

DPF - 1 DISPOSAL PROCEEDS FUND

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1 INTRODUCTION AND SUMMARY

- 1.1 Section 24 of the Housing Act 1996 requires RSLs to credit to a Disposal Proceeds Fund (the Fund) the net proceeds of Right to Acquire (RTA, defined in chapter RTA-1) Social Homebuy (SHB, defined in chapter SHB) and Voluntary Purchase Grant (VPG, defined in chapter VPG-1) sales. Net proceeds comprise the sales proceeds and grant towards the discount, less permitted deductions. The main objective of the Fund is to provide replacement properties for rent, at no greater cost than properties provided through the National Affordable Housing Programme. RSLs report annually on how they have used the Fund.

2 CALCULATION OF CONTRIBUTIONS TO THE FUND

- 2.1 The gross proceeds of sale comprise the payment from the purchaser and the purchase grant paid towards the discount.

- 2.2 Admissible deductions from the gross proceeds are:

- the attributable loan debt (defined in the Housing Right to Acquire Regulations 1997, Schedule 5 Section 13 and in chapter VPG-6);
- valuation fees incurred by the RSL;
- legal fees incurred by the RSL;
- survey fees (sale of flats only) incurred by the RSL;
- RTA/VPG/SHB allowance (published on the Corporation's website – Capital Funding Guide Homepage).

The cost of abortive valuation, legal and survey fees may be deducted from the sale proceeds of a subsequent sale which goes ahead, provided this does not result in a negative amount recorded in the Fund. If deductions would lead to a negative amount, the balance of abortive costs must be deferred until the next sale that proceeds.

- 2.3 As all the net proceeds transfer into the Fund, there is no separate repayment of any Housing Association Grant or Social Housing Grant that may have helped fund the original provision of the property.

- 7.5 Where the Corporation has not paid grant for the discount (see RTA-4 paragraph 11.1), RSLs cannot offset the discount against the net proceeds to be transferred into the Fund.

3 EXAMPLES OF THE DISPOSAL PROCEEDS FUND CALCULATION

- 3.1 For sales other than those of stock included in stock transfers to RSLs, the attributable loan debt is calculated by deducting SHG and/or other public subsidy from the historic cost of the property (example 1). For transferred stock, the attributable loan is the peak loan debt divided by the number of transferred units based on the current approved business plan (example 2). The attributable loan for stock provided post transfer will be calculated in accordance with example 1.

Example 1 - Property provided with SHG or other public subsidy

		£
a	Market value (note 1)	70,000
	<i>Less admissible deductions</i>	
b	Historic cost (note 2)	50,000
c	Less SHG/OPS (note 3)	<u>25,000</u>
d	Attributable loan debt (b-c) (note 4)	25,000
e	Allowable expenses (survey fees, etc.)	3,000
f	Administration allowance (house)(note 5)	<u>651</u>
g	Transfer to Disposal Proceeds Fund	41,349
	=a-(d+e+f)	

Example 2 - Stock transfer RSL (e.g. an LSVT)

		£
a	Market value	70,000
	<i>Less admissible deductions</i>	
b	Peak loan debt on the transfer	3,200,000
c	Divided by units in the transfer	<u>200</u>
d	Attributable loan debt (b-c) (note 6)	16,000
e	Allowable expenses (survey fees, etc.)	3,000
f	Administration allowance (house)	<u>651</u>
g	Transfer to Disposal Proceeds Fund	50,349
	=a-(d+e+f)	

Example 3 - Property provided without SHG or other public subsidy

		£
a	Market value	70,000
b	Historic cost	20,000
c	Less SHG/OPS	<u>nil</u>
d	Attributable loan debt (b-c)	20,000
e	Allowable expenses (survey fees, etc.)	3,000
f	Administration allowance (flat)	<u>1,463</u>
g	Transfer to Disposal Proceeds Fund	45,537
	=a-(d+e+f)	

Notes:

- (1) **Market value** is the open market value that should equal the sum of the purchase price plus the discount.

- (2) **Historic costs** are the costs of acquisition and development excluding:
- works of repair or maintenance;
 - works to deal with defects in the property ;
 - works of improvement where they are paid for on or after the date of the tenant's Right to Acquire application unless:
 - ⇒ the landlord entered into a written contract for the works before the tenant's application; or
 - ⇒ the tenant had agreed to the works being carried out before the service of the offer notice; or
 - ⇒ the tenant has agreed the works as part of the proposed terms of the conveyance.

- (3) **Public Subsidy** means grant or other financial assistance of any kind used by the landlord in whole or in part in connection with acquisition and development costs (including repair, maintenance or improvement) where the subsidy was provided by one of the bodies listed in Paragraph 13(5) of Schedule 5 of the Housing (Right to Acquire) Regulations 1997. This reads as follows, excluding sections relating to Wales:

“the Housing Corporation under section 18 of the Housing Act 1996 (social housing grants),

the Secretary of State under s.126 of the Housing Grants, Construction and Regeneration Act 1996 under the programme designated “City Challenge”,

a local housing authority where grant is paid pursuant to an application by the landlord under Part VIII (grants towards the cost of improvements and repairs, etc.) of the Local Government and Housing Act 1989 or Chapter I of Part I (grants &c. for renewal of private sector housing) of the Housing Grants, Construction and Regeneration Act 1996,

National Lottery, and

a local authority in a case where the local authority has conveyed the freehold or the leasehold of land to the landlord at a price which is below the market value of the land at the time of the conveyance.”

The total amount of public subsidy is based on the original acquisition and construction only. Subsequent grant paid eg for major repairs is excluded from the calculation.

- (4) **Attributable Debt** is the amount the RSL has theoretically borrowed to meet the difference between the unit cost of development and the public subsidy.
- (5) **Allowances** cover the RSL's own administrative expenses including a proportion of overheads. The examples use the rates for 2000/2001. For current 'property disposal deductible administration expenses' values, please refer to the most recent administrative allowances guidance, which can be located on the Capital Funding Guide homepage on the Corporation's website, www.housingcorp.gov.uk.
- (6) **Attributable Peak Loan Debt (transferred stock)** - is defined in the regulations under Paragraphs 13(3) and 13(6) of Schedule 5. In summary it is the amount under a loan agreement (paragraph 13(6) of the Regulations refers) that is the portion of the maximum amount that the landlord may borrow which is attributable to the property. The calculation is based on the RSL's peak loan debt divided by the number of transferred units. RSLs should refer to the business plan agreed at the date of the transfer from the local authority for the purposes of identifying peak loan debt. *The Housing (RTA) Regulations 1997 Schedule 5, Section 13*

4 REPAYMENT OF VPG AND RTA DISCOUNTS

Purchasers must repay to the RSL all or part of their RTA, SHB or VPG discount if they sell on within five years, (*see RTA, SHB and VPG chapters*). The repayment goes into the Fund.

5 PERMITTED USES OF THE FUND

5.1 An RSL may spend the Fund on the following projects provided that they would qualify in principle for Social Housing Grant from the National Affordable Housing Programme:

- acquisition of dwellings for letting;
- acquisition and improvement, conversion or repair of dwellings for letting;
- acquisition of land followed by construction, on that land, of dwellings for letting;
- acquisition of land and buildings, followed by demolition and construction, on that land, of dwellings for letting;
- repairs to, or improvement of, dwellings which have been vacant for a time specified by the Corporation in order that those dwellings might be let again;

- repairs to, or improvement of, dwellings that an RSL would otherwise demolish, in order that they might continue to be used for letting;
- payment of unrelieved capital gains tax upon net disposal proceeds transferred into the Fund.

Consideration is being given to extending the use of the Fund and further guidance will be provided in due course.

- 5.2 An RSL may combine money from the Fund with new allocations of Social Housing Grant, but only on projects described in 5.1 above. The contribution from the Fund will be treated as other public subsidy that is deducted from grant in the grant calculation. An RSL must always consult the Corporation and local authority before making such a combination, in the same way as for combining Recycled Capital Grant Fund with Social Housing Grant (see para 6 of REC-4). An RSL may also combine the Fund with the Recycled Capital Grant Fund; again, only on projects described in 5.1 above.
- 5.3 The occupants of dwellings provided from the Fund, other than those covered by statutory exceptions, will have the right to acquire. If they exercise their right, the net proceeds will return to the Fund in the way prescribed in this guidance. If an RSL disposes of the dwellings in any other way, the RSL should return to the Fund the lesser of the net proceeds or the original contribution from the Fund.
- 5.4 A programme for replacement units should meet the priority needs of local authorities and complement the Corporation's regional housing strategy and guidance. When deciding the type and location of a programme of replacement units, and the nomination arrangements, the RSL must consult in writing both the local authority where the original sale took place and, if different, the destination local authority, and the Corporation's field office's Investment Officer.
- 5.5 If units sold had been provided by the RSL with funding from the Rough Sleeper's Initiative (RSI), the RSL should recycle the sale proceeds to provide replacement stock for RSI clients.
- 5.6 Replacement property should also comply with all standards and requirements specified by the Corporation from time to time, including performance standards and guidance on rents.
- 5.7 The withdrawals from the Fund must be calculated, in writing, according to procedures in this Guide for the type of scheme. Details of the calculations and withdrawals must be retained for inspection by external auditors.
- 5.8 RSLs may never overdraw from the Fund, not even in anticipation of forthcoming receipts.

6 INTERNAL ACCOUNTING AND ADMINISTRATION

- 6.1 A clear audit trail must be maintained, documenting all transactions involving the fund. To assist this, the Corporation suggests opening a separate bank account for the Fund. The account can be cleared to zero nightly with the balance being transferred to the general account for transaction purposes. This arrangement should allow RSLs to produce a statement for the account showing proceeds and expenditure that will help with calculating notional interest.
- 6.2 The Fund need not be cash backed, but monies must be available when needed to produce the replacement properties.

7 ANNUAL RETURN ON THE DISPOSAL PROCEEDS FUND

- 7.1 RSLs must send the Corporation an annual return on the Disposal Proceeds Fund. This is a national return, and must be sent to the Corporation no later than 31st May each year.
- 7.2 The Corporation shall at the beginning of each financial year produce a DPF programme for the year (starting 1st April of the current year to 31st March of next year).
- 7.3 The Corporation collects this return by electronic data entry only. The computer system for sending in this return is the Investment Management System, found on the Corporation's business web site, www.housingcorp-online.org. RSLs are responsible for ensuring returns are submitted at the due date. RSLs will no longer be able to submit RDF Returns after the deadline in paragraph 7.1 above, as the on-line system (IMS) will not be available. If RSLs miss the deadline they should contact their regional Investment Officer for further guidance. For all three-year old grant recovered, payment must be made to the Corporation within the financial year the submission is due.
- 7.4 As part of the on-line submission, an RSL certifies that it has complied with the procedures for RTA, SHB, VPG and the administration of the Fund. RSLs should ask their external auditors to include the operation of the DPF in their annual audit of the association.
- 7.5 A print of the return should be copied to the local authorities in which proceeds arose or were spent.
- 7.6 RSLs who are submitting a DPF return on IMS for the first time may send a manual return for previous years direct to the Corporation's local office, who will advise them in what format any information will be required. These returns are required to be made on or before 31st December of the year in which the first electronic submission is being made.

- 7.7 Following receipt of information relating to previous years DPF from the Corporation’s local office, Maple House will input such information into IMS, only when it agrees with the accuracy of the returns. Maple House will liaise with RSLs directly where accuracy of any return is in question.
- 7.8 Upon completion of action regarding the previous year’s returns, the Corporation will notify RSLs in writing of the closing balance of that return. This figure is then to be used as the opening balance for the subsequent year’s return.

8 CALCULATION OF NOTIONAL INTEREST ON THE FUND

- 8.1 The Fund will accrue notional interest to be used for the same purposes as the Fund itself. Interest is not attributable to any particular local authority area and there is no need to attempt such an apportionment. The rate of notional interest is linked to the base lending rate announced by the Bank of England (except when the fund stands at less than £250,001).
- 8.2 While the Fund stands at no more than £250,000, the notional rate is that which an RSL would obtain by placing the money in the high interest deposit account operated by its own clearing bank. Therefore an RSL should keep a record of these rates available for its auditor.
- 8.3 While the Fund stands above £250,000, the notional rate is linked to the Bank of England’s base lending rate, as follows:

Size of Fund	Rate of notional interest
£250,001 to £500,000	Base lending rate minus 75 basis points
£500,001 to £750,000	Base lending rate minus 50 basis points
£750,001 to £1,000,000	Base lending rate minus 25 basis points
Over £1,000,000	Base lending rate

- 8.4 The rates quoted are annual rates. Calculate notional interest on a daily basis according to a 365-day year convention, that is:

Balance x rate x (days/365)
- 8.5 The Corporation assumes that RSLs subject to Corporation Tax will incur such tax on their interest earnings. Therefore an RSL subject to Corporation Tax may deduct notional Corporation tax from its notional interest earnings. The deduction will be at the standard rate applying to large companies.
- 8.6 This is an example of the calculation of notional interest accruing on the Fund during the year 1 April to 31 March.

Assumptions:

- the Base Lending Rate opens at 7% but increases to 7.5% from 1 September;
- clearing Bank high interest deposit rate opens at 5% but increases to 5.35% from 1 September;
- the Corporation tax rate is 30%.

Date	Receipt	Payment f	Balance f	% rate	Days	Interest
1 April	100.000		100.000	5%	47	643.84
18 May	200.000		300.000	6.25%	38	1952.05
25 June	300.000		600.000	6.50%	53	5.663.01
17 August		125.000	475.000	6.25%	15	1.220.03
1 September			475.000	6.75%	26	2.283.90
27 September		240.000	235.000	5.35%	46	1.584.48
12 November	625.000		860.000	7.25%	71	12.128.36
22 January	290.000		1.150.000	7.50%	42	9.924.66
5 March		765.000	385.000	6.75%	27	1.922.36
1 April	77.000		462.000	7.00%		
					365	37.322.70

Notes

- When calculating the number of days, the convention is to count the number of midnights that the money is in the account, i.e. include the day it arrives but not the day it leaves.
- In a leap year one additional day's interest is earned, i.e. the actual day count includes 29 February and the day count total will be 366.
- Taxpayers would multiply the notional interest earnings of £37,322.70 by 70/100 to take account of Corporation Tax payable.

9 THREE YEAR REVIEW

9.1 The Corporation will carry out a 3-year review of the use of the Fund and thereafter monitor it annually. In the event of disposal proceeds being unspent at the end of a review period, the Corporation may recover the proceeds for recycling through the NAHP. For purposes of collection, the Fund becomes potentially collectable at the end of the third year after that in which the proceeds arose. For example, disposal proceeds received during 2003/2004 become potentially collectable on 1 April 2007.

10 STATUTORY ACCOUNTING REQUIREMENT

10.1 Section 24(5) of the Housing Act 1996 makes the presentation of the Fund in the statutory accounts a matter for determination by the Corporation. The Corporation has determined that the Fund shall appear as a creditor to be

identified separately in a note to the accounts amongst the debts falling due.
See the Accounting Requirements for Registered Social Landlords General Determination 2000, published with circular R2 - 04/01.

THE DISPOSAL PROCEEDS FUND GENERAL DETERMINATION 1997

1. The Housing Corporation (“the Corporation”), in exercise of the powers conferred on it by sections 24 and 25 of the Housing Act 1996 and all other powers enabling it in that behalf and after consultation with such bodies appearing to the Corporation to be representative of Registered Social Landlords as it considered appropriate, hereby makes the following General Determination of the principles upon which the Corporation shall specify:
 - a) the proceeds of sale or payments of grant that shall comprise the net disposal proceeds of a Registered Social Landlord for purposes of section 24(1) of the Housing Act 1996 (amounts to be shown separately in the accounts of the Registered Social Landlord);
 - b) the amount which may be deducted from the proceeds of a sale to arrive at the net proceeds of sale;
 - c) the interest that shall be added to the Disposal Proceeds Fund;
 - d) the purposes for which and manner in which the Disposal Proceeds Fund may be applied or appropriated;
 - e) the time limits within which a Registered Social Landlord must apply or appropriate its Disposal Proceeds Fund.
2. This General Determination is made without prejudice to the Corporation's power to make specific determinations under the provisions of the Housing Act 1996.

CITATION AND COMMENCEMENT

3. This Determination may be cited as the Disposal Proceeds Fund General Determination 1997.
4. This Determination has effect from 1 April 1997.

INTERPRETATION

5. Words and expressions used in this Determination shall, unless the context requires otherwise, have the following meanings:-

“*Charity*” means a body registered with the Charity Commission;

“*Corporation*” means the Housing Corporation or its duly appointed agent;

“*Disposal Proceeds Fund*” means the fund required under section 24 of the Housing Act 1996;

“*Dwelling*” has the meaning given by section 63 of the Housing Act 1996;

"Local Authority" has the meaning given by section 106(1) of the Housing Associations Act 1985;

"Net Disposal Proceeds" has the meaning given by section 24(2) of the Housing Act 1996;

"Private Finance" means a Registered Social Landlord's own reserves or monies lent or donated to it by persons or bodies other than the Housing Corporation, local authorities or such other public bodies as may be specified from time to time by the Corporation;

"Public Subsidy" means subsidy from a local authority or any other source of public money to be specified from time to time by the Corporation;

"Purchase Grant" means grant paid under sections 20 and 21 of the Housing Act 1996;

"Registered Social Landlord" means a body registered with the Housing Corporation under sections 1(2) or 3 of the Housing Act 1996;

"Social Housing" means dwellings acquired, provided, constructed, repaired, converted, improved, or adapted by a Registered Social Landlord for occupation in accordance with standards specified from time to time by the Corporation.

PROCEEDS OR PAYMENTS TO BE TRANSFERRED INTO THE DISPOSAL PROCEEDS FUND

6. A Registered Social Landlord shall transfer into the Disposal Proceeds Fund only those proceeds or payments referred to in section 24(2) (a) to (c) of the Housing Act 1996.

THE AMOUNT WHICH MAY BE DEDUCTED FROM THE PROCEEDS OF SALE TO ARRIVE AT THE NET PROCEEDS OF SALE

7. The amount which may be deducted from the proceeds of sale is the sum of the following:
 - a) A notional amount representing that proportion of the cost of providing the property which was not financed by public grant or Public Subsidy. The Corporation may from time to time specify the method by which a Registered Social Landlord shall calculate that notional amount.
 - b) Expenses of sale which were reasonably incurred. The Corporation may from time to time specify limits on the administrative expenses which may be deducted.

8. The net proceeds of sale transferred into the Disposal Proceeds Fund may not be a negative amount.

INTEREST TO BE ADDED TO THE DISPOSAL PROCEEDS FUND

9. A Registered Social Landlord shall add interest to the net proceeds of a sale from the date of completion of that sale and as long as the proceeds remain in the Disposal Proceeds Fund.
10. A Registered Social Landlord shall add interest to Purchase Grant received from the date when Purchase Grant is received and as long as the grant remains in the Disposal Proceeds Fund.
11. A Registered Social Landlord shall add interest to the repayment of a discount under section 24(2)(c) of the Housing Act 1996 from the date when it receives the repayment and as long as the repaid discount remains in the Disposal Proceeds Fund.
12. The rate of interest to be added shall be representative of the rate which Registered Social Landlords can obtain on deposit. The Corporation shall specify this rate from time to time and may specify a lower rate for Registered Social Landlords who incur unrelieved income or corporation tax on their interest earnings.

APPLICATION AND APPROPRIATION OF THE SUMS IN THE DISPOSAL PROCEEDS FUND

Purposes to which sums are to be applied or appropriated

13. A Registered Social Landlord may apply or appropriate sums in the Disposal Proceeds Fund for the following purposes only:
 - a) Acquisition of Dwellings for Letting.
 - b) Acquisition and improvement, conversion or repair of Dwellings for Letting.
 - c) Acquisition of land followed by construction, on that land, of Dwellings for Letting.
 - d) Repairs to, or improvement of, Dwellings which have been vacant for a time specified by the Corporation in order that those Dwellings might be Let again.
 - e) Repairs to, or improvement of, Dwellings that a Registered Social Landlord would otherwise demolish, in order that they might continue to be used for Letting.

- f) Payment of unrelieved capital gains tax upon net disposal proceeds transferred into the Disposal Proceeds Fund.

In this paragraph, “Let” and “Letting” mean letting at such rents and to such standards of management as the Corporation may recommend from time to time.

14. Notwithstanding any purposes generally specified, a Registered Social Landlord which is a Charity should not apply or appropriate sums to purposes inconsistent with its charitable objectives.

Manner in which sums are to be applied or appropriated

15. Before applying or appropriating sums from the Disposal Proceeds Fund, a Registered Social Landlord shall consult the Corporation, the Local Authority within whose boundary the Net Disposal Proceeds arose and the Local Authority within whose boundary it proposes to apply the sums. The matters for consultation shall include the extent to which the proposed application of the Disposal Proceeds Fund meets local needs for Social Housing and conforms with standards for acquiring, providing, constructing, repairing, converting, improving, adapting and letting Dwellings which may from time to time be specified by the Corporation. The parties to these discussions shall, where it is practicable, aim to apply sums within the boundary of the Local Authority where those sums originated.
16. A Registered Social Landlord may not apply or appropriate sums from the Disposal Proceeds Fund except in combination with Private Finance or its own reserves. The proportion funded by Private Finance or reserves shall be similar to the proportions not funded by Social Housing Capital Grant under the Corporation’s procedures.

TIME LIMITS FOR APPLICATION OR APPROPRIATION OF THE DISPOSAL PROCEEDS FUND

17. When:
- a) Net Disposal Proceeds have remained in the Disposal Proceeds Fund for a period of three years, the start and end of the three years to be specified by the Corporation; or
 - b) a Registered Social Landlord informs the Corporation that it is unable to find a valid application of the sums in its Disposal Proceeds Fund; or
 - c) the Corporation considers that a Registered Social Landlord is unable to demonstrate to the Corporation’s satisfaction that it intends to apply the sums in the Disposal Proceeds Fund to the permitted purposes; or

- d) in the opinion of the Corporation, a Registered Social Landlord has applied sums from the Disposal Proceeds Fund to a purpose not permitted; or
- e) a Registered Social Landlord with sums standing in its Disposal Proceeds Fund seeks to be removed from the register maintained by the Corporation under section 1 of the Housing Act 1996 or is removed from that register;

the Corporation may direct a Registered Social Landlord to pay to the Corporation sums in the Disposal Proceeds Fund or to apply them to a specific purpose.

BY ORDER OF THE CORPORATION this 20th day of March 1997.

R A J Mayer
Chief Executive

EXPLANATORY NOTE

(This note is not part of the Determination)

1. The Disposal Proceeds Fund (DPF) is created by section 24 of the Housing Act 1996. Its purpose is to allow Registered Social Landlords (“landlords”) to provide replacement properties for social letting with the proceeds of sales under the right to acquire and the Voluntary Purchase Grant (VPG) programme. A landlord’s DPF comprises:
 - a) the net proceeds of sales under the right to acquire and the VPG programme; and
 - b) grants paid under sections 20 and 21 of the above act - grants to fund discounts at which landlords have sold under the right to acquire and the VPG programme; and
 - c) any repayments of these discounts by purchasers; and
 - d) such other proceeds of sale as the Corporation may determine. The Corporation has determined that no other proceeds shall be paid into the DPF.
2. This Determination deals only with those matters where a statutory determination is called for in sections 24 and 25. It does not deal with the content of the annual return on the uses of the DPF. Section 26 gives the Corporation the statutory authority to require this return without making a determination.
3. The method of constituting the DPF and showing it in the Accounts (section 24(5)) is included in a separate determination.

4. The net proceeds of sale are the sales receipts based on the full open market valuation less attributable loan debt and expenses of sale, such as legal fees, valuation fees and an allowance for administrative expenses. The attributable loan debt is the original cost of the property less any grant and other public subsidy. The Corporation will specify the details in procedures.
5. The Corporation intends that landlords should use their DPF to provide replacement social housing units for rent, through new building, rehabilitation or purchase of existing satisfactory houses. This Determination does not allow landlords to spend their DPF on work to their own stock, unless that would bring long term voids back into use or would prevent demolition.
6. The Determination requires landlords to add notional interest to money resting in the DPF, which we would expect to be by transfer from their accumulated surplus.
7. Finally, the Determination sets out circumstances in which the Corporation would collect money in the DPF.

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