

LONDON BOROUGH OF BRENT

MEETING OF THE EXECUTIVE
16th AUGUST 2004

FROM THE DIRECTOR OF HOUSING SERVICES

FORWARD PLAN REF: HSG/04-05/32

NAME OF WARD(S)
ALL

REPORT TITLE: CASH INCENTIVES SCHEME FOR TENANTS WISHING TO
PURCHASE ALTERNATIVE HOUSING IN THE PRIVATE SECTOR
(2004/5)

For: Approval

Above Below
Confidential Line

1. SUMMARY

- 1.1 This report requests Members to endorse the details of a new scheme which will enable some council tenants to purchase properties on the open private sector market. A total of £300k has been agreed to run a scheme for this year only, although officers will be requesting that the scheme continue in some form for 2005/6 depending on available Council resources.

2.0 RECOMMENDATIONS

- 2.1 That Members agree the details of the Cash Incentives Scheme for Tenants (CIST) for 2004/5 as set out in 7.3 of this report.

3.0 FINANCIAL IMPLICATIONS

- 3.1 Your Executive agreed for a Cash Incentives Scheme for Tenants (CIST) to be run for this year 2004/5. The report, '2004-05 Budget and Council Tax Report' recommended a £300k budget to run the scheme, which will deliver approximately 18 vacant council properties to assist households in the most housing need in the borough of Brent. This is based on an average grant of up to £16k. Some financial resources are needed for set up and staff costs.

- 3.2 Although the financial savings to the council is difficult to quantify for a number of reasons, this should be looked at in a wider financial and social context as opposed to a purely beneficial one to assist with the current homeless crisis (albeit still a crisis). One of the wider issues is of affordability and how council tenants are able to access properties on the open market. There are 66 % of council tenants who attract some form of benefit. Therefore there are council tenants who work and who may want to take advantage of such a scheme. The scheme, for some of these households will re-introduce the 'stepping stone' needed of which existed some time ago, where social housing was used as a way into owner occupation on the open market as opposed to through the Right to Buy (RTB) scheme.
- 3.3 Currently the maximum RTB discount has been halved to £16k per property and any incentive will need to take this into account so that tenants do not see this scheme as less advantageous as buying there own council home.

4.0 LEGAL IMPLICATIONS

- 4.1 Local authorities have the power to administer schemes such as that proposed by this report under section 129 of the Housing Act 1988. Initially, the local authority required the approval of the Secretary of State to run such a scheme; however the Regulatory Reform (Schemes under Section 129 of the Housing Act 1998) (England) Order 2003 amended s.129 and removed that requirement, with effect from 1st April 2003.
- 4.2 In order to recover any amount from former tenants who breach the scheme it will be necessary to first obtain judgement against them. This is because unless and until the terms of the grant are breached there is no debt to the Council.
- 4.3 The most recent Circular on these schemes was issued in March 1997 by the then Department for the Environment (Circular No. F2 – 07/97). The Circular suggests that tenants should be required to pay the entire grant if the new property is disposed of within one year of its purchase, two thirds if it is disposed of in the second year and one third if it is disposed of in the third year. In addition the leading housing text recommends that tenants in receipt of housing benefit or who have been in receipt of housing benefit twelve months before their application should not be eligible for the scheme. Neither source has the force of law but if required to prove that the Council has acted reasonably in administering the proposed scheme it may be necessary to address these points.
- 4.4 The legal representatives of tenants receiving funds under the proposed scheme will be required to sign an undertaking that they will hold the funds to the Council's order and not release them unless and until told to do so by a duly authorised officer. Any breach of such an undertaking would be actionable against the legal representative.

- 4.5 Although the proposed terms of the scheme enable the Council to refuse an application for any reason and although there is no legal entitlement to payments under the scheme, it will be important that all decisions, whether favourable or otherwise, are confirmed in writing and that reasons are given.
- 4.6 The Council will be required to consider in the usual way any subsequent applications for housing made by members of households who relocate under the scheme – they cannot, for example, be refused merely on the basis of their participation should they present as homeless.
- 4.7 Unlike grants to organisations, the Council's Constitution empowers duly authorised officers to make decisions on grants of this size to individuals, without recourse to Members.
- 4.8 Tenants may terminate their contract with the Council by service of notice 4 weeks before they intend ending the tenancy. In the case of sole tenants a shorter period may be agreed, but that is not possible where it is a joint tenancy.

5.0 STAFFING IMPLICATIONS

- 5.1 It will be necessary to employ an officer to handle the queries emanating from publicity of the scheme as well as the general administration of handling the assessment/liaison processes. The cost of one officer (possibly a part-time post) and the publicity can be capitalised against the grant although this will reduce the number of grants given.

6.0 DIVERSITY ISSUES

- 6.1 These issues cannot be fully quantified at present. A monitoring process will be put in place to see what the impact of the scheme is. This will consider the demographic issues, the proportion of ethnic groups in council accommodation and who finally obtained a grant. If there is a disproportionate take-up from any particular group, it may not demonstrate that this is an issue, but it will need research and understanding.
- 6.2 One issue to be considered in this report will be the targeting of family-sized homes only. There are likely to be questions from those households who are overcrowded in one bedroom properties. The information available on overcrowded households on the transfer list indicates that 10% of households wanting a one bedroom property are overcrowded. This is that they currently live in a bed-sit. 30% of households wanting a two bedroom property are overcrowded (usually those households in one bedrooms but it could be that they occupy a two bedroom three person property and need a two bedroom four person property. However, the information is not available on this specific issue). 70% of households wanting a three bedroom property are overcrowded and 71% of households wanting four bedroom properties are overcrowded.

- 6.3 The overcrowding issue has become prominent recently because this borough has a significant problem and has the fourth highest levels in London. Also, a large proportion of council accommodation are bed-sit or one bedroom flats and therefore will not assist us with managing the acute housing needs issues in the borough. However, the scheme can not specifically target those who are overcrowded as officers have not researched this issue sufficiently and therefore can not say what the ability of those households are to take up the scheme.
- 6.4 If the scheme is limited to purchases within the UK this may impact on tenants from abroad wishing to return to their countries of origin. Officers nevertheless recommend this limitation because legal proceedings for breach of the scheme will be more readily available with the UK. It will be easier to monitor compliance and the purpose of the scheme is not to encourage repatriation but to free-up council stock while allowing tenants who are excluded from the private sector to access it.

7 **DETAIL**

- 7.1 It has been a considerable time since the council has run a Cash Incentives Scheme for Tenants (CIST), so there is little intelligence available that will gauge whether there is sufficient interest in it. It stopped because it was considered more fruitful to invest more capital in delivering affordable homes through housing associations. There are wider indicators, however. The level of Right to Buy (RTB) applications last year 2003/4 (208) and this year 2004/5 (37 – to 3rd June 2004) indicate that Council tenants still aspire to owner occupation.
- 7.2 Against the national average, Brent's owner occupation levels are low. However, there is recent evidence that the average owner occupation levels have risen from fifty eight per cent to sixty percent against the national average of seventy percent. Generally, the housing market in London is healthy and prices have increased approximately twenty percent on last year's prices. However, some commentators argue that the market will flatten out in the near future.

7.3.0 Proposed Scheme

7.3.1 Qualifying Tenants

7.3.1.1 To qualify for the scheme, applicant(s) must:-

- ◆ have been a secure Brent council tenant for at least two consecutive years at the date of application and still secure at the date of completion;
- ◆ have a two bedroomed property or larger that is not above the fifth floor;

- ◆ undertake and give vacant possession of the council property and leave it in a clean and tidy condition on the date of completion of the property to be purchased. A Notice To Quit is to be served by the tenant a month from the anticipated completion date;
- ◆ have a clear rent account and have no other arrears with the Council (e.g. Council Tax etc) on the application date and on the date of completion of the property to be purchased;
- ◆ meet the mortgage payments with grant assistance.

7.3.2 Other Conditions to be Met

7.3.2.1 Other conditions are that:-

- ◆ dwellings may be purchased anywhere within the United Kingdom, but must be of a reasonable size and type for the household and under £230k;
- ◆ the grant is available towards the purchase of a freehold interest or long lease (at least 21 years unexpired);
- ◆ the tenant must intend to live in the property as his/her principal home for more than 3 years from the date of completion;
- ◆ the grant is not available in respect of shared ownership schemes;
- ◆ when assessing eligibility for a grant, the level of mortgage available to the applicant will be calculated using an income multiplier of three times the income of the first applicant and one times the income of the second applicant (if applicable);
- ◆ the first £3,000 of the applicant's savings will be disregarded to allow for legal and other fees.

7.3.3 Details of Grant

- 7.3.3.1 A tenant may only take advantage of the scheme if she/he is unable to afford the purchase of a property. Therefore, if the tenant's earnings and savings are such that she/he is eligible for a mortgage which together with their savings meet the cost of the property they will not be eligible for a grant. Non-dependent contributions will not be considered as this policy could have the effect of causing homelessness if tenants feel that a grant is jeopardised by any working adult living with them.

7.3.3.2 However, if a tenant's earnings is not sufficient to enable them to obtain a mortgage for the required amount or their savings are insufficient and they are unable to afford the property, a minimum grant of £16k will be available for those who have been secure Brent tenants for between 2 – 4 years. £25k will be available for those who have been secure Brent tenants for 5 years or more. The rationale behind the differential is that officers feel that there should be an element of 'waiting time' which is consistent with allocations policy.

7.3.4 Conditions of Grant Payment

7.3.4.1 Grants are subject to resources being available from the approved budget for the scheme and will be allocated on a 'first come first served' basis, measured by the date on which the Council receives written proof that the vendor has accepted the tenant's offer.

7.3.4.2 The Council reserves the right to refuse to make a grant in such circumstances as it deems appropriate.

7.3.4.3 The offer of grant will remain valid for three months from the date on which the Council receives written proof that the vendor has accepted the tenant's offer, subject to the payment being made in the same financial year, i.e. before 31st March 2005 and subject to the grant conditions continuing to be met.

7.3.4.4 Grants will be paid to solicitors and/or conveyancers acting for tenants three days before completion of the purchase of the dwelling. The solicitor/conveyancer will be required to hold the funds to the Council's order and give an undertaking not to use the funds unless such order is received, which will enable an officer to confirm that vacant possession of the Council's premises has been given on the day of completion.

7.3.4.5 The applicant will be required to repay the grant to the Council if at any future date within three years from the purchase of the dwelling; the property ceases to be his or her principal home.

8.0 PROCESS

8.1 It has been a considerable period of time since a CIST has been operational in the borough and although experience in the form of an officer still works in Brent Housing Partnership, procedures have been archived and cannot be located. Also, the officer is undertaking other duties. It is therefore necessary to employ additional resources to undertake this work.

8.2 Once approval of the scheme has been granted, a mailshot of council tenants will take place. The flyer is attached at Appendix 1.

- 8.3 Those tenants who are interested, but do not know if they are eligible for the grant, can contact an officer to discuss their circumstances. At this point a very broad 'telephone' assessment can be made based on the information given. However, it will be made clear that at this stage, this does not constitute an offer.
- 8.4 Once the tenant has obtained a 'mortgage certificate' from their preferred lender, which confirms the amount able to be borrowed, they can then apply for the grant. It must be noted here that this formal application stage will calculate the amount potentially available pending compliance with the grant conditions and availability of resources. No money is released at this stage.
- 8.5 The following will be taken into account when deciding the likely grant needed:
- the amount the tenant can borrow as a mortgage;
 - the amount of savings available and intended to be used;
 - money from any other source.
- 8.6 At this stage an application will be sent in by the tenant with:-
- the last three months of payslips
 - proof of other income sources
 - proof of savings
- 8.7 The application will then be put in abeyance waiting for progression to the stage where a property is found. At the stage where a property has been found and an offer has been accepted, the tenant must contact the Council and enquire whether a grant is still available. This is because in the meantime other applicants may have taken advantage of the limited resources. If a grant is available (first come first serve) a provisional grant will be held for a week pending receipt of the letter confirming that the offer has been accepted by the vendor. If the letter is not available within the time period, the application it will be de-prioritised and the grant freed up for others waiting. The application may still be considered if the acceptance confirmation is received by the Council within the week, then the amount of the grant will be put aside for the applicant and will not be available to others.
- 8.8 Applications will be specific to a particular property so that if a purchase does not proceed for any reason, the tenant will have to make a fresh application for subsequent properties.

8.9 Once the acceptance letter has been received, the tenant will be told that a survey needs to be commissioned. All expenditure at this stage is at the tenant's risk. The only way that this grant will not be paid is if the sale is not completed by the end of the financial year – 31st March, the tenant pulls out of the sale, the tenant's circumstances change so that they no longer meet the grant criteria, or completion does not take place within 3 months of the Council receiving written confirmation of the vendor's acceptance. It must be noted here that once the survey has been commissioned, the application must be filed in order of when the acceptance letter was received and it is on the basis of that date that priority between applicants will be determined on a first come, first served basis.

9.0 CONCLUSION

9.1 It is difficult to predict whether a Cash Incentives Scheme for Tenants will run beyond this financial year. Members must bear in mind that these resources are from the capital pot and the budget is unlikely to be as healthy in year 2005/6.

9.2 Officers feel that insufficient assistance is given to Council tenants who can almost, but not quite, afford to buy on the open market outside of RTB sales. The CIST assistance is significant in that it will go some way to bridging the gap and enable some tenants who could not afford to buy, to buy on the open market, thereby freeing-up between 11 and 18 Council properties between now and 31 March 2005. Therefore the wider implications of this policy will outweigh the seemingly small amount of resources available for the scheme.

10.0 BACKGROUND INFORMATION

10.1 There are no background papers associated with this report.

Colin Moone
Assistant Director of Housing (Needs & Private Sector)
Housing Directorate
5th Floor, Mahatma Gandhi House
34 Wembley Hill Road
Wembley
Middlesex HA9 8AD

Tel: (020) 8937 2332
Fax: (020) 8937 2282
E-mail: Colin.Moone@brent.gov.uk

Martin Cheeseman
Director of Housing