

DECISION-MAKER:	CABINET
SUBJECT:	COUNCIL RIGHT TO BUY RECEIPT PROPOSALS AND APPROVAL TO SPEND
DATE OF DECISION:	29 OCTOBER 2024
REPORT OF:	COUNCILLOR FRAMPTON CABINET MEMBER FOR HOUSING

<u>CONTACT DETAILS</u>			
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STATEMENT OF CONFIDENTIALITY
NOT APPLICABLE

BRIEF SUMMARY
This report sets out the current flexibilities that have been introduced for Right to Buy (RTB) receipt rules for expenditure, and the Council's proposals and guiding principles for a pilot programme to use those flexibilities to acquire properties during the 2024/25 and 2025/26 financial years.

RECOMMENDATIONS FOR CABINET:		
	(i)	That Cabinet approve the expenditure of up to £5m of the Right to Buy receipts collected in 2019/20 on a pilot programme of property purchases under the temporary flexibilities granted by Government during the 2024/25 and 2025/26 financial years.
	(ii)	That Cabinet grant delegated powers to the Director of Housing after consultation with and the Executive Director of Enabling Services, Executive Director of Growth and Prosperity, the Director of Legal and Governance and the Cabinet Member for Housing, to agree and approve the detail of the pilot programme of purchases in line with the details set out in this paper.

REASONS FOR REPORT RECOMMENDATIONS	
1.	To utilise the Council's pooled Right to Buy Receipts, taking advantage of the temporary flexibilities granted by Government, to acquire properties to help alleviate housing need in Southampton.
2.	To allow sufficient delegated authority to enable properties to be secured efficiently and mitigate the risk of delays beyond the spend deadline which would trigger payment of Right to Buy monies with interest to government.

3.	This pilot programme has the potential do deliver estimated savings of £657k per annum, based on the purchase of 24 properties saving £27,375 per annum each. If the pilot programme is successful, there is potential to seek further approval(s) from Council or Cabinet to extend the programme and delivery greater savings.
4.	This proposal would help to reduce the annual expenditure on emergency accommodation, increase the Council's affordable housing stock, improve the quality of service provided and move towards delivering services within the confines of the cash limited budget.
ALTERNATIVE OPTIONS CONSIDERED AND REJECTED	
5.	The Council could decide not to spend its pooled Right to Buy Receipts. Any Right to Buy Receipts not utilised need to be paid to Ministry of Housing, Communities and Local Government (MHCLG) with interest within the annual deadlines set out. Given that the Council has an extensive housing waiting list and unprecedented demand for emergency homeless families' accommodation, this would be a missed opportunity to meet a small proportion of that need.
DETAIL (Including consultation carried out)	
6.	Since 2019-2020, the number of homeless households approaching the council as homeless has surged by 64%, with a further 14% rise in the past 12 months. This escalation, compounded by economic disruptions, has resulted in a 61% increase in households requiring emergency accommodation. The current demand for housing in the city far exceeds the available supply. This heightened demand, shows no sign of slowing, is significantly impacting the council's ability to prevent homelessness, and, where it cannot be prevented, making it a rare, brief, and non-recurrent experience. This has led to the current operating model at the Council becoming financially unsustainable.

7. Housing Need in Southampton

The housing register in Southampton as at 10 September 2024 stands at 8,186, made up as follows:

1 bed – 4,617 (this includes approx. 1,500 eligible for age designated accommodation)

2 bed – 1,675

3 bed – 1,587

4+ bed – 307

The increasing demand placed requires the Council to modify the existing delivery model, which includes maximising financial resources and strategic investments to expand the availability of emergency accommodation to address the growing demand effectively. This is one of 3 work programmes set out in the homelessness prevention transformation programme.

The average waiting times for people on the Housing Register by property sizes are as follows (correct as at June 2024):-

Property size	Waiting time (with no priority)	Waiting time (with priority)
1 bed	4.3 years	2.8 years
2 bed	4.9 years	2.4 years
3 bed	11.5 years	9 years
4 bed +	12.6 years	10.1 years

8. The vast majority of Council tenants have the Right to Buy their property within a set of rules and a set discount formula. The money the Council receives from Right to Buy sales is held by the Council (pooled Right to Buy receipts), which has the opportunity to spend it on re-providing affordable homes. If they do not do so within set time limits, they are required to pay the money to MHCLG with interest.

9. There are also a set of rules and an agreement between Councils and MHCLG which govern how the money is spent. Flexibilities have recently been introduced to these rules which are covered in Section 14 of this paper. This paper proposes to that the Council use the current Right to Buy Monies flexibilities to invest in additional affordable housing provision. This would help to reduce the annual expenditure on emergency accommodation, increase the Council's affordable housing stock, improve the quality of service provided and move towards delivering services within the confines of the cash limited budget.

10. Bed and Breakfast (B&B) accommodation is used by the Council out of necessity when it has no other accommodation available to accommodate families to whom it owes a legal duty to house. B&B is acknowledged to be an unsuitable form of temporary accommodation for families. Legally B&B is only allowed to

	<p>be used for homeless families in an emergency, and even then, for no longer than 6 weeks. Apart from being very expensive in itself, with an average cost of £27,375 per annum per property, there is an ongoing risk of the Council being required by the Housing Ombudsman to compensate families in B&B over 6 weeks financially, which would further add to costs.</p>						
11.	<p>Homelessness has a profound human cost, particularly for families living temporarily in B&B accommodation. These environments often lack the space, privacy, and stability needed for children to thrive. The uncertainty and disruption can lead to emotional distress, affecting their mental health, education and development. Frequent moves and cramped conditions can leave children feeling isolated, struggling to form friendships, and falling behind in school. This instability can also strain family relationships, exacerbating the stress already felt by parents trying to navigate an uncertain future.</p>						
12.	<p>The council currently has:-</p> <table border="1" data-bbox="292 792 1133 956"> <thead> <tr> <th>Number of Households</th> <th>Type of Accommodation</th> </tr> </thead> <tbody> <tr> <td>172</td> <td>Temporary Accommodation</td> </tr> <tr> <td>150</td> <td>Emergency Accommodation</td> </tr> </tbody> </table> <p>Those 150 households in emergency accommodation are waiting for a move into temporary accommodation.</p>	Number of Households	Type of Accommodation	172	Temporary Accommodation	150	Emergency Accommodation
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13.	<p>If approved, the proposals in this paper would help to alleviate housing need from the Housing Register, and provide better quality emergency facilities for homeless families, assist the Council in meeting its legal duties, and reduce the costs of using B&Bs and nightly paid accommodation.</p>						
14.	<p><u>Temporary Flexibilities for the Spend of Right to Buy Receipts</u></p> <p>The Council received a letter from MHCLG dated 30/07/24 (a copy of that letter can be found at Appendix 1 to this report) confirming that they were immediately introducing temporary flexibilities to how Right to Buy receipts can be spent which would apply to the financial years 2024/25 and 2025/26:-</p> <ul style="list-style-type: none"> Local authorities can now use up to 100% of their retained receipts to fund replacement affordable housing, a significant increase from the previous 50%. The Government has confirmed that Right to Buy receipts may be used alongside S.106 contributions. The cap on the percentage of replacements delivered as acquisitions each year (which has been capped at various percentages over the years, but most recently at 50%) has been lifted and it is for the authority to decide the percentage of retained Right to Buy receipts they will use to fund purchases rather than new build. <p>MHCLG issued updated guidance entitled “Retained Right to Buy receipts and their use for replacement supply” on the same date.</p>						

	They undertook to update the retention agreements made with local authorities under Section 11(6) of the Local Government Act 2003 over the summer to reflect these changes and an updated agreement would be issued to local authorities. The Council has not received this as yet.																																
15.	<p>Retained receipts can be used to supply:</p> <ul style="list-style-type: none"> • Homes for social or affordable rent • Homes for shared ownership sale • Homes for sale as First Homes <p>There is no requirement for replacement homes to be of the same type, size, location, or tenure as the homes they replace.</p>																																
16.	<p>Southampton City Council currently holds the following Right to Buy receipts. If these are not spent by the specified year, they are payable to MHCLG along with interest calculated using a set formula.</p> <table border="1"> <thead> <tr> <th>Year of receipt</th> <th>Year repayable</th> <th>Amount to repay</th> <th>Interest cost estimate</th> </tr> <tr> <td></td> <td></td> <th>£M</th> <th>£M</th> </tr> </thead> <tbody> <tr> <td>2019/20</td> <td>2024/25</td> <td>5.515</td> <td>1.498</td> </tr> <tr> <td>2020/21</td> <td>2025/26</td> <td>1.515</td> <td>0.706</td> </tr> <tr> <td>2021/22</td> <td>2026/27</td> <td>3.310</td> <td>1.274</td> </tr> <tr> <td>2022/23</td> <td>2027/28</td> <td>5.406</td> <td>2.135</td> </tr> <tr> <td>2023/24</td> <td>2028/29</td> <td>2.342</td> <td>1.261</td> </tr> <tr> <td>Total</td> <td></td> <td>18.086</td> <td>6.874</td> </tr> </tbody> </table> <p>The Council can spend the above monies during the financial years 2024/25 and 2025/26 using the current flexibilities. The Government has signalled that there will be further reforms to Right to Buy in due course, although they do not intend to abolish it completely (see Appendix 1).</p> <p>This report seeks approval to spend up to £5m of the Right to Buy monies accumulated in 2019/20 (the row shaded in green in the table above).</p>	Year of receipt	Year repayable	Amount to repay	Interest cost estimate			£M	£M	2019/20	2024/25	5.515	1.498	2020/21	2025/26	1.515	0.706	2021/22	2026/27	3.310	1.274	2022/23	2027/28	5.406	2.135	2023/24	2028/29	2.342	1.261	Total		18.086	6.874
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17.	<p><u>What Right to Buy Receipts Can be Spent On</u></p> <p>Please see Appendix 2 to this paper, which sets out exactly what the Right to Buy monies can be spent on, taken directly from the relevant guidance. This is split out under the heads of Acquisition, Works and On Costs.</p> <p>N.B. With the temporary flexibilities introduced, this means that the Council can recover 100% of the above costs associated with acquiring properties.</p>																																

	<p>The Council's current Retention Agreement states that monies can only be regarded as spent if the works or services for which the money has been (or is about to be) paid have actually been carried out. Otherwise, the money cannot be included in the total. A contractual commitment to spend the resources is not sufficient. Depending on the progress of any property purchases, it may be necessary to approach MHCLG to seek waivers. If, for example, there are some properties at an advanced stage in the purchase process but are unlikely to be able to complete before the end of March 2025 for any reason, MHCLG would be approached to seek consent to retain the relevant amount of Right to Buy monies to complete the purchases beyond the usual deadline date.</p>
18.	<p><u>Acquisition Strategy</u></p> <p>It is proposed that the Council maximise the number of properties it can acquire in the timescale and given the budget available from the Right to Buy funds it holds. Therefore, if the average property price was £200k, plus an allowance of 15% for on costs and bringing each property up to standard, the Council could purchase up to 24 properties with £5m.</p> <p>This pilot programme has the potential do deliver estimated savings of £657k per annum, based on the purchase of 24 properties saving £27,375 per annum each. If the pilot programme is successful, there is potential to seek further approval(s) to extend the programme and delivery greater savings.</p> <p>The number of properties that can be purchased will also be dependent on the number of suitable properties on the market, and which properties can be acquired in the timescale given the legal works involved.</p>
19.	<p><u>Types of properties proposed for purchase</u></p> <p>In order to have the best chance of securing properties within the time available, the approach would need to involve the purchase of batches of newly built properties. If these were flats, it would need to be an entire block to avoid the complications of leaseholds where the Council is not in control of the whole building. The resource and timescale involved in the purchase of a number of individual properties would be significant and not achievable in this financial year.</p> <p>The approach to the purchases will need to respond to what is available on the market.</p> <p>Whilst the strong preference is for newly built properties as set out above, the following other types of properties could also be considered in the longer term over the two years if necessary:</p> <ul style="list-style-type: none"> • Ex-local authority flats in blocks where the Council owns the freehold • Ex-local authority houses • Modern second-hand houses preferably built since 1990 (or 1970 at the earliest)

	<ul style="list-style-type: none"> • Modern second-hand flats preferably built since 1990 (or 1970 at the earliest, provided that the Council can acquire the entire block if it does not already own the freehold) • Properties that have been identified by the Council as Empty Homes <p>Ideally, all properties should be acquired within 4 miles of Southampton City Council Civic Centre as the crow flies. However, should suitable property availability prove difficult, this range could be extended to enable suitable purchases, at the discretion of the Director of Housing. This is because the Council is permitted to buy properties outside of its boundaries, but it is prudent to limit how far beyond those boundaries properties are purchased for efficiency of management and maintenance.</p> <p>All eligible expenditure to be on homes must be “for the benefit of the authority’s area”. This does not mean that the homes must be physically in the authority’s area or owned by the authority, but if they are not in its area, then the Authority must either own the properties or have nomination rights over them.</p> <p>All properties to be acquired should be within 85% of Nationally Described Space Standards (NDSS) where possible. These are guidance for floor area sizes for new dwellings built in England.</p> <p>Properties will be assessed for their location in relation to access to schools (primary and secondary), supermarkets, public transport, doctors’ surgeries and playground / amenity space.</p>				
20.	<p><u>Properties to be avoided:</u></p> <ul style="list-style-type: none"> • Properties that cannot be exchanged and completed before the relevant end of March purchase deadline date. • Properties that are in a ‘chain’ of transactions (to avoid risk of unacceptable completion delays) • Properties with tenants in occupation (to avoid risk of unacceptable completion with vacant possession delays) • Flats in blocks where the Council does not already own the freehold (unless the Council can acquire the entire block) • Properties which cannot be brought up to Decent Homes standards within a maintenance spend of £25k (to maximise the number of properties that can be acquired) • Properties with an EPC rating of lower than C, or that cannot be brought up a minimum C rating without the need for extensive or prohibitively expensive works. 				
21.	<p>The aim will be to purchase a mix of bedroom sizes, the below provides an indication of the aspirations as set out by the Service Lead for Housing Needs and Welfare:</p> <table border="1" data-bbox="292 1982 633 2092"> <tr> <td>1 bedroom</td> <td>10%</td> </tr> <tr> <td>2 bedroom</td> <td>80%</td> </tr> </table>	1 bedroom	10%	2 bedroom	80%
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2 bedroom	80%				

	3 bedroom	10%	<p>However, this mix may be altered to suit circumstances as the programme progresses. It may be necessary to buy properties for General Needs use, then substitute the equivalent number of properties from the Council's existing General Needs stock for Temporary Homelessness use. This will be at the discretion of the Director of Housing.</p>																
22.	<p>A clear process will be devised in order to ensure that the properties purchased are properly inspected and conveyancing instructed at the appropriate time. The project will be managed by a consultant working in the Corporate Estate and Assets Team.</p>																		
23.	<p>In all cases, the consultant working in the Corporate Estate and Assets Team will visit properties to assess their suitability before considering whether any offer should be made.</p>																		
24.	<p>The consultant will make the offers on the properties, with those offers will be subject to the necessary due diligence, which may need to be commissioned outside the authority.</p>																		
25.	<p><u>Project Programme</u></p> <p><u>If approved, the aim would be to allow a programme of property purchases to commence as soon as possible after the Cabinet meeting on 29/10/24 (allowing for call-in of decision).</u></p> <table border="1" data-bbox="292 1171 1342 1924"> <thead> <tr> <th colspan="5" data-bbox="292 1171 1342 1308">OUTLINE TIMETABLE FOR PROPOSALS TO SPEND RIGHT TO BUY RECEIPTS</th> </tr> <tr> <th data-bbox="292 1308 336 1397"></th> <th data-bbox="336 1308 493 1397">Date Start</th> <th data-bbox="493 1308 657 1397">Date Finish</th> <th data-bbox="657 1308 967 1397">Task</th> <th data-bbox="967 1308 1342 1397">Detail</th> </tr> </thead> <tbody> <tr> <td data-bbox="292 1397 336 1924">1</td> <td data-bbox="336 1397 493 1924">As soon as possible after the Council's decision on this paper (allowing for any call-in of decision)</td> <td data-bbox="493 1397 657 1924">28/11/24</td> <td data-bbox="657 1397 967 1924">Preparation for purchases</td> <td data-bbox="967 1397 1342 1924"> <ul style="list-style-type: none"> • Desktop review of properties available for purchase • Initial visits by the consultant to properties with potential to meet the Council's requirements </td> </tr> </tbody> </table>				OUTLINE TIMETABLE FOR PROPOSALS TO SPEND RIGHT TO BUY RECEIPTS						Date Start	Date Finish	Task	Detail	1	As soon as possible after the Council's decision on this paper (allowing for any call-in of decision)	28/11/24	Preparation for purchases	<ul style="list-style-type: none"> • Desktop review of properties available for purchase • Initial visits by the consultant to properties with potential to meet the Council's requirements
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	2	As soon as possible after the Council's decision on this paper (allowing for call-in of decision)	28/11/24	Securing suitable external resources to expedite project	Procure / appoint the following external resources: <ul style="list-style-type: none"> • Red Book valuations • Conveyancing services • Property inspections
	3	28/11/24	20/12/24	Property inspections and valuations of properties	<ul style="list-style-type: none"> • Instruct inspections and valuations of suitable properties as and when initial offers accepted. • Revise offers in line with inspections and valuations if necessary.
	4	02/12/24	20/12/24	Conveyancing instructed on properties	Issue conveyancing instructions to Legal Services as and when each offer is accepted.
	5	06/01/25	31/03/25	Purchase completions of First Tranche properties	Property purchases complete up until funding deadline

RESOURCE IMPLICATIONS

Capital/Revenue

26.	The capital costs of purchasing the properties, the association on costs of those purchases, and the cost of any repairs required to bring them up to a lettable standard are all eligible to be paid for from the Council's pooled Right to Buy monies. The Council's criteria of 'Purposeful Investment' will be applied when reviewing the proposed acquisitions. This is to ensure each purchase is focused on delivering the optimum value for money for the council.
27.	Given that the capital costs are all covered by the Council's pooled Right to Buy monies, there will be no on-going financing costs associated with the acquisitions. The Council can let the acquired properties out at either Social Rents or Affordable Rents. The rental income generated will cover the additional management and maintenance costs of the acquired properties creating a net operational benefit. The financial impact of the acquisitions will be incorporated into the next iteration of the HRA business plan for 2025/26 onwards.

28.	It is estimated that every property purchase that ultimately goes on to release property that could be used as temporary accommodation for homeless families would generate an ongoing saving of £27,375 per year to the General Fund, which links to the Homelessness Transformation programme.
<u>Property/Other</u>	
29.	Given the necessity to meet tight deadlines on this project, the availability of internal resources has been considered. The conclusion is that it will be necessary to access external resources for several areas of the process as outlined below. The cost of these resources can be covered from the pooled RTB receipts.
30.	Legal Services have confirmed that it may be necessary to seek external support for the purchase transactions. A framework agreement is available and prices are being sought by Legal Services. Further, the Council's Service Manager for Procurement has confirmed that there are alternative framework agreements that can be accessed quickly for such services should that be necessary.
31.	Red Book Valuations – the Council has recently undertaken a procurement exercise to obtain this service, and it has been confirmed that the framework wording is suitable to cover this project. An exploratory conversation with the successful provider has established that they have the capacity to handle this project in a timely fashion without detriment to the main purpose of the framework, which is to deal with land and property disposals.
32.	Property Inspections – these could also be provided via the same framework as the Red Book Valuations set out above. The provider has confirmed that these too can be delivered without detriment to the land and property disposals programme.
33.	If the Red Book Valuations and Property Inspections cannot be provided through the new framework for any reason, then the separate procurement of these services could pose a significant risk to the successful delivery of the project, as there are insufficient internal resources available to carry them out internally.
34.	Officers are currently seeking clarity from the framework provider(s) as to their ability to undertake property inspections and red book valuations without any detriment to the land and property disposal programme. If this presents problems, then the Council's Service Manager for Procurement is aware of this project and will be approached to assist in identifying an alternative solution, and has already confirmed that a suitable framework already exists for the provision of site inspection services.
35.	The overall project will be managed by the Corporate Estate and Assets Division, delivering the project to, and in consultation with, the Directorate of Wellbeing and Housing. The project will be delivered by a consultant reporting to the Estate Regeneration and Development Services Manager.
36.	If they are not already, the properties purchased will need to be brought up to a lettable standard after purchase and before first lets. The Asset Management team will be involved in deciding what works are necessary, and meeting Decent Homes standards will be a priority in preparing any work specification.
37.	The properties will be held within the Housing Revenue Account and will be managed by Housing Management. Compliance will be dealt with by the Councils Asset Management Team.

LEGAL IMPLICATIONS	
<u>Statutory power to undertake proposals in the report:</u>	
38.	The Council's power to acquire property for housing purposes is pursuant to Section 17 Housing Act 1985. The Council also has the right of first refusal to purchase a RTB property for the first 10 years after the sale pursuant to Section 156A HA 1985.
39.	RTB receipts must be applied in accordance with relevant legislation and guidance and particularly the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 (as amended) and the terms of any retention agreement reached under section 11(6) of the Local Government Act 2003 modifying the applicability of the regulations.
40.	Under Section 11(6) of the Local Government Act 2003, local authorities are required to spend retained Right to Buy receipts within three years, and for the receipts to fund no more than 30%* of the cost of a replacement unit. Where a local authority is unable to spend receipts within three years they have to be returned to the MHCLG, together with interest (currently 4% above base rate). However, the Government has immediately introduced temporary flexibilities for how Right to Buy receipts can be spent which would apply to the financial years 2024/25 and 2025/26. *This percentage has changed from time to time, and according to the letter from MHCLG at Appendix 1, had most recently been set at 50%.
41.	The council has a duty under the Local Government Act 1999 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-the best value duty.
42.	Under Section 3 of the Local Government Act 1972 the Council has the power to do anything incidental to the exercising of any of its functions.
43.	The general power of competence under section 1 of the Localism Act 2011 gives local authorities a broad range of powers "to do anything that individuals generally may do" subject to limits within other legislation.
<u>Other Legal Implications:</u>	
	N/A
RISK MANAGEMENT IMPLICATIONS	
44.	The main risk is that the Council will not be able to acquire sufficient properties to spend all available Right to Buy receipts within the deadlines, which would trigger the need to pay the monies to MHCLG with interest. This will be challenging, and will depend on what suitable properties are available and how quickly purchases are able to progress. The intention will be to identify, have offers accepted and instruct conveyancing work by Christmas 2024 in order to have the best chance of completing the purchases by 31 March 2025 (seeking a suitable extension from MHCLG if required).
45.	Risk Items: 1. Lack of suitable properties available

	<p>2. Works needed are excessive</p> <p>3. The properties available do not meet the Council's criteria</p> <p>4. Tenants are not able to move out in the timescale</p> <p>5. Agreement cannot be reached on a price</p> <p>6. Legal progress cannot be completed in the timescales</p> <p>7. The timescales involved in the appointment of additional resources</p>
POLICY FRAMEWORK IMPLICATIONS	
46.	Southampton City Council Corporate Plan (2022-2030 updated 2024) sets out a commitment to deliver safe and stable home environments recognising a safe place to call home should be a fundamental right for everyone. The acquisition programme will support this objective by providing residents of Southampton who have no place to call home a safe, good quality interim offer of accommodation which will provide the foundation from which they can begin to rebuild their lives.
47.	The Council's Homelessness and Rough Sleeping Strategy (2024-2029) sets out a vision- "A city where everyone has a safe place to call home" Where homelessness cannot be prevented it is imperative that the council can intervene with a suitable good quality and affordable accommodation option.

KEY DECISION?	Yes
WARDS/COMMUNITIES AFFECTED:	ALL
<u>SUPPORTING DOCUMENTATION</u>	
Appendices	
1.	Letter from MHCLG regarding 30 July 2024 regarding "Right to Buy receipts: increased flexibilities"
2.	What Right to Buy receipts can be spent on (extract from relevant guidance)
3.	Equality and Safety Impact Assessment (ESIA)

Documents In Members' Rooms

1.	
2.	

Equality Impact Assessment

Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out.	No
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Data Protection Impact Assessment

Do the implications/subject of the report require a Data Protection Impact Assessment (DPIA) to be carried out.	No
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Other Background Documents

Other Background documents available for inspection at:

Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules /
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		Schedule 12A allowing document to be Exempt/Confidential (if applicable)
1.		
2.		