



Leicester
City Council

WARDS AFFECTED - ALL

FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:

CABINET

9 NOVEMBER 2009

DISABLED FACILITIES GRANTS: INTRODUCTION OF LEGAL CHARGES

Report of the Director, Housing Strategy & Options

1. PURPOSE OF REPORT

- 1.1 The purpose of this report is to respond to a change in power that allow Councils to recover disabled facilities grants if the property is sold within ten years of the grant being paid. The Council already has a policy to reclaim Home Improvement Grants.

2. SUMMARY

- 2.1 A general consent was issued in 2008 that allows local authorities the discretion to impose a limited charge on adapted owner occupied properties. As a result the council can demand repayment of part of the grant if the property is sold within ten years of the completion of grant-aided work. The maximum charge is for £10,000 which must be above a £5,000 threshold.
- 2.2 The disabled facilities grant budget is under considerable pressure. The recovery of at least some part of the grant paid will enable the council to assist additional disabled people if the funds recovered are recycled as further grants. There are limitations on how this repayment requirement is enforced.

3. RECOMMENDATIONS

It is recommended that:

- 3.1 A local land charge is placed on all disabled facilities grants awarded to owner-occupiers where the amount paid towards works exceeds £5,000.
- 3.2 When considering the individual circumstances and merits of each case the Council must be satisfied that it is reasonable in all the circumstances to require repayment. Particular note will be taken of the recipient of the grant's ability to make repayment without suffering financial hardship.
- 3.3 Authority be delegated to the Head of Renewal & Grants Service to determine the amount of grant to be repaid, with the right of written appeal to the Director,

Housing Strategy & Options, in consultation with the Leader and Cabinet Lead for Housing.

3.4 That the decision is based on that as currently used for considering the reclaim of Home Improvement Grants, namely that when considering whether to demand repayment, account be taken of the following:

- (i) the extent to which the recipient of the grant would suffer financial hardship if required to repay all or any of the grant;
- (ii) whether the disposal of the premises is to enable the recipient of the grant to take up employment, or to change the location of his employment;
- (iii) whether the disposal is made for reasons connected with the physical or mental health or well being of the recipient of the grant or of a disabled occupant of the premises; and
- (iv) whether the disposal is made to enable the recipient of the grant to live with, or near, any person who is disabled or infirm and in need of care, which the recipient of the grant is intending to provide, or who is intending to provide care of which the recipient of the grant is in need by reason of disability or infirmity

3.5 All funds recovered through demanding repayment be deposited in the disabled facilities grant budget in order to be recycled as additional grants.

4. REPORT

4.1 This general consent provides local authorities with the discretion to impose a limited charge on the property, and ask for partial repayment of the grant if it is sold within ten years, if the local authority feels it is appropriate. Charges can only be placed on properties where the cost of the DFG exceeds £5,000 and the maximum charge will be limited to £10,000. This means that if a grant, of say £8,000 is awarded then a charge of £3,000 can be applied. If a grant of £18,000 is awarded then a maximum charge of £10,000 can be applied.

4.2 The council has a duty to provide mandatory disabled facilities grants (DFGs) towards the cost of specified works. Mandatory DFGs are limited to a maximum of £30,000, although Leicester's average grant is some £9,000. Financial support is provided by Central Government but only to a limited extent.

4.3 These grants are means tested except when the adaptations are needed for a disabled child. The owner or the tenant of the property must make application, although the applicant may not be the disabled occupant. However the means test is applied to the disabled occupant.

4.4 Grant application will generally be made following a community care assessment of needs. Mandatory DFGs must be paid where the works fall within the list specified in the legislation and are deemed to be 'necessary and appropriate' to meet the disabled occupant's needs. In addition the proposed works must be 'reasonable and practicable'.

- 4.5** Typically DFGs are provided towards the cost of stairlifts; accessible showers; widening doors; installing ramps; and in some cases extensions for bathrooms and/or bedrooms.
- 4.6** Some 35-40% of grants are below £5,000, so will be unaffected by this proposed policy change. Around 20% of grants would attract a maximum charge of £10,000.
- 4.7** Changes to DFG policy were announced as part of “Lifetime Homes, Lifetime Neighbourhoods – a National Strategy for Housing in an Ageing Society”.
- 4.8** This was launched in February 2008 along with a separate stand alone document setting out the response to the DFG consultation to improve programme delivery; the “Package of Changes to Modernise the Programme”. The changes were recommended by the independent study of the DFG programme.
- 4.9** As part of the consultation the Department for Communities and Local Government (CLG) looked to address the issue of how to raise additional funds to enable them to raise the capital limits progressively and expand the scheme. The vast majority of responses to the consultation were in favour of the introduction of some form of limited charges. Through the introduction of charges local authorities will be able to recycle some of these funds in the DFG programme, but only when the adapted property is sold. In time this will make the budget go further and meet more need. A number of options were considered by the CLG. The outcome of the consultation showed that the most popular option was the one the CLG have subsequently implemented, which is to place a charge for grants above £5,000, limited to a £10,000 maximum charge.

4.10 Circumstances for Reclaim

Estimating how much income will be achieved is not possible because we do not know how many people sell their homes after a DFG, or after what time period, because there was no requirement to let us know. Reclaiming Home Improvement Grants has brought in circa £50k pa, but the circumstances are not directly comparable. A common scenario would be where the person died and the inheritors repaid the grant from the sale. An equally common scenario, however, might be where an older person living with a family needs adaptations. They die, but the grant is not reclaimable then because the family continue to live in the house and it is not sold at that time. In a recent case the disabled person and their family are moving to a new home. They had a DFG not long ago. They are now applying for one on the new house. The recommendation in this report would allow the Council to reclaim up to £10K, *taking into account hardship*. So if there was equity in the first house, some could come to the Council, taking into account all the circumstances.

4.11 Review of actions by other authorities

Thirty other local authorities were contacted. Ten responded of whom six had already adopted such a policy (including Havant who adopted it in June 2008) and four others who are in the process of doing so. None had yet demanded any

repayments. Three had consulted directly with service users and found no resistance to the proposal.

In 2007-08 we completed 213 DFGs. 131 (62%) of them were above the £5k threshold. Charges totalling £287k could have been placed, representing 15% of the total spent.

4.12 Conclusions

- A minority of local authorities so far have adopted such a policy – given the low response rate
- Repayment levels are very difficult to estimate but are expected to be modest.
- Service users seem reasonably content with the situation – reassured by the requirement to consider cases individually
- Adoption of the policy would demonstrate to CLG our willingness to explore all available opportunities to close the gap in DFG funding

5. FINANCIAL, LEGAL AND OTHER IMPLICATIONS

5.1. Financial Implications (Rod Pearson)

It is difficult to estimate how much funding would be generated through the adoption of this policy. However, based on a programme of say £2m per annum, in ten years time it is likely that several hundred thousand pounds per annum additional funding may be available to the DFG programme. In the short term the amounts will be much smaller than this.

5.2 Legal Implications (Zoe Ayris)

The changes required to the Council's policy arise as a result of changes to legislation by Government. The changes do not materially alter the DFG programme or procedure and as such there are no particular legal implications.

However, when considering whether to exercise the Council's new discretion relating to repayment, the Council must act reasonably and within the specified conditions. However whether "financial hardship" would be caused is particularly subjective and therefore in order to protect itself and to show reasonableness, the Council should set clear and specific criteria for defining what it considers would be financial hardship. Without clear criteria or guidelines, the Council could be at risk of being accused of partiality possibly leading to complaints to the Ombudsman or, worst case, judicial review.

Grants over the value of £5,000 will be registrable as a local land charge, not registrable at the Land Registry. This will accord some protection to the Council as the charge will bind existing and subsequent owners of the property and will be repayable even if the property is sold without notification to the Council.

6. OTHER IMPLICATIONS

OTHER IMPLICATIONS	YES/NO	Paragraph References Within Supporting information
Equal Opportunities	Yes	An EIA has been completed and action plan agreed. The Plan focuses on communication.
Policy	Yes	
Sustainable and Environmental		
Crime and Disorder		
Human Rights Act		
Elderly/People on Low Income	Yes	

7. BACKGROUND PAPERS – LOCAL GOVERNMENT ACT 1972

- Housing Grants, Construction and Regeneration Act 1996
- The Housing Grants, Construction and Regeneration Act 1996: Disabled Facilities Grant (Conditions relating to approval or payment of Grant) General Consent 2008 - see <http://www.communities.gov.uk/publications/housing/generalconsent2008>
- “Package of Changes to Modernise the Programme” - see <http://www.communities.gov.uk/publications/housing/modernisationchangespackage>
- “Lifetime Homes, Lifetime Neighbourhoods – a National Strategy for Housing in an Ageing Society” - see <http://www.communities.gov.uk/publications/housing/lifetimehomesneighbourhoods>)

8. CONSULTATIONS

None direct

9. OFFICERS TO CONTACT ABOUT THIS REPORT

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Key Decision	Yes
Reason	Is significant in terms of its effect on communities living or working in an area comprising more than one ward
Appeared in Forward Plan	Yes
Executive or Council Decision	Executive (Cabinet)

