

## How Legislative Powers Support Statutory Duties

**EXECUTIVE MEMBER:** Councillor Clements  
**LEAD OFFICER:** Fergus McMorrow  
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### Summary and Recommendation:

The text attached as Appendix A was originally written as a briefing document but is now presented for information to the Strategic Housing Panel, which members are asked to consider and their comments are invited.

#### 1. Information

- 1.1 At the meeting of the Strategic Housing Panel on 11 August 2010 members requested that the document attached as Appendix A be brought to the next meeting.

#### 2 Issues

- 2.1 Members have previously examined the issues to which Appendix A refers but not specifically how the use of powers under the Housing Act, 2004, can support the Council's duties to provide Disabled Facilities Grants under the Housing Grants, Construction & Regeneration Act, 1996.
- 2.2 The Panel is requested to consider the issues described in light of the need for both financial prudence and a sustainable programme that can, to an extent, contain an element of self-funding. This would apply both to the provision of disabled facilities and to the removal of Housing Health & Safety Rating Scheme hazards from the homes of people who are vulnerable financially and in other ways.
- 2.3 Officers propose to discuss the issues with members and, if appropriate, prepare a report with recommendations to a future meeting.

### **Housing Act, 2004: Why we need to use our powers to support our duties**

We need to use some of our Housing Act, 2004, powers to fulfil other statutory duties.

1. We have an inescapable statutory duty to provide Disabled Facilities Grants (DFGs) under s23(1) of the Housing Grants, Construction & Regeneration Act, 1996. But it is often necessary to remove hazards under the Housing Health & Safety Rating System (HHSRS) just to enable the safe and satisfactory provision of disabled facilities. 5 recent examples (selected by memory only) were taken.
2. They showed that works were necessary:
  - to make electrical installations safe
  - to replace an electrical consumer unit
  - to completely rewire a house
  - to remove flooring that was riddled with woodworm and wet rot
  - to make safe the gable end and internal walls of a house
  - to insert a DPC throughout just to make electrical installations safe
  - new floor relaid in bathroom to make safe provision of a level access shower
  - to determine the presence of and extent of asbestos.The total cost of all the above works was £55,000.
3. The safe and satisfactory provision of disabled facilities would have been impossible unless those works to remove Category 1 HHSRS Hazards (the most serious) were done.
4. The following paragraphs will show why it is much more financially advantageous for the Council to retain its financial assistance policy for Home Renewal alongside its provision for DFGs.
5. Before 2008 the Council had no power to recover its capital expenditure on DFGs. In 2008 the government gave local authorities very limited power, which applies to owner occupied homes only. The Council can now place a charge on the property when the following conditions are met:
  - the amount of grant exceeds £5000
  - the property is owner-occupied
  - the charge is effective for 10 years.The maximum charge on the property is £10,000. Of course, recovery of the capital invested is impossible if the house is sold after 10 years.
6. In contrast, the Council's powers to recover its investment under the financial assistance policy for Home Renewal are much greater because they are at our reasonable discretion. Under the Council's policy approved in August 2010 the financial assistance is in the form of a 100% interest free loan to cover the cost of

7. So, therefore, when works to remove HHSRS hazards are necessary before disabled facilities can be installed, it is financially prudent for the Council to undertake those remedial works under the financial assistance policy for home renewal instead of charging them to the Disabled Facilities Grant. The loan would be guaranteed to be repaid to the Council upon sale of the property, where it will be a useable capital receipt available for the Council's housing and other programmes from which the community will benefit.