

Crawley Borough Council

	Report No: HSS/59	2
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Report to Overview and Scrutiny Commission

14 September 2009

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Report to Cabinet

16 September 2009

Disabled Facility Grants (DFGs) In the Private Sector.

Adoption of Land Charges.

1. Key Points

- 1.1 Disabled Facilities Grants (“DFG”) are mandatory grants, which are part-Government and part-Council funded, and available to qualifying disabled residents in non-Council housing who need adaptations to their homes to enable them to continue to live independently within the community.
- 1.2 A package of changes to the DFG legislation was introduced by Government in May 2008. These changes include giving Local Authorities (“LAs”) the power to impose a repayment condition on DFGs in certain circumstances. This in effect achieves a recycling of an element of this grant funding.
- 1.3 The new powers of LAs to impose a repayment condition on DFGs is another example of the move away from single non-repayable grant provision towards the recycling of capital funding to maximise the benefit for current and future service users and is consistent with the Council’s approach in relation to the provision of loans for discretionary repair works for private sector housing.
- 1.4 The requirement for LAs to match fund Government grant allocation on a 60:40 ratio has been relaxed but this option remains open to the Council.

2. Recommendation

2.1 To the Overview and Scrutiny Commission

That the Commission consider the report and decide what comments, if any it wishes to submit to the Cabinet.

2.2 To the Cabinet

- (i) To approve the implementation of the General Consent by the introduction of a repayment condition on all Disabled Facilities Grants which exceed £5,000 (up to a maximum of £10,000) in the event that the DFG-adapted property is disposed of within 10 years and the registration of a local land charge on those DFG-adapted properties.**
- (ii) Approve the delegation deciding whether or not to waive the requirement to repay a DFG (in accordance with the criteria set out in the General Consent) to the Head of Strategic Housing and Planning Services in consultation with the Cabinet Member for Housing.**
- (iii) To approve the continuation of match funding on a 60:40 Government/LA funding basis.**

DIANA MAUGHAN

Head of Strategic Housing & Planning Services

3. Background

- 3.1 The Disabled Facility Grant service is delivered through the Private Sector Housing Team in partnership with our Home Improvement Agency, Anchor Staying Put, and the Occupational Therapy service at WSCC.
- 3.2 This is a mandatory local authority service which is available to qualifying disabled residents living in private sector housing. Owner occupiers and private sector tenants (including housing associations) can apply for a DFG. Crawley Borough Council tenants obtain their disabled adaptations via the HRA aids and adaptations budget.

4. Legislative changes and budgetary implications

- 4.1 Section 52 of the Housing Grants, Construction and Regeneration Act 1996 ("the Act") allows LAs to impose repayment conditions on DFGs but only with the consent of the Secretary of State. Section 52 makes it clear any repayment condition is a local land charge.
- 4.2 In May 2008 the Secretary of State for Communities and Local Government gave all LAs a general consent to impose a repayment condition in respect of DFGs in certain circumstances which are described in section 5 below. The consent was contained in a document entitled *Housing Grants Construction and Regeneration Act: Disabled Facilities Grant (Conditions relating to approval or payment of Grant) General Consent 2008* ("General Consent").
- 4.3 Also in May 2008 the Disabled Facilities Grants (Maximum and Additional Purposes) (England) Order 2008 came into force. Relevant changes set out in this Order were:
 - the increase in the maximum grant payable from £25,000 to £30,000; and
 - the addition of (1) facilitating access to and from a garden and (2) making access to a garden safe for a disabled occupant, to the list of purposes for which a DFG will be approved when made by an eligible applicant.
- 4.4 Changes in the means test calculation for DFG approvals was made in the Housing Renewal Grants (Amendment) (England) Regulations 2008. The changes included that additional benefits (HB, CTX benefit, working and child tax credit with income below £15,050) will now result in the client being entitled to a grant covering the full cost of eligible works. Also, working family tax credit and child tax credit payments are now disregarded as income and earnings.
- 4.5 There has also been a relaxation of the 60:40 funding requirement placed on LAs in respect of the DFG funding allocation awarded by Central Government.

- 4.6 These changes are driving increased demand on the DFG budget as a result of the increase in both the type of work, the number of applicants eligible for DFGs and the increase in the amount of grant payable.
- 4.7 It is therefore important that the Council seeks to ensure resources continue to be used as effectively as possible to meet the needs of local people. The option to introduce a repayment condition on eligible grants provides one opportunity to do this.

5. Criteria for the introduction of a repayment conditions on DFGs

- 5.1 The power given to LAs to impose a repayment condition on DFGs is subject to the following prescribed criteria:
- The LA may demand repayment of any amount of a DFG which exceeds £5,000 to a maximum repayment of £10,000.
 - the applicant (“the recipient”) must have a qualifying owner’s interest in the premises on which the relevant works are to be carried out
 - the recipient disposes (whether by sale, assignment, transfer or otherwise) of the premises within 10 years of the certified date of completion of the works.
 - the LA after considering the following:
 - the extent to which the recipient would suffer financial hardship from having to repay all or any of the grant;
 - whether the disposal of the premises is to enable the recipient to take up employment, or to change the location of his/her employment;
 - whether the disposal is made for reasons connected with the physical or mental health of the recipient or of a disabled occupant of the premises; and
 - whether the disposal is made to enable the recipient to provide or receive care;
- is satisfied that it is reasonable in all the circumstances to require the repayment.

Any DFG subject to a repayment condition is a local land charge (section 52 of the Act), and must be registered accordingly.

- 5.2 While there are, as yet, no indications that the Government would look less favourably on LAs who do not opt to recycle resources in this way, the Government’s expectation in relation to LA use of capital resources to fund private sector repair and improvement work is that this should be on a loan (recoverable through a charge on the property) rather than a grant basis. The Council currently operates private repair loans on this basis and the introduction of recycling DFG funding would be consistent with this approach.
- 5.3 A decision to introduce a repayment condition on DFGs will not disadvantage recipients as the adaptation remains free at the point of delivery.

6. Crawley Context

- 6.1 There is a waiting list of disabled residents with WSCC awaiting an Occupational Therapy assessment, which indicates an on-going need for grant funded adaptations within the private sector. Demographic trends, coupled with the increase in eligibility for DFGs indicate that demand will increase.
- 6.2 If the Council had decided to introduce a repayment condition on DFGs during the last financial year, the amount that would have been subject to that condition would have been approximately £155,000. However, in reality and given the criteria above, repayment will only be likely where the property has been disposed of as a result of the grant recipient having died and we would therefore estimate a 25% recovery rate each year over a 10 year period. On the basis of an average grant allocation of £7,500 this would enable the Council to assist an additional 5 applicants each year simply through recycling resources.
- 6.3 Introducing a repayment condition on DFGs would help to stretch a scarce resource to meet demand and increase the potential return for our investment.
- 6.4 It is anticipated that the additional work involved in introducing a repayment condition on DFGs and the registering of the consequential local land charges can be met through existing working arrangements and in partnership with the Home Improvement Agency.
- 6.5 Arun, Mid Sussex, Worthing and Chichester Councils have already decided to introduce repayment conditions on DFGs. Horsham and Adur District Councils are giving consideration to this.

7. Impact Assessment

- 7.1 The introduction of a repayment condition on DFGs would not disadvantage anyone taking up the service as the adaptation work covered by the grant still remains free to the recipient at the point of delivery. Additionally, the General Consent requires that a LA consider the four issues set out in 5.1 above before requiring repayment with some protection for the recipient.
- 7.2 It is possible that the introduction of a repayment condition on DFGs may deter some disabled residents from applying for a DFG and having their home suitably adapted to meet their needs. However, early indications from other West Sussex authorities show no such reduction in demand. Take up would continue to be monitored by the Private Sector Housing Team and any issues addressed.
- 7.3 The works carried out would contribute to the Lifetimes Homes agenda and could potentially add value to the property thereby offsetting the impact on the recipient (or his or her estate) of any requirement to repay.

- 7.4 Opting not to introduce a repayment condition on DFGs could have a detrimental impact on future central government DFG grant allocations to the Council.

8. Ward Members' Views

- 8.1 The introduction of a repayment condition on DFGs would apply to all wards in a general way.
- 8.2 The Cabinet Member for Housing has been consulted on and supports the recommendations contained within this report.

9. Staffing, Financial and Legal Implications/Powers

- 9.1 There are no staffing or financial implications associated with the introduction of a repayment condition on DFGs. Resources within the Private Sector Housing team have recently been strengthened and there is sufficient capacity within both this team and the Legal Services team to absorb this work assuming current workloads remain constant. Legislative implications are dealt with under Section 3.

10. Links to the Community Strategy and Corporate Plan

- 10.1 The recommendation contained in this report relate to the following key areas of the Community Strategy:

Affordable Housing
Health and Social Care

- 10.2 The proposal contained in this report relate to the following key areas of the Corporate Plan:

Priority 2. Working for better health and healthcare.
Priority 3. Supporting sustainable communities, through housing and neighbourhood services
Priority 8. Developing attractive, vibrant and prosperous town and neighbourhood centres

- 10.3 The report relates to the following areas in which the Council operates to enhance the town and the quality of life of local people:-

- (i) Our Communities: (ensuring they are safe, healthy, cohesive and enjoyable)
- (ii) Our Council: (ensuring it is engaging, transparent, business-like with a social conscience, cost-effective and a place-shaping community leader)

11. Reasons for the Recommendations

- 11.1 DFGs are a mandatory local authority service with an ever increasing demand, a trend which is likely to continue. The finances available to fund these adaptations are a finite resource and the Council should take every opportunity to stretch and maximise the benefits.

- 11.2 There is a central government trend towards the private sector of moving away from grants and encouraging a system based on recycling capital resources to maximise the outcomes and increase value for money. The Council has already adopted this approach in relation to the Discretionary Loans service.
- 11.3 The decision to introduce a repayment condition on DFGs will support the Council in achieving objectives detailed in the Corporate Plan and other associated strategies.

12. Background Papers

Disabled Facilities Grant – The package of changes to modernise the programme.

Housing Grants, Construction and Regeneration Act 1996

Statutory Instruments: Disabled Facilities Grants (Maximum Amounts and Additional Purposes) (England) Order 2008 (No.1189) and Housing Renewal Grants (Amendment) (England) Regulations 2008 (No.1190).

Housing Grants Construction and Regeneration Act: Disabled Facilities Grant (Conditions relating to approval or payment of Grant) General Consent 2008.

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Disabled Facility Grants (DFGs) In The Private Sector.

Adoption of a repayment condition.

Procedural Check for Cabinet Only

Please note that reports will not be accepted until this section has been completed by the author

Key Decision **Y** Non-key Decision **N**

First included on the Forward Plan on **July 2008**

Discussed at CMT on **29th July 2008**

Discussed at Portfolio Briefing on **11 May 2009**

Discussed at Cabinet Briefing on **21 July 2009**

Equality Impact Assessment completed **27 August 2009**

Cleared by the following officers:-

Head of Finance	<i>no comments received</i>
Head of Legal and Democratic Services	28/8/09
Head of Human Resources and Development/HR Equalities Manager (where Equality Impact Assessment issues have been identified for staffing and/or equalities)	N/A
Director of Environment & Housing	25/8/09