

Cabinet

15 January 2020

Local Lettings Agency

Ordinary Decision



Report of Corporate Management Team

Ian Thompson, Corporate Director of Director of Regeneration and Local Services

Councillor Kevin Shaw, Cabinet Portfolio Holder for Strategic Housing and Assets

Electoral division(s) affected:

Countywide.

Purpose of the Report

- 1 To provide an update regarding company type and governance structure of the Local Lettings Agency (LLA) and to provide a general update on the scheme.

Executive Summary

- 2 On 10 July 2019 Cabinet approved the following:
 - in principle the establishment of an LLA for County Durham to help meet housing need with firm proposals on the specific delivery model to be used to be outlined in a further report; and
 - delegated authority to the Corporate Director for Regeneration and Local Services to lease properties from landlords on an individual basis for use in discharging the Council's duties under the Homelessness Reduction Act.
- 3 This report sets out the proposed structure and governance of the LLA and recommends applying to Homes England for Registered Provider status to allow the LLA to meet housing need.

Recommendations

- 4 Cabinet are requested to:
 - (a) approve the establishment of the LLA as a company limited by guarantee as proposed in this report;

- (b) note that the LLA will apply to Homes England for Registered Provider status; and
- (c) delegate authority to the Corporate Director of Regeneration and Local Services to enter into such ancillary agreements as are necessary to give full effect to the terms of this report.

Background

Demand and Issues

- 5 Within County Durham there is a gap in the housing market for those individuals who are unable to provide a good tenancy history when applying for housing; there are 1,600 households currently excluded from the housing register. Being excluded from the housing register prevents an individual or family from bidding for properties through the Council's Choice Based Lettings (CBL) scheme known as Durham Key Options. Reasons for exclusions include previous rent arrears and anti-social behaviour. Once excluded it is difficult to re-join without help and support even when circumstances change. The housing register is used by Durham Key Options partners to advertise for and to find suitable tenants for their properties.
- 6 The Council has legal duties to secure housing to those who are eligible under Part 7 of the 1996 Housing Act and various duties owed under the Homeless Reduction Act 2017. The Council does not have to provide this housing itself but can struggle at times to source suitable accommodation. This can result in the Council having to provide temporary accommodation in the form of bed and breakfasts and hotels. This is an expensive and sub-optimum solution for the Council and homeless people.
- 7 An LLA is a general term applied to schemes that secure access to decent, affordable private rental accommodation for households in need and on low incomes who would previously have been unlikely to access housing.
- 8 Durham also has a number of rough sleepers across the county who do not, for various reasons, want or need access to supported accommodation. In addition, the Council does not owe them a homeless duty but they would benefit from help in finding suitable accommodation which would enable them to move away from sleeping rough. The aim of the LLA will also be to provide housing and support where necessary for these persons in the hope that they can move on to a more permanent tenancy. Table 1 detailed below shows the number of rough sleepers and provides evidence that over the last three months there has been a steady flow of new people to the streets.

Table 1

Rough Sleeper	New	Returner	Entrenched	Total
July	12	5	5	22
August	14	3	6	23
September	6	9	3	18

NB:

New: new to rough sleeping

Returner: has rough slept before and has returned to the streets
Entrenched: has rough slept consistently for 2 or more months

- 9 The Ministry of Housing, Communities and Local Government (MHCLG) is aware of the various barriers to housing and has recently made funding streams available to assist local authorities to establish LLAs for the purpose of acquiring housing by either purchasing properties or by entering into lease agreements with private owners with the intention of renting those properties directly to those in need and helping to remove or reduce the barriers. This funding has been made available to help the Government reach its aim to end homelessness and rough sleeping by 2027.
- 10 The Council has been successful in obtaining £252,538 funding from the MHCLG in 2019/2020 under the Rapid Rehousing Pathway (RRP) programme which was first launched in August 2018.
- 11 The Council is currently undergoing a second round of bidding for further funding for the LLA for 2020/2021.
- 12 In 2018, 5,976 empty homes surveys were sent out with 2,106 surveys returned. Of these 261 owners advised the Council that they would be interested in leasing their property. Officers will ensure that any properties that are leased as part of the scheme are able to satisfy the housing needs of people who have been excluded from the register and will prioritise leasing properties from owners who are registered with the council as an accredited landlord.

Main Implications

Local Lettings Agency

- 13 The LLA is an arm's length company set up to support the Council's efforts to implement the Council's Housing & Homelessness Strategy by improving the standard of accommodation and management within Durham's private rented sector by helping to bring empty homes back into use, prevent people from becoming homeless, providing housing to those in need and reducing the number of homeless families living in bed and breakfast accommodation.
- 14 The LLA will do this by leasing properties from owners for up to five years and then letting those properties directly to the tenants themselves. The Council will then receive income from letting to the tenant by way of a rent and enhanced housing benefit. It will source properties in the right areas providing appropriate accommodation to a range of people.
- 15 The LLA will provide housing for those excluded from the housing register or unable to access housing from other providers (both private

and social). By providing intensive support and working closely with partner organisations the objective is to ensure that tenancies are sustained.

- 16 The LLA will also provide housing management functions for all Housing Solutions housing stock acquired under various funding schemes e.g. Homes England's Move on Fund.
- 17 Staff resources within Corporate Property and Land (CPaL) and Legal and Democratic Services will be affected by the implementation of the LLA however funds raised by the LLA will cover this process. Service agreements between departments will be developed.

Company Type

- 18 Following advice and information provided by the Council's Legal and Democratic Services regarding the various types of companies and other forms of business structures available, it is thought that the structure which will best suit the LLA and its intended non-profit making purposes, is that of a company limited by guarantee.
- 19 There are no shares in a company limited by guarantee, therefore it does not require a share capital, and there is no liability.
- 20 Bespoke articles of association will be drafted for use by the LLA.

Governance

- 21 The responsibility for the effective management of the LLA will fall on its board of directors and its composition will be assessed as part of the application for RP status.
- 22 The Regulator of Social Housing, Homes England, in its guidance document entitled "Becoming a Registered Provider" states that it is of paramount importance that the Board collectively possess the right mix of skills, experience and perspectives to be able to manage the LLA effectively.
- 23 It is also vital that the LLA manages any potential conflicts of interest it or its directors encounter. Training will be provided to Board members and a robust conflicts of interest policy will be adopted by the LLA to mitigate this risk.
- 24 In addition to bespoke articles of association, a Members' Agreement will be entered into between the LLA and the Council formalising the relationship between the two whilst demonstrating the LLAs independence from the Council.

Registered Provider Status

- 25 The report recommends the company becomes a registered provider. The table below details the advantages and disadvantages of this.

Advantage	Disadvantage
Becoming an RP allows the creation of a separate company for the Council	Registration process can be long and arduous
RP status allows more financial freedom for the company allowing the company to use profits more freely. NB: majority of profits need to be used for the provision of social housing.	Activities need to relate to the provision of social housing. Social housing assets cannot be put at risk.
RP status will allow the Council to reclaim all the enhanced housing benefit subsidy	

- 26 To become an RP the company needs to comply with Regulatory Standards set out by Homes England. It must also meet Governance Financial and Viability Standards and be able to maintain these; a summary is detailed in the table below.

Standard	Summary of Requirement
Governance and Financial Viability	Ensure effective governance and resource management that delivers long-term financial viability
Value for Money	Obtain best value from assets and resources
Rent	Charge rent in line with Government rules
Home	Keep homes safe, decent and in a good state of repair
Tenancy	Let homes and manage tenancies in a fair, transparent and efficient way
Neighbourhood and Community	Keep the wider area clean and safe, help to tackle anti-social behaviour and promote community wellbeing
Tenant Involvement and Empowerment	Understand and respond to the diverse needs of tenants, provide choice and opportunities for involvement, resolve complaints fairly and promptly

- 27 The registration process is in two parts:

- preliminary application process where the company must evidence that it is:
 - an English body;

- providing or intending to provide social housing; and
 - is the landlord of the social housing;
- the second stage is more detailed where the company must prove it can:
 - meet the Governance and Financial Viability Standard at the point of registration and demonstrate that it can sustain its financial viability on an ongoing basis; and
 - has in place management arrangements that enable it to demonstrate the capacity to meet the other regulatory standards.

Interim Arrangements

- 28 Properties are in the process of being acquired to meet the targets set out in the finding agreement with MHCLG.
- 29 In view of the time period required to set up the LLA company and achieve Registered Provider status with Homes England a Council interim arrangement has been put in place whereby the Council will administer the scheme and handover the arrangements to the new company when it is established.

Viability

- 30 Under the proposed model, the company would acquire properties through a leasehold arrangement from owners or social landlords who would be offered a discounted guaranteed rent for the duration of the lease. The properties would then be managed by the company to provide housing for identified client groups.
- 31 A range of delivery models exist, and three options in particular have been modelled over a five-year period as follows:
- (a) scenario 1: company limited by shares whereby properties are let on assured shorthold tenancies at private sector market levels, with no enhanced housing benefit. Essentially a pure landlord function;
 - (b) scenario 2: charitable incorporated company whereby properties are let on assured shorthold tenancies at private sector market levels with tenant support being provided and attracting enhanced housing benefit;
 - (c) scenario 3: registered provider of social housing with properties let at social rent levels, and tenant support services being provided and attracting enhanced housing benefit. Properties are

let on introductory tenancies after one year. If the tenancy has been successful the applicant will be transferred to a flexible tenancy for a further 2 years.

- 32 Subject to the financial modelling detailed below the scenario option that best supports the delivery of the outcomes for the project is scenario 3.
- 33 A number of assumptions have been used to inform the financial modelling which impact on the financial position and viability of each of the scenarios. Some of the key factors that impact on the financial position of the LLA are summarised below:
- (a) level of rental income charged to tenants;
 - (b) level of lease payments to landlords for use of their properties;
 - (c) eligibility for enhanced housing benefit for specific tenants;
 - (d) void levels;
 - (e) bad debt levels;
 - (f) repairs and maintenance costs of properties;
 - (g) housing management costs including the number and grade of staff involved in providing tenancy support and sustainment services;
 - (h) rate of acquisition of properties from landlords;
 - (i) annual company running costs; and
 - (j) level of grant income from MHCLG.
- 34 Management of the housing portfolio and provision of tenancy support services will require staffing resource. Under scenario 1 a much-reduced level of support is required as tenancy support services would not be provided. Under scenarios 2 and 3 more staffing resource will be required to provide the tenancy support services and satisfy eligibility for enhanced housing benefit. The staffing roles identified for the LLA are detailed below and Appendix 2 details how the staff numbers vary over the 5 year period for each of the roles detailed below:

Staffing	Grade
Housing manager	14
Team leader	12
Surveyor / landlord liaison	9
Housing management officer	7
Support officer	6

- 35 The outcomes of the financial modelling for the three scenarios are shown in Appendix 3 which projects the income and expenditure account and balance sheet position over a five-year period.
- 36 All the scenarios have been modelled assuming different levels of enhanced benefit. The actual levels being offered throughout Durham varies from £220 per week to £380 per week. For the purposes of this modelling the minimum level of £220 per week has been modelled alongside £250 per week and £280 per week for exemplification purposes. A summary of the outputs is detailed below.

Income and Expenditure Account

£220 per week enhanced housing benefit

Surplus / (Deficit)	Year 1	Year 2	Year 3	Year 4	Year 5	Total
Scenario 1	156,133	(132,508)	(254,303)	(356,999)	(383,382)	(971,059)
Scenario 2	201,963	(150,944)	(266,050)	(321,218)	(344,356)	(880,605)
Scenario 3	171,221	(233,222)	(391,657)	(474,573)	(503,369)	(1,431,600)
Cost to the Council arising from Scenario 2:						
Council Cost	(121,232)	(316,769)	(472,416)	(562,362)	(563,144)	(2,035,923)

£250 per week enhanced housing benefit

Surplus / (Deficit)	Year 1	Year 2	Year 3	Year 4	Year 5	Total
Scenario 1	156,133	(132,508)	(254,303)	(356,999)	(383,382)	(971,059)
Scenario 2	262,681	9,580	(18,526)	(18,416)	(30,379)	204,940
Scenario 3	231,940	(71,142)	(143,583)	(171,695)	(189,315)	(343,796)
Cost to the Council arising from Scenario 2:						
Council Cost	(145,479)	(380,122)	(674,835)	(675,773)	(675,773)	(2,551,982)

£280 per week enhanced housing benefit

Surplus / (Deficit)	Year 1	Year 2	Year 3	Year 4	Year 5	Total
Scenario 1	156,133	(132,508)	(254,303)	(356,999)	(383,382)	(971,059)
Scenario 2	323,400	168,621	219,556	267,096	257,875	1,236,548
Scenario 3	292,658	88,099	99,130	123,225	113,084	716,197
Cost to the Council arising from Scenario 2:						
Council Cost	(161,643)	(422,358)	(749,816)	(750,859)	(750,859)	(2,835,535)

37 The modelling indicates that under Scenario 1 a deficit is incurred in all years except the first year which benefits from grant income of £253,538 from Government (assumed for all scenarios).

38 Scenario 2 returns a viable financial position for the company at the higher levels of enhanced benefit assumed (i.e. £250 per week and £280 per week). Scenario 2 generates a higher company surplus compared to Scenario 3 because rent levels charged to tenants are higher (at £92 per week compared to £74 per week). Under Scenario 3, having RP status would require rents to be charged at social levels and not private market levels hence rental income is lower in this scenario.

39 However, there is a cost to the Council under Scenario 2 as not all of the enhanced benefit awarded to the company by the Council can be reclaimed from Government. Effectively only 60% of the enhanced benefit that is above a rent officer referral level can be claimed from Government via grant leaving 40% falling as a cost to the Council itself (identified as cost to the Council in the tables). Taking this issue into account brings Scenario 2 into an overall deficit position when taking both the company income/expenditure and cost to the Council into consideration.

40 Scenario 3 returns a viable financial position under the highest level of enhanced benefit only (i.e. £280 per week). This demonstrates that the level of enhanced benefit awarded under the arrangements will need to be sufficient to cover service charge costs relating to tenancy support services.

41 The outcomes of the financial modelling are heavily influenced by the assumptions used and key changes to these assumptions can impact on the viability and sustainability of the proposed lettings agency. One factor that is key to viability is the level of enhanced benefit that can be claimed. The higher the level of benefit awarded, the more financially sustainable would be the LLA. A range of other factors such as voids levels, repairs, dilapidations and particularly the cost of tenancy support staff also impact on the financial position. All of these factors would

need to be very carefully managed to sustain a viable financial position for the company.

Invest to Save

- 42 The LLA will help to reduce the financial implications of not joining up the service, in particular decreasing the number of homeless applications and in dealing with the outcome of and support required following failed tenancies, medical interventions and those who have been the subject of the criminal justice system. By providing housing with support these costs will reduce.
- 43 The average cost of a homeless application to the Council is £2,501 based on national statistics. However, if the client is more complex these costs can escalate. The reduction of failed tenancies also reduces the significant costs of temporary accommodation including bed and breakfasts.
- 44 A table detailing the costs to the public purse is included in the business plan. These costs are associated with many Housing Solutions clients.

Process to Acquire

- 45 To meet funding requirements the Council must lease 70 properties in its first year. This could be facilitated through the statutory requirement for the Council to house via Part 7 of the Housing Act 1996 allowing time for the RP status to be developed and the legal governance put in place.
- 46 The LLA will work closely with CPaL to lease suitable properties.
- 47 Initially the LLA will identify and inspect properties, using a structural surveyor for all inspections. Following the survey, a decision will be made on whether to rent the property in conjunction with CPaL.
- 48 CPaL will then authorise the acquisition of the property.
- 49 CPaL will complete the necessary delegated authority approvals for the entering into of the leases with the private landlords. This will be undertaken on an individual property basis to ensure any relevant issues relating to that property are addressed.

Conclusion

- 50 There is a gap in the provision of housing for those people who, for a variety of reasons, are not able to be included on the housing register.
- 51 It is clear that an LLA can help meet the needs of this group in Durham as evidenced in other local authority areas.

- 52 The initial funding by central Government goes some way to providing a solid platform in establishing an environment whereby homelessness can be prevented and issues relating to poor housing through people having no choices alleviated.

Background papers

- 53 None.

Other useful documents

- 54 <https://www.gov.uk/government/publications/governance-and-financial-viability-standard-code-of-practice>

- 55 <https://www.gov.uk/guidance/regulatory-standards>

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Appendix 1: Implications

Legal Implications

The Council has the power under Section 1 of the Localism Act 2011 to establish a company which will assist it to discharge its duties under the Housing Act 1996 and the Homelessness Reduction Act 2017. The company will be required to pay for any Council resources, accommodation and staff who devote time to its work. Consideration will need to be given to any State Aid implications of Council support if it is possible that the agency could be operating in a competitive market. It is noted that the intention is to provide for individuals who have been unable to access housing elsewhere.

Finance

The direct financial implications are detailed in the report which provides outcomes of financial modelling including revenue surplus/deficit and balance sheets for the proposed company using a range of assumptions over a five year period. In addition, where there are direct financial implications for the Council these are also identified. Overall, a viable financial position can be achieved subject to management costs being recoverable against enhanced housing benefit.

There are financial implications to the Council but these need to be measured against the unseen financial implications of those who do not have access to housing. This includes crime, hospital visits, neighbourhood teams who are all impacted by rough sleepers.

Consultation

None.

Equality and Diversity / Public Sector Equality Duty

None.

Climate Change

None.

Human Rights

None.

Crime and Disorder

There are issues associated with rough sleeping in Durham which does contribute on low level crime. Providing housing and support to rough sleepers should decrease the level of crime associated with this client group.

Staffing

The LLA will require staffing to manage the service. This can initially be provided through time release and secondments. The project needs to be intensively managed to recruit and employ staff once financial thresholds are reached.

Accommodation

The LLA will provide accommodation for those in housing need.

Risk

Risks were approved with the report to Cabinet in July 2019 report; a copy is available upon request.

Procurement

None.

Appendix 2: Assumptions used in Financial Modelling

	Scenario 1	Scenario 2	Scenario 3
Rent income per week	£92	£92	£74
Lease payment to landlord per week	£74	£74	£74
Enhanced benefit (rent + support) per week*	0	£220 / £250 / £280	£220 / £250 / £280
Voids	7.5%	7.5%	7.5%
Bad Debts	10%	10%	10%
Repairs/maintenance per unit /year	£1,000	£1,000	£1,000
Percentage tenants on enhanced benefit	0%	100%	100%
Support hours per tenant per week	0	4	4
Acquisition of properties per month	6	6	6
Average properties managed:			
Year 1	35	35	35
Year 2	98	98	98
Year 3	149	149	149
Year 4	177	177	177
Year 5	180	180	180
Company costs (annual)	£35,000	£35,000	£35,000
One off grant from MHCLG Year 1	253,538	253,538	253,538

*under Scenario 2 an additional £18 per week has been added on top of the 3 enhanced benefit levels to cover the higher rent per week compared to scenario 3 (£92 per week less £74 per week under scenario 3).

	Grade	Year 1 FTE	Year 2 FTE	Year 3 FTE	Year 4 FTE	Year 5 FTE
Staffing (full time equivalents):						
Housing manager	14	0.5	0.5	1	1	1
Team leader	12	0.75	2	3	3	3
Surveyor / Landlord Liaison	9	1	0	0	0	0
Housing management officer	7	6.5	17	26	30	30
Support officer	6	1	1	1	1	1

Appendix 3: Financial Position £250 Enhanced Benefit

Financial Modelling - £250 enhanced benefit per week		£0 Scenario 1 PRS no Benefit					£250 Scenario 2 Charly with Enhanced Benefit					£250 Scenario 3 RP with Enhanced Benefit				
		Yr 1 £	Yr 2 £	Yr 3 £	Yr 4 £	Yr 5 £	Yr 1 £	Yr 2 £	Yr 3 £	Yr 4 £	Yr 5 £	Yr 1 £	Yr 2 £	Yr 3 £	Yr 4 £	Yr 5 £
Income and Expenditure Account																
TURNOVER		153,450	400,950	597,960	711,810	712,800	509,754	1,331,939	1,986,398	2,364,603	2,367,891	479,066	1,251,754	1,866,813	2,222,249	2,225,340
Administrative Expenses		(202,484)	(245,215)	(342,976)	(374,126)	(374,376)	(488,821)	(1,036,585)	(1,507,567)	(1,711,110)	(1,711,360)	(488,821)	(1,036,585)	(1,507,567)	(1,711,110)	(1,711,360)
		(49,034)	155,735	254,984	337,684	338,424	20,934	295,354	478,831	653,493	656,531	(9,755)	215,168	359,246	511,139	513,980
Other Operating Income		253,538	0	0	0	0	253,538	0	0	0	0	253,538	0	0	0	0
Depreciation		0	(253,400)	(452,500)	(626,260)	(651,600)	0	(253,400)	(452,500)	(626,260)	(651,600)	0	(253,400)	(452,500)	(626,260)	(651,600)
OPERATING PROFIT		204,504	(97,665)	(197,516)	(288,576)	(313,176)	274,472	41,954	26,331	27,233	4,931	243,783	(38,232)	(93,254)	(115,121)	(137,620)
Interest receivable		748	(1,983)	(12,115)	(24,346)	(37,536)	880	487	(185)	(1,571)	(2,640)	826	(50)	(5,657)	(12,497)	(19,024)
		205,252	(99,648)	(209,631)	(312,922)	(350,711)	275,351	42,441	26,146	25,662	2,291	244,610	(38,282)	(98,911)	(127,618)	(156,645)
Interest payable and similar expenses		(12,670)	(32,860)	(44,672)	(44,077)	(32,671)	(12,670)	(32,860)	(44,672)	(44,077)	(32,671)	(12,670)	(32,860)	(44,672)	(44,077)	(32,671)
PROFIT / (LOSS) BEFORE TAXATION		192,582	(132,508)	(254,303)	(356,999)	(383,382)	262,681	9,580	(18,526)	(18,416)	(30,379)	231,940	(71,142)	(143,583)	(171,695)	(189,315)
Taxation		(36,448)	0	0	0	0	0	0	0	0	0	0	0	0	0	0
PROFIT / (LOSS) FOR THE FINANCIAL PERIOD		156,133	(132,508)	(254,303)	(356,999)	(383,382)	262,681	9,580	(18,526)	(18,416)	(30,379)	231,940	(71,142)	(143,583)	(171,695)	(189,315)
Retained earnings b/fwd		0	156,133	23,625	(230,678)	(587,677)	0	262,681	272,262	253,735	235,319	0	231,940	160,797	17,214	(154,481)
Retained earnings c/fwd		156,133	(132,508)	(254,303)	(356,999)	(383,382)	262,681	9,580	(18,526)	(18,416)	(30,379)	231,940	(71,142)	(143,583)	(171,695)	(189,315)
		156,133	23,625	(230,678)	(587,677)	(971,059)	262,681	272,262	253,735	235,319	204,940	231,940	160,797	17,214	(154,481)	(343,796)
Scenario 2 - Cost to DCC																
Cost for DCC (estimated only as valuation office assesses subsidy level)							(145,479)	(380,122)	(674,835)	(675,773)	(675,773)					
Balance Sheet																
FIXED ASSETS	land & buildings	1,267,000	2,009,100	2,425,400	1,925,840	1,274,240	1,267,000	2,009,100	2,425,400	1,925,840	1,274,240	1,267,000	2,009,100	2,425,400	1,925,840	1,274,240
CURRENT ASSETS	bank	70,850	(186,252)	(515,553)	(879,987)	(1,270,310)	140,950	62,384	(31,140)	(56,990)	(94,311)	110,208	(49,080)	(267,661)	(446,791)	(643,047)
LIABILITIES (Short Term and Long Term)	short and long term lease corporation tax	(1,145,268)	(1,799,221)	(2,140,524)	(1,633,530)	(974,988)	(1,145,268)	(1,799,221)	(2,140,524)	(1,633,530)	(974,988)	(1,145,268)	(1,799,221)	(2,140,524)	(1,633,530)	(974,988)
		(36,448)	0	0	0	0	0	0	0	0	0	0	0	0	0	0
NET ASSETS		156,134	23,626	(230,677)	(587,676)	(971,058)	262,682	272,263	253,736	235,320	204,941	231,941	160,798	17,215	(154,480)	(343,795)
CAPITAL AND RESERVES																
Called up share capital		(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Retained earnings		(156,133)	(23,625)	230,678	587,677	971,059	(262,681)	(272,262)	(253,735)	(235,319)	(204,940)	(231,940)	(160,797)	(17,214)	154,481	343,796
		(156,134)	(23,626)	230,677	587,676	971,058	(262,682)	(272,263)	(253,736)	(235,320)	(204,941)	(231,941)	(160,798)	(17,215)	154,480	343,795

