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| To: HOUSING AND SOCIAL WORK SERVICES COMMITTEE | | Subject: CHANGE OF ARRANGEMENTS FOR STANDARD SECURITY |
| From: HEAD OF HOUSING SERVICES | | |
| Date: 25 FEBRUARY 2009 | Ref: MP/LG | |

1. Purpose of Report / Introduction

The purpose of this report is to ask the committee to homologate the decision of the Executive Director of Housing and Social Work after consultation with the Convener of Housing and Social Work and discussion with the Head of Legal Services (1) not to recover funds totalling approximately £13,000 paid in respect of top up funding for adaptations to a dwellinghouse made to meet the needs of a disabled child which are recoverable on the disposal of the property under an existing Standard Security; and (2) to put in place new security arrangements in respect of the said sum.

2. Background

- 2.1. In 2003, Mr & Mrs X were provided with top-up funds totalling £26,042, in addition to grant funding, to cover the full cost of an extension to meet the needs of their disabled child. These funds were secured on the property through a Standard Security granted by Mr and Mrs X, the joint owners of the property. This Standard Security specified that repayment of the top-up funding would be required, on a sliding scale, if the property was sold or disposed of within 10 years, excepting disposal to the person with the disability for whom the adaptation was made. It should be noted that the Standard Security in favour of the Council for adaptations always ranks after any Standard Security to a bank or building society and this is the case here.
- 2.2. Mr and Mrs X wish to transfer the title solely to Mrs X. On a strict legal interpretation such a transfer of the title would constitute a disposal under the conditions of the Standard Security referred to at 2.1 above, and if the transfer takes place now as only 5 years have lapsed, approximately £13,000 (50% of the original standard security funding) would be repayable to the Council.

3. Considerations

- 3.1. One of the main purposes of securing top-up funding is to ensure that applicants having received a substantial top-up grant do not subsequently move to another house and seek public assistance to adapt that house also. There is no house move here and the child (now a young adult) for whom the adaptation was made will continue to live in the house. With this in mind, it is proposed that rather than requiring recovery of approximately £13,000 at the point of transfer, (or effectively preventing the transfer of title by requiring payment) that the existing security be discharged and that a new security be granted by Mrs X only to cover the outstanding sum approximately £13000 for the remainder of the original ten year period i.e. for approximately five years. The new Standard Security will rank after a Standard Security to Mrs X's bank or building society's Standard Security.

- 3.2. In May 2008, Housing & Social Work Services agreed to change the methodology for recovery of additional top-up funds. In line with forthcoming legislative changes, it was agreed that any top-up funds in excess of £1,000 be recovered **in full** on re-sale or transfer of the property to assist in providing a continual and renewable source of funding assistance. This means that the previous policy of securities having a limited duration of only ten years no longer applies
- 3.3. As the original top-up provided to Mr and Mrs X was prior to the date of the change in methodology and did not have conditions of full recovery imposed, it is proposed that the conditions that applied to the existing standard security be applied to the new security i.e., recovery on a sliding scale over the remainder of the 10 year period (approximately five years) with a reducing balance of 20% per annum. This would mean that at the end of the period of the original Standard Security, i.e., five years from now, there would be no outstanding sum due to the council.
- 3.4. Mrs X's bank / building society required the new title and security arrangements to be put in place on Friday 13th February 2009. Given the current difficulties with banks and building societies after discussion with the Head of Legal Services and consultation with the Convener of Housing and Social Work, the executive Director of Housing and Social Work consented to the new security arrangements.

4. Financial / Personnel / Legal / Policy Implications

- 4.1. There are no additional financial implications to the Council in terms of outlay, however there would be no recovery of top-up funding at this point in time in the event that the transfer of title proceeds.
- 4.2. The Head of Legal Services has been consulted in the preparation of this report. Mrs X will be responsible for any legal fees she incurs in respect of the discharge of the existing Standard Security and the new Standard Security.

5. Recommendations

It is recommended that the Committee homologate the decisions made by the Executive Director of Housing and Social Work

- (i) that the funds due to the Council on transfer of the title to the property not be recovered when the title to the property is transferred by Mr and Mrs X to Mrs X as the disabled person for whom the extension was funded is still resident in the property.
- (ii) that the existing Standard Security be discharged by the Council in exchange for Mrs X granting a new standard security on the property to the Council for the appropriate sum for the remainder of the initial ten year period.
- (iii) that the conditions attached to the existing standard security be applied to the new standard security i.e., recovery on a sliding scale for the remainder of the original 10 year period, after which time there would be no sum recoverable.
- (iv) otherwise note the contents of the report.



Monica Patterson
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Date 23 January 2009

For further information on this report please contact Liz Gladstone on telephone 01698 274163.