

# GREATER LONDON AUTHORITY

## REQUEST FOR MAYORAL DECISION – MD2936

### Title: Delegation of Help to Build programme to Homes England

#### Executive summary:

Under Mayoral Decision MD2758 a delegation was given to Homes England (previously known as the Homes and Communities Agency) to operate the Help to Buy (HtB) equity loan scheme programme on behalf of the GLA in London. The Department for Levelling Up, Housing and Communities (DLUHC) launched the national Help to Build (HtBd) scheme in November 2021. HtBd aims to support availability of mortgage finance, one of the main barriers to the growth of the self and custom build (S&CB) market. Homes England is responsible for managing and administering HtBd nationally, outside of Greater London. The GLA, acting through the Mayor, is responsible for HtBd within Greater London.

To ensure consistency in applicant experience throughout England, and to avoid significant staffing resource requirements for the GLA, it is considered that Homes England should manage and administer the HtBd equity loan programme in London on the GLA's behalf. This requires a delegation to this effect to Homes England, which the Mayor is asked to approve in this decision.

#### Decision:

That the Mayor:

under section 38(1) of the Greater London Authority Act 1999 (as amended) (GLA Act), authorises Homes England 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 HtBd equity loan scheme (Appendix A):

- until 31 July 2030 for the operation and running of the programme (assuming the scheme is open for applications until 31 March 2026 and including the maximum drawdown period of three years and four months after the equity loan is approved and an additional one year after that for the necessary end of programme administration) or such commensurately earlier date if the programme budget of £150m is committed prior to 31 March 2026
- until 31 July 2061 for the holding and any related administration of HtBd equity loans.

#### 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:

16/2/22

## **PART I – NON-CONFIDENTIAL FACTS AND ADVICE TO THE MAYOR**

### **Decision required – supporting report**

#### **1. Introduction and background**

##### Help to Build: equity loan scheme 2022-26

- 1.1 The £150m HtBd equity loan scheme was announced by the government on 26 November 2021. It adds to a larger package offering greater support to potential homeowners.
- 1.2 The HtBd scheme builds on the existing HtB equity loan scheme to assist in the purchase of a new-build property; HtBd aims to support availability of mortgage finance, one of the main barriers to the growth of the S&CB market. The strategic objectives for HtBd are to:
  - diversify the market – supporting and growing the S&CB sector
  - increase access to S&CB mortgages for those with smaller deposits
  - increase housing supply, helping to meet the growing demand for housing
  - create market certainty for house buyers, investors and developers to invest in the S&CB sector, by providing long-term certainty over government's commitment to the product.
- 1.3 The HtBd scheme will be open for applications until 31 March 2026 (or when the programme budget of £150m is committed, whichever is earlier), with equity loans available to be drawn down until 31 July 2029.
- 1.4 MD2758 approved the extension of the delegation to Homes England of the HtB equity loan scheme for the operation and holding of the HtB equity loans and the administration of equity loan matters, relating to interests transferred to the GLA following the Localism Act 2011. Homes England operates the HtBd scheme in the rest of England. If the GLA was to operate the HtBd scheme in London, there would be significant staffing and other administrative resource requirements. It would also be necessary for the GLA to procure a managing agent. The HtBd scheme is not focused on affordable supply, and does not have the capacity to meet London's demand or to address systemic barriers that have been identified as a priority within the Mayor's Housing Strategy. Therefore, this would not be a priority project for the GLA to take on. Moreover, given its complexity, if the programme was operated by different organisations inside and outside of London, this could cause confusion and have a negative impact on applicant experience. For these reasons, and in line with the delegation of the HtB scheme (MD2758) to Homes England, the Mayor (who is responsible for the HtBd scheme in London) is requested to grant a delegation to Homes England to operate and run the HtBd equity loan scheme programme on behalf of the GLA up to 31 July 2030 (or commensurately earlier if the programme budget of £150m is committed prior to 31 March 2026).
- 1.5 The activities to be undertaken by Homes England include monitoring and reporting on the performance of the equity loan portfolio; collecting repayments from borrowers of loans granted and associated interest fees; management of equity investments; and contract management of the national service provider appointed to administer the programme.
- 1.6 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 Appendix A) in relation to the HtBd equity loan scheme:
  - Until 31 July 2030 for the operation and running of the programme. This assumes the scheme is open for applications until 31 March 2026 and includes the maximum drawdown period of three

years and four months after the equity loan is approved and an additional one year after that for the necessary end of programme administration. If the programme budget of £150m is committed prior to 31 March 2026 then the 31 July 2030 date is brought forward commensurately (for example, if the programme budget is committed by 31 March 2025 then the delegation for the operation and running of the programme would expire on 31 July 2029).

- Until 31 July 2061 for the holding and any related administration of HtBd equity loans.

1.7 Homes England will operate the delegation at no cost to the GLA and benefits from the returns of the scheme will operate as allowed in the delegation.

1.8 The HtBd scheme will provide an equity loan of between 5 and 20 per cent (40 per cent in London) of the total estimated land and build costs. There is no formal delivery target. However, it is expected to provide loans to support up to 2,000 new S&CB homes.

1.9 The product specifications of the equity loan are as follows:

- In return for the mortgage lender providing a stage payment (in advance or in arrears) mortgage for the land/build costs with a minimum 5 per cent deposit, the government will provide a commitment to the customer and lender to provide a 25-year equity loan (with a five-year interest-free element) for up to 20 per cent (40 per cent in London).
- The equity loan amount will be calculated on estimated land/build costs (excluding VAT and contingency) agreed with the lender at the outset; and will be paid to the lender on completion to reduce their exposure. There must also be a contingency budget included in the wider project cost (e.g. 10 or 15 per cent of overall build costs, to allow for slippage).
- The government will lend on projects up to the maximum value of £600,000 for land and build costs. The build cost is capped at £400,000, whether the land is already owned or not. The £600,000 cap mirrors the cap for HtB.
- Once the equity loan is approved, the self and custom builder has three years to build the property and draw down the equity loan.
- The equity loan term is 25 years following drawdown. This may be extended to match the first-charge lender term on the 24th anniversary of the equity loan.
- The equity loan is expressed as a percentage of the property value for the purposes of repayment.
- The government will be in a second-charge position with the loan. The loan would be redeemed based on the government's equity percentage and the market value at the time of redemption.
- If the property value on completion exceeds land and build costs, at drawdown both the customer and the government will benefit from any uplift in value if this remains the case at the point of repayment.
- Once the home is complete and government has taken an equity share, the product behaves very similarly to HtB.

1.10 The government has been responsible for the design of the scheme and did not consult the GLA. The scheme has been designed so that the government shares in any uplift in value during build phase or market shift once the home is complete, and will guard against those who do not need assistance using the scheme to 'profit' as they would have to give up equity to the government. Independent valuation (e.g. RICS valuer) of market value at completion will ensure fair market value. Retention of 20 per cent equity (40 per cent in London) in the completed property, should the home be valued at less than land and build costs, will ensure any loss should be recouped over the lifetime of the loan.

The government has assumed £150m capital spending to support the scheme.

1.11 Interest applies from the point of drawdown. Interest rates are as follows:

- years 1-5: fixed rate of zero per cent per annum (until the fifth anniversary of loan)
- year 6: fixed rate of 1.75 per cent per annum
- year 7 onwards: previous year's interest rate increasing by 2 per cent per annum plus Consumer Price Index.

#### Equity loan post sales

1.12 By virtue of the delegation sought, Homes England will also operate the post-completion administration of HtBd equity loans, including redemption. There is no fixed schedule of repayment at the point the equity loan is drawn down. There are four scenarios that can trigger a repayment:

- the borrower wants to obtain a settlement figure and exit from the equity loan (either when they reach the end of the equity loan term (usually 25 years) or earlier)
- the borrower sells the property (must redeem)
- the borrower settles the first-charge lending (must redeem)
- the borrower defaults on their equity loan and we ask them to repay their equity loan.

## **2. Objectives and expected outcomes**

2.1 As announced by the government, the HtBd equity loan scheme will run from 2022 to 2026 (with drawdown up to 2029) and will assist individuals to secure funding to self-build or custom-build their own homes. The government has retained the upper limit for the equity loan it gives new self and custom builders within Greater London at 40 per cent of the total estimated land and build cost, with government lending up to the maximum value of £600,000 for land and build costs. The maximum build cost is £400,000, irrespective of whether the land is already owned or not. The £600,000 cap mirrors the cap for HtB.

2.2 The purpose of the scheme is to increase the amount of S&CB housing by up to 2,000 units nationally across the life of the programme. Of these, up to 150 would be in London.

## **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, marriage and civil partnership status, race, gender, religion or belief, sex, and sexual orientation) and to set out how the organisation is addressing the duty.

3.2 The granting of the delegations 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 these delegations. It is the responsibility of DLUHC to produce equalities impact assessments for the HtBd and applicable schemes and they have carried out an Equality Impact Assessment (EQIA) for the HtBd equity loan scheme.

3.3 The summary of the EQIA for the HtBd equity loan scheme produced by DLUHC is outlined below:

- Although they have limited data on the take-up of S&CB housing by people with protected characteristics, they have assessed the proposed scheme against the public sector equality duty requirements.
- The HtBd scheme seeks to provide access to low-deposit mortgages and improve the affordability of home ownership for people who want to build their own homes and make it a more accessible option.
- The scheme aims to widen the demographic of people building their own homes and may have some positive impact on age, disability and race/religion (e.g. providing access to younger people who cannot currently get access to an SCB mortgage; a route to more adaptable/accessible homes; and the opportunity to access homes that meet the needs of multigenerational families that are not provided for by volume housebuilders).
- DLUHC does not believe there will be a negative impact on other protected groups and there are no criteria/barriers to other groups accessing the scheme.
- As part of the monitoring and evaluation DLUHC will collect and review data relating to protected characteristics (e.g. age, gender, ethnicity, disability, religion, etc) to assess the impact of the scheme which will form part of the 18-month review and the final evaluation.

## 4 Other considerations

### Key risks and issues

4.1 Homes England will be carrying out the activities and functions specified in the Instrument of Delegation (attached at Appendix A) 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. The risks pertaining to the delegation are mitigated by the conditions contained in the delegations and the Mayor's right to revoke the delegations if required.

### Links to Mayoral strategies and priorities

4.2 The programme delegated in this decision broadly supports the Mayoral priority to assist working Londoners into affordable and sustainable home ownership, in line with the Mayor's London Housing Strategy.

### Impact assessments and consultation

4.3 Officers have consulted with Homes England, which is happy to agree the delegation. It is not considered that any further consultation is appropriate.

### Conflicts of interest

4.4 There are no conflicts of interest to declare from any of the officers involved in the drafting and clearance of this MD.

## 5 Financial comments

5.1 The decision is seeking approval to provide a delegation to Homes England to manage and administer the equity loans for the HtBd programme, in London. The HtBd scheme is for the period 2022-26, and Homes England will operate and run the scheme until July 2030 (or potentially earlier if the programme budget of £150m is committed before 31 March 2026). Homes England will then be responsible for the equity loans portfolio until 31 July 2061, for the holding of the assets and any

related administration of HtBd equity loans. The interest payments and equity uplifts at redemption will be retained by DLUHC/HMT. By delegating this programme, the GLA is also delegating the costs associated with administering the programme.

## **6 Legal comments**

- 6.1 Section 30 of the GLA Act allows the Mayor, acting on behalf of the GLA, and after appropriate consultation, to do anything that the Mayor considers will further the promotion of economic development and wealth creation, social development, or the improvement of the environment within Greater London.
- 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 the GLA has consulted with Homes England, and that it is not considered that any further consultation is appropriate.
- 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 Equalities Act 2010 requires that GLA and the Mayor have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; and 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 Equalities Act 2010 and has carried out an EQIA for the HtBd equity loan scheme (see: section 3, above).
- 6.4 Section 34 of the GLA Act provides a further power for the Mayor to do anything that 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 to operate in Greater London ceased, by virtue of the Localism Act 2011. As a consequence, Homes England no longer has the legal power to operate in Greater London; 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 allows the Mayor to authorise Homes England to exercise his functions under the Act on behalf of the GLA, 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 it to carry on the activities specified in this MD in Greater London on behalf of the GLA.
- 6.8 Section 38(3) of the GLA Act requires that Homes England must consent to the delegation. Homes England have informally consented to the delegation 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 the delegation to be in writing. The proposed Instrument of Delegation is attached at Appendix A. The Mayor may impose conditions on any delegations under section 38(1) and a number of conditions have been included in addition to 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.
- 6.12 Where Homes England exercises the Mayor's powers under delegation, it is the GLA that retains legal liability for Homes England's exercise of those delegated powers.

## 7 Planned delivery approach and next steps

Activity	Timeline
HtBd Programme start date	February 2022
HtBd Programme end date	31 March 2026 (or when the programme budget of £150m is committed, whichever is earlier) (delegation to 31 July 2030 to allow for the maximum drawdown period of three years and four months after the equity loan is approved and the necessary end of programme administration)
Equity loan post-sales management end date	31 July 2061

### Appendices and supporting papers:

Appendix A – Instrument of delegation – HtBd equity loan scheme programme

**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**

**Part 2 – Sensitive information**

Only the facts or advice that would be exempt from disclosure under the 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:**

Mariana Schiller 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 14 February 2022

✓

**EXECUTIVE DIRECTOR, RESOURCES:**

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

**Signature**

**Date**

*D. Gane*

15/2/22

**CHIEF OF STAFF:**

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

**Signature**

**Date**

*D. Bellamy*

14/2/22