Insofar as it is permissible in law to do so, Homes England must arrange for its Accounting Officer to be responsible for exercising all of the functions specified in and conferred by this Delegation.

MD2761 Appendix A

- b) That Homes England will operate the scheme in a manner agreed with the GLA.
- c) Homes England will report progress on the scheme in London to the GLA on a quarterly basis. To include:
 - i. Copies of the standard Management Information pack produced at least quarterly by Homes England showing progress in applications and granting of loans insofar as such information relates to approved development located in London.
- d) The delegation at 5(i) will end on 31 March 2024, unless it is agreed by the Mayor to terminate the delegation at an earlier date or to extend it to a later date.
- e) The delegations at 5(ii) and 5(iii) will end on 31 March 2054, or until full repayment or settlement if later than 31 March 2054, unless it is agreed by the Mayor to terminate the delegation at an earlier date or to extend it to a later date.
- f) No costs incurred in the implementation of this Delegation shall be borne by the GLA.
- g) Homes England shall at all times afford the member of staff designated from time to time as the GLA's Monitoring Officer all reasonable co-operation and access to documents and facilities as may be required from time to time in respect of that person's duties as Monitoring Officer under section 5(2) of the Local Government and Housing Act 1989 (as substituted by section 73(6) of the GLA Act).

Signed 
Mayor of London

Date 25 / 2 / 21