

Notice of NON KEY Executive Decision containing exempt information

This Executive Decision Report is part exempt and Appendix A is not available for public inspection as it contains or relates to exempt information within the meaning of paragraph (2) of Schedule 12A to the Local Government Act 1972. It is exempt because it refers to Information which is likely to reveal the identity of an individual, and the public interest in maintaining the exemption outweighs the public interest in disclosing the information

Subject Heading:	Write-Off of Historical DFG Loan
Decision Maker:	Barbara Nicholls
Cabinet Member:	Councillor Gillian Ford, Cabinet Member for Adults and Wellbeing
ELT Lead:	Barbara Nicholls, Strategic Director, People
Report Author and contact details:	Kelly Owusu kelly.owusu@havering.gov.uk
Policy context:	Home Adaption Policy: If the Council provides more than £5,000 in funding, it will be registered as a charge on the property. If the property is sold within 10 years after the work is completed, the money must be repaid. However, the Council can waive this charge in certain cases.
Financial summary:	The financial implication of this decision is the write-off of a Disabled Facilities Grant (DFG), originally provided to the property owner in 1998 under the (DFG) scheme. Pursuant to the current DFG legislation, the amount would be subject

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	to a 10-year local land charge, which would have now expired. Given the elapsed time and applying the current policy, the loan should be written off.
Relevant Overview & Scrutiny Sub Committee:	People Overview & Scrutiny Sub Committee
Is this decision exempt from being called-in?	The decision will be exempt from call in as it is a Non key Decision

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The subject matter of this report deals with the following Council Objectives

People - Supporting our residents to stay safe and well

Place - A great place to live, work and enjoy

Resources - Enabling a resident-focused and resilient Council X

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

It is recommended that:

1. The Council write off the loan provided to the owners as detailed in Appendix A for the purpose of disabled facilities in their own home.
2. Authorisation be given to remove the legal charge from the title register for the property as detailed in Appendix A.

AUTHORITY UNDER WHICH DECISION IS MADE

3.3.4a Specific powers of the Director of Adult Social Services

2. Living Well 2.1 To exercise the powers / functions and to carry out the duties of the Council under all relevant housing legislation including (but not limited to) the Housing Act 1996 and any other applicable legislation as introduced by central government from time to time.

2.2 The delegation above shall apply to all housing requirements, including but not limited to, homelessness, adaptations, relocations, temporary accommodation, right to buy, housing allocation and housing strategy. The delegation shall also include the right to grant, accept, extend, surrender or otherwise deal with any leasehold interests.

2.3 To waive assessed contributions for adaptations to homes or provision of equipment in exceptional circumstances, subject to the agreed criteria and the contribution not exceeding £1,000 or such other sum as may from time to time be fixed by the Council. 2.4 To exercise all the rights and responsibilities of the Council in its role as landlord, such as issuing consents, assessing compensation, etc.

STATEMENT OF THE REASONS FOR THE DECISION

1. The Council's social services department provided a Disabled Facilities Grant ("DFG") to the owners in 1998 to meet an assessed need and to assist the owners in remaining independent in their own home. Social Services awarded the DFG as an interest free loan for structural alterations for the use and benefit of the owner, a physically disabled person.

Pursuant to the terms of the legal charge at Appendix A, the loan would be repayable to the Council if there was a change of ownership of the premises by sale or otherwise or on the death of the last surviving owner. In 1998, the owners agreed for a charge by way of a legal mortgage to be noted on their title and registered at the HM Land Registry.

The owner has requested for the Council's consent to postpone the charge dated 20 April 1998 to allow another lender's charge to take priority over the Council's existing charge on the property. The new lender's charge will have priority over the Council's charge and in the

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event of repossession of the property, the new lender will be paid first and then the Council. There is a risk that if there is not sufficient equity in the property, the Council will be unable to recover the amount owed.

Following a thorough review of the circumstances of the historical DFG loan, the Council's DFG department proposes to formally write-off the loan in light of the current DFG policy, see attached Appendix B. Under the current DFG legislation, this type of charge would only be placed as a local land charge on the property for a maximum period of 10 years, after which recovery would not be sought.

It is therefore recommended that the current policy be applied retrospectively to this case, acknowledging that had the DFG been issued under today's legislation, it would no longer be recoverable. This approach ensures consistency and fairness in the treatment of historical cases in line with current standards. It is also recommended that the legal property team be instructed to remove the legal charge from the owner's title at the HM Land Registry

The decision to write off the outstanding DFG charge is based on a combination of policy and fairness considerations. The DFG loan was originally provided in 1998 to meet an assessed need and to support the owner in maintaining independence within their home environment.

Under current Disabled Facilities Grant (DFG) legislation, such charges are only recoverable for a maximum period of 10 years through a local land charge. After this period, recovery is no longer enforceable. Although, this policy was not in place at the time the loan was granted, it would be in the interests of fairness that the policy be applied retrospectively.

The recommended decision aligns with current best practice, reflects the intent of the legislation, and acknowledges the elapsed time. It also avoids the administrative burden and potential distress of pursuing recovery that would not be permissible under today's framework.

OTHER OPTIONS CONSIDERED AND REJECTED

1. Postpone the charge dated 20 April 1998 which would demote the Council's charge to second in priority after the 1st charge.

This option has been rejected. The Council has decided to write off the loan in light of the current DFG framework. The Council will make an application to the Land Registry to remove the charge at the Land Registry.

2. Refuse the postponement request.

This option has been rejected. The current DFG policy states the loan would be registered as a local land charge for a maximum period of 10 years.

PRE-DECISION CONSULTATION

NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER

Name: Kelly Owusu

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Designation: DFG Service Delivery Manager

Signature: KOWusu

Date:21/07/2024

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

There is nothing on the face of the legal charge which prevents it continuing to have effect. Furthermore there appears to be sufficient equity in the property to satisfy both the Council's loan and the new loan currently being sought by the property owner. The proposed new mortgagors have requested that the Council agree that its charge take second priority, so have not requested that it be discharged altogether. However, given that the purpose of the loan in the first place was to enable the home owners to remain living in their property independently and they have had the benefit of that loan for 27 years and that if such a loan was provided today it would be written off after 10 years it appears reasonable for the Council to write off the loan and remove the charge from the Title.

FINANCIAL IMPLICATIONS AND RISKS

This decision paper is seeking approval to write off a loan that was made to a client in 1998 under the disabled facilities grant and for the legal charge to be removed from the register of their property.

Pursuant to the current DFG legislation, the amount would be subject to a 10-year local land charge, which would have now expired. Given the elapsed time and applying the current policy, the loan should be written off.

The total value of the amount to be written off is £6,351. If the charge was not written off this income would materialise at some point for the council and therefore there is a financial loss of to LBH as a result of this decision. The income would have gone back into the DFG funding pot and therefore writing this off does not impact directly on the general fund.

Although, there is a financial loss as a result of this decision, the loan of £6,351 to the client to undertake works in their property has meant that the client has been able to remain at home since 1998 without the need of expensive residential care which would have saved far in excess of £6,351 since 1998.

HUMAN RESOURCES IMPLICATIONS AND RISKS (AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)

There are no direct Human Resources or accommodation implications arising from the proposed decision to write off the Disabled Facilities Grant (DFG) loan. The decision does not involve changes to staffing levels, roles, responsibilities, or working arrangements.

The administrative work associated with reviewing and processing the write-off has been managed within existing resources. No additional staffing or accommodation adjustments are required to implement this decision, and no HR-related risks have been identified.

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

The proposed decision to write off a historical Disabled Facilities Grant (DFG) loan does not present any direct negative impact on individuals with protected characteristics under the Equality Act 2010. The loan in question relates to a grant issued in 1998, and the decision to write it off is based on the expiration of the 10-year statutory recovery period, in line with current DFG legislation.

The DFG scheme itself is designed to promote equality by enabling individuals with disabilities to live independently and safely in their homes. This decision does not alter access to the DFG or its future availability, nor does it affect the eligibility criteria or support provided to current or future applicants.

There are no adverse implications identified in relation to:

- ****Age****
- ****Disability****
- ****Gender reassignment****
- ****Marriage and civil partnership****
- ****Pregnancy and maternity****
- ****Race****
- ****Religion or belief****
- ****Sex****
- ****Sexual orientation****
- ****Socio-economic status****
- ****Health and wellbeing****

Given the administrative and historical nature of this decision, an Equality and Health Impact Assessment (EHIA) is ****not required****. However, due regard has been given to the Public Sector Equality Duty (PSED) to ensure the decision:

- Eliminates discrimination,
- Advances equality of opportunity, and
- Fosters good relations between those who share protected characteristics and those who do not.

The decision supports transparency, financial accountability, and ensures that council resources are directed toward current and future needs of residents, particularly those requiring adaptations to live independently.

ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS

There are no direct environmental or climate change implications associated with the proposed decision to write off a historical Disabled Facilities Grant (DFG) loan. The decision is administrative in nature and does not involve any physical works, procurement, or changes to service delivery that would impact the environment.

As such, there are no identifiable environmental risks or sustainability concerns arising from this action.

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BACKGROUND PAPERS	
NONE	

APPENDICES	
Appendix A	Exempt
Appendix B Policy	Open

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Part C – Record of decision

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

Decision

Proposal agreed

Delete as applicable

Proposal NOT agreed because

Details of decision maker

Signed



Name: Barbara Nicholls

Cabinet Portfolio held:

CMT Member title:

Head of Service title Strategic Director of People

Other manager title:

Date: 28 August 2025

Lodging this notice

The signed decision notice must be delivered to Democratic Services, in the Town Hall.

For use by Committee Administration

This notice was lodged with me on _____

Signed _____

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