

POLICY FOR SECURING REPAYMENT OF DISABLED FACILITIES GRANTS AND LIFETIME LOANS

Relevant Portfolio Holder	Councillors B Hartnett, Leader and M. Shurmer, Portfolio Holder.
Portfolio Holder Consulted	Yes
Relevant Head of Service	Claire Felton
Ward(s) Affected	All
Ward Councillor(s) Consulted	N/A
Non-Key Decision	

1. SUMMARY OF PROPOSALS

To review the current processes for securing Disabled Facilities Grants [“DFGs”] and Home Repair Assistance Lifetime Loans (“Lifetime Loans”) paid to residents for works or adaptations to their homes.

2. RECOMMENDATIONS

The Committee is asked to consider the report and recommendations and RECOMMEND to Council that

repayment of Disabled Facilities Grants and Home Repair Assistance Lifetime Loans should be secured by means of registration on the Local Land Charges Register

3. KEY ISSUES

Financial Implications

- 3.1 The cost of registering a Charge against properties at the Land Registry, currently £40 per registration would be saved for the customer. The administration costs associated with Land Registry processes would be removed from Officers, releasing resources through transformation of the current process, achieving a better balance between the benefit and the means of achieving it.

Legal Implications

- 3.2 The Housing Grants, Construction and regeneration Act 1996: Disabled Facilities Grant (Conditions relating to approval or payment of grant) General Consent 2008 gave local housing authorities a general consent to recover payment of DFGs through a local land charge. Lifetime Loans can be secured by being registered as a Charge at the Land Registry.
- 3.3 In January 2009 The Council adopted a policy of securing all grants, whether DGF or Lifetime Loan, by registering them as a Charge against the property at

the Land Registry, over and above the statutory ability to secure DFGs as a Local Land Charge.

- 3.4 In December 2013, Internal Audit produced a report recommending a review of the process for securing DFGs. The Report acknowledged that a more generally accepted practice was to use the Land Charges system

Service/Operational Implications

- 3.5 To secure “maximum” protection for the Council a policy was adopted in January 2009 that a Charge would be registered in the Land Registry. However different processes were required depending on whether a property was registered or unregistered. Where unregistered, an attempt to register a Charge would trigger first registration, which is a costly exercise for the owner and would also lead to delay. The object was not to impose such an onerous requirement onto owners so a separate process was developed to secure the funds without triggering first registration.
- 3.6 DFGs and Lifetime Loans are made to disabled and/or vulnerable people to help them to stay in their homes, either adaptations or for example the cost of a new boiler where the resident does not have the cash to pay for one and the house would be uninhabitable without heating.
- 3.7 Payments are generally in two categories, Disabled Facilities Grants, where payments can be up to £30,000 and are only recoverable within 10 years of payment and “Lifetime” Loans. Lifetime Loans are generally for smaller amounts (routinely up to £5,000) and are recoverable whenever the property is subsequently sold.
- 3.8 There is no cost to registration on the Local Land Charges register other than the short time it takes to complete the details and pass them to the local land Charges officer.
- 3.9 The cost of registering a Charge at the Land Registry is currently £40, which is taken out of the sum loaned. However the legal process is onerous, particularly for the applicant, as follows:
- a) the Land Registry anti-money laundering requirements mean that officers have to carry out identity checks on applicants. This can sometimes only be achieved by an officer making a home visit where the applicant is unable to come to the Council.
 - b) If there are any existing Charges registered at the Land Registry, for example a Mortgage, permission must be sought from the Mortgagee in respect of the Council’s Charge and some lenders are now charging £100 for this consent.
 - c) We are obliged to advise applicants that they should take independent legal advice on the transaction, which adds to their anxiety about the process.

- d) Completing the documentation has proved challenging in some cases, after the works have been completed, getting the applicant to go through all of the steps above proving difficult to achieve and considerable officer time has been invested in a number of these situations. When this has happened the Council places an entry on the Local Land Charges Register to secure the repayment.
- 3.10 DFGs are specifically registerable as a charge on the Local Land Charges register. It seems disproportionate to impose the more protracted and onerous land registry Charge requirement on the smaller Lifetime Loan payments whereas the larger DFG payments can be simply registered on the Local land Charges Register.
- 3.11 The existence of a Charge on the Local Land Charges Register usually arises in a property sale/purchase transaction, when the pressing objective is to complete the transaction. Sums are regularly received by the Council as a result of these searches and payment made to clear the register.
- 3.12 The Land Registry process provides a further record of the payment, which would also need to be cleared from the Title if the property were to be sold (or within 10 years for DFGs).
- 3.13 Transformation within Legal Services has raised the issue as to whether double protection is required particularly where the second process is time and resource intensive and can be difficult for our customers to understand and engage with. Considerable resources would be saved by registering these payments on the Local land Charges Register only.

Customer/Equalities and Diversity Implications

- 3.14 Not pursuing a Charge at the Land Registry would simplify the whole grant/Loan transaction for our customers, who are generally vulnerable members of society.

4. RISK MANAGEMENT

DFGs are specifically registerable as a Local Land Charge. Lifetime Loans can be secured by a Charge at the Land registry but it is possible to register them as a Local Land Charge although the payment is not specifically registerable as such. The technical difference is unlikely to ever become an issue as the existence of a Charge on the Local Land Charges Register usually arises in a property sale/purchase transaction, when the pressing objective is to complete the transaction. It is unlikely that security for a sum of less than £5,000 would be allowed to jeopardise the transaction.

- 4.1 Internal Audit have reviewed this report and are satisfied that securing these smaller payments of Lifetime Loans by way of registration on the Local Land Charges register will adequately secure repayment to the Council.

5. APPENDICES

None

6. BACKGROUND PAPERS

Internal Audit Report on DFGs December 2013.

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