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6. Grant Recovery

6.1 Grant Recovery - Overview

Purpose

- 6.1.1 In defined circumstances, capital grant is subject to recovery by the GLA. This chapter sets out grant recovery requirements for Registered Providers only. Unregistered bodies should refer to the separate Recovery – Unregistered Bodies chapter in the Guide.
- 6.1.2 The Recovery of Capital Grants and Recycled Capital Grant Fund General Determination 2017 makes provision for the recycling of grant by all classes of Registered Provider regardless of whether they are non-profit or for-profit providers. Where Registered Providers are referred to in the chapter, this should be read as referring to all Registered Providers that are developing with capital grant inside London, unless otherwise stated. Local authority Registered Providers should also refer to their Grant Agreements for specific details of their recovery and recycling procedures.
- 6.1.3 This chapter sets out:
- The context and legislative framework for grant recovery.
 - The “Relevant Events” which trigger grant recovery and the circumstances under which recoverable grant must be repaid to the GLA, or where recoverable grant can be recycled.
 - How to calculate the amount of recoverable grant, including when property is sold and specific requirements for profit-making Registered Providers following disposal events.
 - How the grant is apportioned to each property within schemes developed with grant.
 - The grant recovery process, highlighting the difference between repayment and recycling through a Recycled Capital Grant Fund (RCGF).
 - The Permitted Uses of the Recycled Capital Grant Fund (RCGF).
 - The requirements for accounting, reporting and audit.

Context

- 6.1.4 Legislation requires the GLA to determine and/or specify principles regarding grant recovery. The main legislative requirements are as follows:
- Section 32, Housing and Regeneration Act 2008
 - Section 27, Housing Act 1996
 - Section 52, Housing Act 1988
 - Supplemented by Statutory Instrument 2010/862.
- 6.1.5 The GLA’s current principles governing Grant Recovery following the sale of property (and other defined Relevant Events) are set out in the Recovery

of Capital Grants and Recovery of Capital Grant Fund (Greater London) General Determination 2017.

- 6.1.6 Follow the link to see the [Recovery Determination](#).
- 6.1.7 These procedures apply to Capital Grants provided by both the GLA (and predecessor bodies) and local authorities. They apply equally to historic grant, paid as Housing Association Grant or Social Housing Grant, and Social Housing Assistance (SHA) currently paid under sections 30,34 and 333ZE of the Greater London Authority Act 1999; this may not apply if grant was paid under contractual arrangements which prescribe different arrangements, i.e. subject to clauses in a Grant Agreement or Framework Delivery Agreement. The different types of funding listed here are referred to collectively in the Recovery Determination and this Guide as “Capital Grant” or just “grant”.
- 6.1.8 Properties developed by organisations with the assistance of Social Housing Grant under s27A of the 1996 Housing Act, which as part of their Grant Agreement were/are subsequently transferred to Registered Providers that were formerly Registered Social Landlords, are to be treated as funded under s18 of that Act and will therefore be subject to these procedures following transfer.
- 6.1.9 Where this chapter refers to recycled grant it refers only to funds from the RCGF and not the Disposals Proceeds Fund. When referring to recovered grant this includes notional interest added to a RCGF balance which can then be spent like grant.
- 6.1.10 Registered providers should refer to Homes England’s arrangements for the recycling arrangements for grant generated outside Greater London.

Disposal Proceeds Fund

- 6.1.11 Measures introduced by the Housing and Planning Act 2016 have abolished the Disposal Proceeds Fund. RPs that have existing balances in their Disposal Proceeds Fund will be given time to manage down these funds. Contributions from the Disposal Proceeds Fund can be used to support the delivery of provider programmes in accordance with the Regulator of Social Housing’s guidance, although RPs should note that disposal proceeds cannot be used for the provision of affordable home ownership accommodation.
- 6.1.12 The Regulator of Social Housing has published requirements and guidance on the operation and managing down of the Disposal Proceeds Fund. Any queries not resolved by reading the requirements and guidance documents may be directed to the Referrals and Regulatory Enquiries team on 0300 1234 500 (select option 3) or mail@Homesengland.gov.uk

Conversions

- 6.1.13 As part of the 2011-15 Affordable Homes programme, the Building the Pipeline and the Mayor's housing Covenant 2015-18 Programmes, RPs were able to use the concept of 'conversions' to aid additional supply of affordable housing.
- 6.1.14 The GLA will no longer authorise conversions of social rented homes to higher rents.
- 6.1.15 The GLA may consider allowing conversions between other affordable tenures on a case-by-case basis. Where agreed, RPs may have to consider whether there has been a relevant event – such as a 'change of use' or 'disposal' – and, if so, whether grant is due to be recovered or recycled via the RCGF. RPs should contact their GLA Area Manager if they have any queries about converting affordable homes to a different affordable tenure.

6.2 Relevant Events

General

- 6.2.1 This section sets out the procedures that must be followed by all Registered Providers when a Relevant Event occurs in connection with grant funded land or property. Property is defined in the Recovery of Capital Grants and Recycled Capital Grant Fund General Determination 2017. Grant is recoverable when a Relevant Event occurs. Typically, this is the sale of a rented property, or a shared owner staircasing, but it may also be the failure to complete the development of a scheme, a change in use of a completed scheme, the sale of undeveloped land or property and/or other specified situations.
- 6.2.2 When this Guide uses the general term “Recoverable”, or “Recovery” it refers to the fact that an obligation arises on the RP to repay the defined amount of grant, when the Relevant Event occurs. This obligation can be discharged by repaying the grant, or by crediting the sum to the RP’s Recycled Capital Grant Fund (RCGF). The term “Recoverable” contemplates when this obligation arises and the amount of grant recoverable. It does not look at the procedural requirements governing how RPs may utilise recycled grant. These are set out in section 6.5.
- 6.2.3 The term “Relevant Event” comes from The Recovery of Capital Grants and Recycled Capital Grant Fund General Determination 2017, and must be read in this section to mean relevant events as defined in that Determination. The term does not refer to milestones, or other events described in other guidance or contract arrangements.
- 6.2.4 Depending upon which Relevant Event has triggered grant recovery, RPs will either be required to repay grant to the GLA, or will have the option to recycle it through their Recycled Capital Grants Fund to spend on permitted uses (see section 6.5).
- 6.2.5 It should be noted RPs who do not participate in the GLA’s affordable homes programmes may lose their freedom to operate a RCGF and the GLA may require any balance in a fund to be repaid immediately if this occurs.

The Relevant Events

- 6.2.6 The Relevant Events are defined at clause (8) of the [Recovery Determination](#).
- 6.2.7 When a Relevant Event occurs to land or property funded from the RCGF, the principles within the Recovery Determination (and detailed in this Guide) apply equally to the recovery and repayment or re-use of that recycled grant, as if it had been funded with new Social Housing Assistance.

- 6.2.8 When a Relevant Event occurs, RPs must check if it is one which requires them to repay the grant directly to the GLA, or whether they have the option of crediting the grant to their RCGF. Details are in the Determination, but, in summary, relevant events 8(a) to 8(i), 8(r), 8(s) and 8(u) are repayment events with the remainder being recycling events.
- 6.2.9 For Relevant Event 8(f) – see the Recovery Determination - the GLA will make a judgement as to whether the error is of sufficient size to warrant repayment; this will normally include any sum greater than £500.

Relevant event notification procedure

- 6.2.10 Through provisions made in the Recovery Determination, the GLA requires that RPs notify it upon the occurrence of a relevant event or discovery that a relevant event will take place.
- 6.2.11 For relevant events 8a) to 8f) – RPs should notify the GLA not more than 14 days from the date which the relevant event occurred.
- 6.2.12 For relevant events 8g) to 8t) – RPs should notify the GLA in advance of the relevant event occurring. This should be not less than 14 days in advance of the anticipated occurrence of the relevant event.
- 6.2.13 RPs should notify the GLA using its forms of notice. Further guidance about historical grant and constitutional change notifications, as well as links to the template forms of notice, can be found [here \(HGNF1\)](#).
- 6.2.14 Details of the grant recovery consequences of the occurrence of each relevant event are set out later in this chapter. RPs that are unsure of the grant recovery consequences of the occurrence of any relevant event should seek further advice from their GLA Area Manager.
- 6.2.15 RPs should note that, while shared ownership staircasing transactions are relevant events for the purpose of grant recovery, these transactions are exempt from the notification process outlined above. RPs should keep a written record of their grant recovery calculations as set out in section 6.3 below but are not required to separately notify the GLA.

Repayment & Recycling Timetables

- 6.2.16 Following receipt of a notification of a relevant event that triggers grant repayment, the amount of grant to be repaid will be confirmed by the GLA. The GLA will then raise an invoice, stating the terms and schedule for payment. RPs should not forward a payment in advance of receiving an invoice.
- 6.2.17 Should the repayment of recoverable grant place RPs in financial difficulty, they must advise the GLA of the reasons and resultant impact in full detail. The GLA may in exceptional circumstances decide to defer

the repayment to a future date, accept payment by agreed instalments, or write off part or all of the repayment amount.

- 6.2.18 Where RPs fail to meet a scheme milestone by the date specified, re-forecasting is not accepted and an acceptable replacement scheme is not available, the GLA will require repayment of grant already paid under clause 8(b) of the Recovery Determination (scheme cancellation). In this case, the GLA will issue the RP with an invoice for the amount to be recovered.
- 6.2.19 Where there is an option to recycle and RPs opt to credit recoverable grant to their RCGF (as detailed in this chapter), the effective date of the credit is the date of the Relevant Event. For details on the administration of the fund, please see section 6.5.

Interest Chargeable on Delayed Notification or Repayment

- 6.2.20 Where RPs are required to notify the GLA of a Relevant Event and that notification is not received by the appropriate deadline, as set out in paragraph 6.2.16, the GLA will normally add interest to the amount of Capital Grant recovered. For profit-making Registered Providers only, the GLA will require the addition of uplift as well as interest to be added to the amount of capital grant repaid. Where such an event occurs, repayment will be in accordance with the uplift principles and methodology defined in paragraphs 6.5.43 to 6.5.45. For any questions regarding the rate of interest or the interest calculation, Registered Providers should contact their Area Manager at the GLA. Typically, the interest rate per annum will be equal to the base rate of the Royal Bank of Scotland plc plus two per cent (i.e. if the base rate is 0.75%, the GLA will typically charge an interest rate of 2.75%). Interest will accrue daily.
- 6.2.21 For the purposes of charging interest following delayed notification, the date of the relevant event will be determined by the GLA, on the basis of paragraph (8) of the Recovery Determination. This will usually be the date the relevant event actually occurred.
- 6.2.22 Interest will not be charged if the GLA has been informed in writing of a likely delay and has agreed in writing that the circumstances do not justify the charging of interest for a particular period. Where supporting documentation is not available, RPs can avoid interest by paying the whole of the recovered grant to the GLA.
- 6.2.23 The GLA will charge additional interest if the invoice for repayment of grant, or interest due to late notification, is not paid within the timescales specified in the invoice. RPs should contact their Area Manager who will be able to advise on the rate of interest that will apply. Interest will accrue daily.

Payment of Interest Only

- 6.2.24 RPs are required to notify the GLA as soon as they become aware that a forecast payment milestone will not be achieved and reforecast the milestone as appropriate (see “Milestone Forecasts” in Section Two of the Guide). Where a reforecast is not undertaken or discussed with the GLA and the payment milestone is not actually achieved, payment of “interest only” may be due as per the following paragraph.
- 6.2.25 Where grant is claimed and paid following a payment milestone and the GLA later discovers that the payment milestone was not actually achieved or took place later than forecast, it is a relevant event for grant recovery purposes. However, depending on the circumstances, the GLA may decide that it will not recover grant, in which case it may require payment of interest on the amount of that grant paid. Grant will be deemed as having been claimed in advance of the appropriate payment milestone being achieved – see Programme Management guidance in section 2 which defines how the various payment milestones can be achieved.
- 6.2.26 In such cases, “interest only” will be due from the 15th day following the date of the Relevant Event (the original payment milestone) and continue to be charged until the payment milestone is achieved or a re-forecast milestone is achieved.
- 6.2.27 The GLA will calculate the amount of “interest only” to be paid and invoice the RP accordingly. RPs should not make a payment in advance of this invoice. Interest will be due from the 15th day following the date the original payment milestone was forecast until the day before the actual start on site milestone occurred.

Example

A Registered Provider claimed grant at the forecast start on site milestone. For various reasons, it did not achieve start on site until a later date. The GLA became aware of the delay between the forecast start on site date and the actual start on site date during a contract review meeting.

Following discussions with the Registered Provider, the GLA is satisfied the reasons for the delay and does not require the Registered Provider to repay grant. But since the Registered Provider claimed grant in advance of achieving the payment milestone, the GLA requires the Registered Provider to pay interest on the amount of grant already paid.

6.3 Calculation of Recoverable Grant

General

- 6.3.1 This section sets out the basis for RPs to calculate recoverable grant following one of the Relevant Events set out in the [Recovery Determination](#). For details of how to apportion grant to a property in order to calculate the amount of grant that is recoverable, please see section 6.4. For schemes developed under the 2011-15 AHP, grant liability for recovery is always calculated according to the Total Grant Required or funding requested rather than the Agreed Payment Rate (APR).
- 6.3.2 Where appropriate, RPs are required to calculate the Net Sales Receipt from property sold and ascertain whether this amount is sufficient to cover the grant recovery liability – taking into account the GLA’s Eligible Deductions.
- 6.3.3 If the net receipt is greater than the recoverable grant, then the RP must either repay or recycle the full amount of recoverable grant as directed below.
- 6.3.4 If the net receipt is less than the recoverable grant, then RPs may need to defer recovery of the balance, or, in circumstances described in the following paragraphs, RPs may write off the shortfall with the prior permission of the GLA.
- 6.3.5 The GLA does not have the power to ‘write off’ amounts of recoverable grant for an RP. While there are certain circumstances where the GLA may waive or not pursue recovery of grant, it cannot write off these sums. Only organisations can write off assets that are shown in their accounts. Therefore, it is for individual RPs to write off any amounts that are agreed with the GLA, as described in this chapter. If RPs intend to write off grant they must make a business case to the GLA, including assessment of financial hardship resulting from grant write off being denied, before they write off any historical grant.
- 6.3.6 Note that the requirement to seek prior permission from the GLA to write off grant does not apply to shared ownership properties where the mortgagee has taken possession action and following a disposal the resulting receipt is insufficient to recycle any grant. Please see “Shared Ownership: Repossessions” in section 6.3.30 below for further information on mortgagee possession.
- 6.3.7 The term “recovery” is an umbrella term covering two different processes – repayment to the GLA and recycling via a Recycled Capital Grant Fund (RCGF). RPs should note that the recycling option is only available for Relevant Events set out in clause 8 (j) to (q) and (t) of the Recovery Determination.

- 6.3.8 The Relevant Events detailed in clause 8 (a) to (i), (r), (s) and (u) of the Recovery Determination cover grant paid in error or in excess of requirements. They also cover circumstances where a RP does not act in accordance with its Grant Agreement or contract, the Recovery Determination, Funding Conditions, this Guide or other published requirements. Following these Relevant Events the GLA will require the recovery of grant or excess grant (calculated by comparison of the amount advanced with the amount needed) in full, without deductions or allowances for the RP's costs, and, where appropriate, with interest.
- 6.3.9 The Relevant Events detailed in clause 8(g) to (t) of the Recovery Determination cover disposals, change and cessation of use and other circumstances. Following these Relevant Events the GLA will make certain allowances, in particular for:
- Costs, fees and expenses incurred by the RP in direct relation to the Relevant Event;
 - The deferral or reduction of grant recovered where Net Sales Receipts are less than the amount of grant that is, in theory, recoverable; and
 - Deemed Loan Debt.
- 6.3.10 RPs are required to keep a written record of grant recovery calculations for audit purposes. Supporting documentation should be kept together with the written record of the calculation.

Administrative allowances

- 6.3.11 When disposing of property under shared ownership (including New Build HomeBuy); Social HomeBuy or other Voluntary or Statutory schemes Registered Providers may deduct administrative allowances when calculating sums to be credited to the Recycled Capital Grant Fund or [Disposal Proceeds Fund](#) (while it remains in operation).
- 6.3.12 Property disposal deductible administrative allowances are as follows:

Staircasing sales	£449
Right to Buy sales (house)	£701
Right to Buy sales (flat)	£1,576
Voluntary and Statutory Purchase Grants (house) e.g. Right to Acquire and Social HomeBuy	£701
Voluntary and Statutory Purchase Grants (flat) e.g. Right to Acquire and Social HomeBuy	£1,576

Deemed Loan Debt

- 6.3.13 For a definition of Deemed Loan Debt, please see the **Glossary**.
- 6.3.14 For rental schemes RPs must apportion Deemed Loan Debt in the same way as they apportion grant. Please refer to section 6.4 for further information.
- 6.3.15 For shared ownership schemes approved on or after 1 April 1993, Deemed Loan Debt is apportioned according to the market values of the dwellings at practical completion of the scheme.
- 6.3.16 For shared ownership schemes approved before 1 April 1993, the Deemed Loan Debt calculations take into account the percentage of equity initially sold.

Relevant Events

- 6.3.17 Where any such repayment event occurs for profit-making Registered Providers, they will be required to repay grant in accordance with the uplift principles and methodology defined at paragraphs 6.5.43 to 6.5.45.

6.3.18 **Relevant Event (a)** – *(requires repayment)*

When, during the progress of a project approved for Capital Grant, Capital Grant or any instalment of Capital Grant was claimed or paid in anticipation of a Milestone, and that Milestone either does not take place or takes place later than anticipated

If a milestone is never achieved, the GLA will normally require repayment of the entire grant paid without eligible deductions, plus any interest due as set out in paragraphs 6.2.20 to 6.2.23 Repayment will normally be sought via a 'reclaim' activated within the GLA's Open Project System (OPS).

If a milestone is achieved later than anticipated, and the GLA has agreed to re-forecasting, while grant may not be required to be repaid, interest may be charged on any grant paid in advance of need as per paragraphs 6.2.20 to 6.2.23.

6.3.19 **Relevant Event (b)** – *(requires repayment)*

When, after Capital Grant or any instalment of Capital Grant has been advanced upon a project approved for Capital Grant, the GLA cancels the approval, or approves the project on revised terms which involve a reduced entitlement to Capital Grant

Where an approval is cancelled, the GLA will normally require repayment of all grant paid for the scheme without eligible deductions, plus any interest due as per Interest Chargeable on Delayed Notification or Repayment.

Where an approval is revised, the GLA will normally require repayment of any grant paid out in excess of the revised amount, plus any interest due as per Interest Chargeable on Delayed Notification or Repayment

6.3.20 Relevant Event (c) – (requires repayment)

Discovery, upon an intermediate or final review of the costs of a project approved for Capital Grant, that an instalment or payment on account of Capital Grant had been greater than eventually required.

Where an approval is revised, the GLA will normally require repayment of any excess grant paid, which is the difference between the amount of grant paid and the revised approval, plus any interest due as per Interest Chargeable on Delayed Notification or Repayment.

6.3.21 Relevant Event (d) – (requires repayment)

Failure to use Capital Grant for the purpose for which it was paid

The GLA will normally require repayment of all grant without eligible deductions, plus any interest due as per Interest Chargeable on Delayed Notification or Repayment.

6.3.22 Relevant Event (e) – (requires repayment)

Failure to comply with any condition attached to the making of Capital Grant, including failure to complete a project. Failure to comply with any condition attached to the making of Capital Grant, including failure to complete a project and for the purposes of this sub-paragraph (e) "condition" includes (but is not limited to) the terms of any agreement pursuant to which Capital Grant is advanced (or approved to be drawn down from an RP's RCGF) by the GLA to a Registered Provider

The GLA will normally require repayment of all grant without eligible deductions, plus any interest due as per Interest Chargeable on Delayed Notification or Repayment.

6.3.23 Relevant Event (f) – (requires repayment)

Discovery that the Secretary of State or the GLA has received incorrect information or made an error in connection with the calculation of Capital Grant payable or recoverable.

Depending on the circumstances of individual cases, the GLA will normally require repayment of grant in whole or in part without eligible deductions, plus any interest due as per Interest Chargeable on Delayed Notification or Repayment.

If the GLA requires repayment of grant in part, the amount of grant to be repaid will be calculated according to the particular facts relating to the property or project in question.

6.3.24 Relevant Event (g) – (requires repayment)

Disposal of Capital Grant funded land acquired for the development of Social Housing, or designated for a further phase or phases of Social Housing, when the development or further phase or phases was, or were, not completed at the time of disposal.

Selling land that has been acquired with the aid of grant before the development has either begun or been completed requires grant to be repaid in full.

The gross sales receipt for the land sold should not be less than the valuation provided to the RP by an Independent RICS accredited Qualified Valuer.

Eligible deductions can be made from the gross sale receipt as follows:

- Reasonable valuation fees and expenses;
- Reasonable legal fees and expenses; and
- Reasonable marketing costs.

Grant paid should be recovered from the net sales receipts. That is the gross sales receipt less eligible deductions as above.

Where the net sales receipt of the land/scheme being sold is not sufficient to enable all recoverable grant to be repaid: please see section 6.3.4 above.

Where only part of the land or scheme is sold, grant should be apportioned as required in section 6.4.17.

Spare Land

The sale of “Spare Land”, whether sold prior to or after development, is not treated as a disposal and not deemed a Relevant Event, therefore no grant is recoverable. ‘Spare’ land includes:

- Part of a garden or general landscaping;
- Plots of land for electricity sub-stations or similar utilities;
- Land swaps to regularise boundaries; and/or
- Rights of way, access, or easements.

Spare land excludes any area of land designated at project approval for any future phase or phases of development.

If RPs are in any doubt about whether land can be classified as spare they should approach the GLA.

6.3.25 Relevant Event (h) – (requires repayment)

Redemption of the outstanding indebtedness on a Property owned by a co-ownership (equity sharing) housing society and funded by Capital Grant.

The GLA will normally require repayment of all grant, without eligible deductions, plus any interest due as per Interest Chargeable on Delayed Notification or Repayment.

6.3.26 Relevant Event (i) – (requires repayment)

De-registration of a Registered Provider by the Regulator of Social Housing, under section 118 or 119 of the Housing and Regeneration Act 2008.

When an RP seeks to de-register from the Regulator of Social Housing, all grant previously paid to the RP is required to be repaid, including credits in the RP's Recycled Capital Grant Fund. RPs are required to inform the GLA immediately of their deregistration application. RPs operating inside and outside London will need to inform both the GLA and Homes England so funders can check whether there are any incomplete schemes which may need to be taken into account. Where a RP holds stock both inside and outside Greater London, they will have to repay grant to the GLA for the former and Homes England for the latter. This is also the case where an RP holds recycled funds generated from both inside and outside London.

The GLA is aware that the act of de-registration does not necessarily mean the de-registering RP intends to dispose of its grant funded stock. The GLA will anticipate that there might not be any immediate sales receipt from which to recover grant vested in those properties. Where RPs are able to demonstrate to the GLA's satisfaction that immediate repayment of grant would result in financial hardship, the GLA may consider agreeing deferment of repayment to a later date or repayment by instalments – please see section 6.2.17. In such circumstances the GLA will expect deregistering providers to sign up to a deed of covenant in order to ensure that the route to recover grant is acknowledged by the deregistering provider should a subsequent relevant occur in the future.

Unless the GLA agrees that exceptional circumstances exist, it will expect any sums in RPs' RCGFs to be repaid immediately and will arrange for RPs to be invoiced accordingly. Where RPs have already entered into a written commitment to spend sums in their RCGF, they should provide full details to the GLA. The GLA will consider each case on its own merits and determine whether planned and committed spend can proceed.

6.3.27 Relevant Event (j)

A change of use of land or Property to one which would not qualify in principle for Social Housing Assistance, or change to a use which might receive a significantly lower grant (for example a change from supported to general needs housing;)

Change to non-grant eligible use

A change of use will be a Relevant Event if the RP changes the use of the property to one which does not qualify for grant (at the time of the change of use). The Relevant Event date will be the date of the change of use.

Recoverable grant should be calculated as if the property is to be sold outright.

As RPs will not actually receive any sales receipts, the calculation must be based on notional figures. In order to determine the notional gross sales receipt, RPs are required to obtain a valuation of the property from an independent RICS accredited qualified valuer on the assumptions of:

- Vacant possession; and
- Existing use

Eligible deductions are the same as for open sale i.e.

- The Deemed Loan Debt;
- Reasonable valuation fees and expenses; and
- Reasonable legal fees and expenses of the disposal.

RPs may not deduct any administration allowance.

Grant will not normally be recoverable where the primary need of an elderly resident changes from housing to nursing care and it is intended that the next letting will be to someone in housing need.

Where there is any doubt about the future use of the property, RPs should consult the GLA for advice.

Temporary change of use with permission

In exceptional circumstances, the GLA may agree a temporary change of use, without recovery, to one not qualifying in principle for grant.

RPs must discuss proposals with the GLA who will consider individual cases on their own merit taking into account:

- The level of demand for the existing use of the land or property.
- The likelihood that it could be returned to Social Housing within 12 months.
- Factors which make it difficult or undesirable to dispose of the land or property.
- Whether the temporary use offers a housing or regeneration function. and
- Whether the temporary use falls within the permitted purposes of a RP.

The GLA's agreement to a temporary change of use to one which is ineligible for grant will last for 12 months. The agreement will be subject to review and only in truly exceptional circumstances renewed.

Change of use to one requiring significantly less grant

Where RPs wish to change the use of property to one which would have required significantly less grant, then an element of the original grant is required to be repaid or recycled via the RPs' Recycled Capital Grant Fund.

Note that this includes instances where Feed in Tariff (FIT) is claimed in respect of renewable energy generators which have also received grant funding. RPs will have the option to recycle the grant in these circumstances, but this will need to be agreed with the GLA on a case-by-case basis. The calculation for this will be based on the formula:

Grant recoverable = (Cost of renewable energy generators/total scheme cost) x grant.

So, if cost of REG is £20,000, TSC is £1,000,000 and grant is £150,000, then grant recoverable is £3,000.

Where providers are unable to provide the true cost, then the current equivalent value should be used.

Change from Supported Housing

It is not necessary to treat a change of use from supported housing to general needs housing as a "notional sale". There are no gross sales receipts (real or notional) nor eligible deductions. Instead, RPs must credit 12% of all grant paid in respect of the supported Housing units (net of any grant previously recovered) to their RCGF, subject to the exceptions set out immediately below.

If RPs are providing a replacement supported housing service in units that form part of its general needs stock then grant recovery may be waived at the discretion of the GLA. However, the GLA reserves the right to recover grant in the future, if those replacement units cease to be used for supported housing purposes without further replacement units being made available.

Where a change of use from supported housing to general needs housing triggers grant recovery, repayment or recycling of grant may be deferred until a future Relevant Event at the discretion of the GLA.

In considering a request to defer grant recovery, the GLA will take into account:

- Any changes in revenue sources and amounts.
- The future needs of the current client group.
- Changes in methods of supplying support, e.g. floating support.
- Other potential client groups. and
- The nature, type and condition of the building, currently and in future.

A change of Supported Housing client group does not constitute a Relevant Event and grant is not recoverable.

Change of use from Temporary Social Housing, Temporary Market Rent Housing, Short Life and 'HAMA PLUS'

Some of these products enabled certain properties to provide a limited life for social housing use. RPs would have a legal interest in the property by means of a short lease. This could be for as little as two years. Grant was provided to make such accommodation available either:

- At below market rates; or
- To provide higher quality accommodation and tenancy management than would have been available on the open market, at market rent levels.

Where the RP's (short-term) legal interest in the property has run its course, grant is deemed to have achieved its social policy aim and is no longer recoverable.

Where a lease is sold before it expires or there is a change of use to one which is not grant eligible then grant is recoverable on a pro-rata basis.

Where five complete years of life are not achieved from the date of the lease, grant is recoverable in full.

If more than five years life has been achieved, the amount of grant recoverable will be reduced pro-rata for the proportion of the life, in completed months, which has been achieved.

Example

An RP claims £12,000 grant for an empty homes scheme delivering one new affordable home from an empty property. The lease is due to run from 01 April 2017 to 31 March 2027.

Grant originally claimed (a)	£12,000
Term of lease in months (b)	120 months
Amount of grant paid for each month of lease (c= a/b)	£100

On 12 March 2023, the lease is prematurely terminated.

Number of complete months lease held (d)	71 (April 2017 to February 2023)
Amount of grant used for the purpose for which it was paid (e = (c x d))	£7,100

Amount of recoverable grant ($f = (a - e)$)	£4,900
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6.3.28 **Relevant Event (k)**

Cessation of use of property or land funded by Capital Grant.

Where RPs have ceased to use land or property for six months, for example where property has been void, the GLA must be notified immediately.

Following notification to the GLA, RPs will have one month to produce proposals for either bringing the property back into use, its demolition, or its disposal.

These proposals must be discussed with the GLA and a course of action agreed. If RPs do not implement the agreed course of action within an agreed timetable, including any GLA agreed extension, the grant will be recovered in accordance with the change of use to non-grant eligible procedures at section 6.3.27 above.

Where RPs decide to cease using grant funded property, grant will be recovered in accordance with 6.3.27.

6.3.29 **Relevant Event (l)**

Demolition of property or other buildings funded by Capital Grant

The GLA's approval must be obtained prior to demolition of a grant-funded property.

If the property is to be demolished because it has reached the end of its useful life (considering such factors as age, location, physical condition and property type in the context of current needs or market conditions), the GLA will not normally recover grant at that time, but will consider deferring recovery until a subsequent relevant event occurs.

Where deferral of grant repayment is agreed, the liability to repay or recycle grant will arise at the next relevant event relating to the land on which the demolished property was located. The grant recovery policy and procedures in force at that time will apply. In the meantime grant is treated as remaining or resting in the land.

Where grant is resting in the land it will not be included in any value-for-money assessments undertaken by the GLA when deciding whether or not to provide additional grant to redevelop the site. In other words, it will not make any future redevelopment scheme look artificially expensive in terms of subsidy requirements. However, both the 'dormant' and 'new' grant will be subject to future relevant events.

Example

A property is demolished and the original £50,000 grant remains 'dormant' in the land. New property is built on the site with a total grant required of £20,000. Some years later the property is sold on the open market and £70,000 grant is recoverable as per Relevant Event (m).

The GLA will recover grant if an RP demolishes property so that:

- The resultant vacant site remains in the RP's ownership;
- The site is to be used for non-income earning purposes (such as forming an open space or facilitating the realignment of roads); and
- A compensation payment is received by the RP

Where a compensation payment is received RPs may subtract the following eligible deductions from that payment:

- Any Deemed Loan Debt; and
- Reasonable expenses incurred (excluding the costs of demolition).

If following the above eligible deductions the net payment is insufficient to enable full grant recovery, the shortfall must not be written off but must remain dormant in the land concerned until a future Relevant Event.

6.3.30 Relevant Event (m)

Disposal of Property or land funded by Capital Grant, except [exceptions given in the Registered Provider Recovery Determination]

Outright Sale of Land and Buildings

An outright sale of rental property is:

- A sale on the open market.
- A negotiated private sale. Or
- An outright sale to a sitting tenant other than on Right to Buy/Right to Acquire/Social HomeBuy terms.

Outright sale excludes sales under Social HomeBuy, the Right to Acquire, the Right to Buy, and sales or transfers to other RPs.

The gross sale receipt must not be below a valid valuation by an Independent RICS Qualified Valuer.

From the gross sales receipt RPs may deduct the following eligible deductions to arrive at the net sale receipt:

- The Deemed Loan Debt.
- Reasonable valuation fees and expenses. and
- Reasonable legal fees and expenses relating to the disposal.

RPs may not deduct:

- Any administration allowance; and

- The cost of demolition if the site is sold after demolition.

If the net sales receipt is less than the attributable grant, the GLA may agree to the shortfall being written off by RPs. The prior consent of the GLA is required. This does not apply in circumstances where a lender has taken possession of a shared ownership property.

The following information should be included in the recovery of capital grant written calculation. Note this is not an exhaustive list and RPs should add anything else they deem pertinent:

- RP details.
- Property/scheme details (e.g. address, OPS Project ID).
- Type of sale (e.g. open market sale, Right to Buy, voluntary sale on shared ownership terms etc.).
- Supporting documentation for any write-off of grant (e.g. invoices, valuation report or cost floor calculation for Right to Buy).
- Sales proceeds (including valuation date, duration and amount, sales completion date, discount and cost floor for Right to Buy, and actual sales receipt).
- Expenses (including legal fees, Right to Buy sales allowance/costs of abortive sales where applicable, valuation fees).
- Deemed Loan Debt (please see **Glossary** for definition).
- Net sales receipt.
- Total grant liability (please note that for schemes developed under the 2011-15 AHP this will be based on Total Grant Required).
- Grant liability minus eligible deductions as per above.
- Grant to be written off (if applicable).

Where the sales receipt is less than the attributable grant and the RP intends to write off the grant, the prior consent of the GLA should be sought (note that shared ownership properties where the mortgagee is in possession are not affected by the requirement to seek the prior consent of the GLA). To help make the case RPs should provide supporting documentation that should be included alongside the written calculation to confirm the figures used in the calculation. The GLA reserves the right to test with the Regulator of Social Housing as to whether a negative decision would have an impact on the RPs viability.

Supporting Documentation confirming the figures used in the calculation should include:

- A copy of the valuation;
- A copy of the valuer's invoice;
- A copy of the RP's solicitor's invoice;
- Details of the loan debt attributable to the property, and how that amount of debt was attributed;

- Details of the amount of grant attributed to the property, and how that amount of grant was attributed; and
- Scheme allocation information.

Where as part of an RP's disposal consideration the provision of replacement property on a different site is included, the GLA may agree to waive recovery. In such circumstances, RPs must transfer the original grant liability to the replacement property and demonstrate this by means of recording a credit to and debit from the RCGF, supported by suitable documentary evidence in place of the written calculation.

Any subsequent Relevant Event connected with the replacement property would lead to grant recovery under the same requirements and procedures as if the property had originally received the grant.

Sale under Compulsory Purchase Orders

If a Property owned by an RP is sold under a Compulsory Purchase Order (CPO) (or where there is written evidence of the threat of a CPO), the amount of recoverable grant will be calculated in the normal way, **except**:

- The Gross Sales Receipts will be the **higher** of either:
 - The receipt from the disposal **plus** any compensation received **plus** any interest received as part of the CPO; or
 - The amount obtained by a qualified valuer acting on behalf of the RP in negotiation with the body exercising compulsory powers; and
 - Eligible deductions will only include the RP's reasonable valuation and legal fees & costs, and an administrative allowance if the body exercising the CPO has not paid them as part of the CPO process.

The amount of interest to be included in the calculation of the gross sales received will be the interest paid by the acquiring body, less any tax on that interest that the RP may have to pay (if it is non-charitable), plus any tax relief grant that it may have received to offset the tax paid.

Disposal of 'spare' land in these circumstances is covered in paragraph 6.1.20.

The amount of grant recovered will not normally be reduced in respect of any costs incurred by an RP in opposing a CPO.

Where a reduction in recoverable grant is sought, RPs must obtain the GLA's prior consent, which will only be given in exceptional situations.

If the net sales receipt is insufficient to enable the recovery of all grant attributable to the property or land, the amount of recoverable grant may, at the GLA's discretion, be reduced by the shortfall. RPs must discuss such cases with the GLA. However, if RPs make net surpluses upon the sale of

other property or land within the same Compulsory Purchase Order, those surpluses must be used to offset the shortfall in whole or in part.

If a shortfall still remains, the amount of the shortfall may be written off by RPs. Where grant is to be written off, a written calculation must be supported by documentary evidence confirming the figures.

Shared Ownership Sales

Please see 6.3.15 for information on Deemed Loan Debt for shared ownership schemes approved on or after 1 April 1993.

Shared Ownership: Voluntary sale of rented property

RPs should note that this section covers voluntary sales on property on a shared ownership basis with **no discount**. It should not be confused with Social HomeBuy (SHB), which is the voluntary sale of property outright or on a shared ownership basis with a discount funded by the GLA - please see the **Social HomeBuy** section in chapter 4.

The gross sale receipt of the share being sold must not be below a valid valuation by an independent RICS qualified valuer. RPs may deduct the following eligible deductions from the gross sale receipt:

- The Deemed Loan Debt;
- Valuation expenses; and
- Legal expenses relating to the disposal.

However, **no** administrative allowance may be deducted. All grant attributable to the property is recoverable from this net sale receipt.

If the net sale receipt is insufficient to enable the full recovery of the attributable grant, then recovery of the shortfall must be deferred until the next sale of further shares (staircasing). Written calculations supported by documentary evidence of the figures used in relation to the deferment must be retained by RPs.

Sales on shared ownership terms of property included in an Estates Renewal Challenge Fund Programme will be subject to grant recovery, except when such sales **without** recovery were agreed as part of the ERCF delivery plan.

Shared Ownership: Sale of a Property Repurchased with RCGF

Where a Shared Ownership property has been repurchased with contributions from a Registered Provider's Recycled Capital Grant Fund and subsequently sold on shared ownership terms, it is subject to the same grant recovery requirements as if the property had been repurchased with new grant.

Shared ownership: Staircasing sales

The following paragraphs refer to property acquired or developed for sale on shared ownership terms.

The sale of the first share in property acquired or developed for sale on shared ownership terms is not a Relevant Event and grant recovery only arises when further shares are purchased (staircasing). Although staircasing sales are relevant events for recovery, the GLA does not require a separate grant notification form from RPs for each event.

The gross sale receipt of the share must not be below the applicable percentage of a Valid Valuation by an Independent RICS Qualified Valuer and as detailed in the shared ownership lease. The valuation must be paid for by the prospective purchaser.

Example:

Current property value	£200,000
Share to be purchased	10%
Value of share	£20,000

RPs may deduct the following eligible deductions from the gross sale receipt:

- The Deemed Loan Debt attributable to the percentage of share being sold. and
- The staircasing allowance

The net sale receipt is used to recover the grant attributable to the share purchased.

Example:

Grant attributable to property	£15,000
Initial Share Sold	40%
Grant of £15,000	Attributed to RP's 60% share
Additional share to be purchased	10% (= 16.7% of the original remaining 60% share)
Recoverable grant	£2,550 (=16.7% of £15,000 grant in property)

If having recovered grant attributable to the share being purchased there is still a balance of net sale receipt, then RPs must initially use this balance to repay previously deferred recoverable grant in this or other property within the same scheme – see immediately below.

If the net sales receipt is insufficient to enable the recovery of grant attributed to the share being sold, RPs should recover grant in part and the shortfall should then be recovered when the sale of a further share of that dwelling occurs, or the sale of shares of any other shared ownership property within the same scheme.

Written calculations supported by documentary evidence of the figures used in relation to the calculations, deferment, tracking deferment and grant written off must be retained by RPs.

The following information should be included in the recovery of capital grant written calculation. Please note this is not an exhaustive list and the RP should add anything else it deems pertinent:

- RP details.
- Property/scheme details (e.g. address, OPS Project ID).
- Type of sale (e.g. conventional shared ownership, voluntary sale on shared ownership terms etc).
- Supporting documentation for any write-off of grant (e.g. invoices, valuation report, mortgagee's completion statement for repossessions).
- Sales proceeds (including valuation date, duration and value of whole property, sales completion date, discount and cost floor for Right to Buy, and actual sales receipt).
- Expenses (staircasing allowance);
- Deemed Loan Debt (please see **Glossary** for definition);
- Net sales receipt;
- Grant liability apportioned to the percentage share sold (please note that for schemes developed under the 2011-15 AHP this will be based on Total Grant Required or funding requested and not the agreed payment rate).
- Grant deferred from previous sales in the same scheme.
- Total grant liability.
- Grant liability net off eligible deductions (see above). and
- Grant to be deferred to next sale or written off (if final sale in scheme).

If, when the final property in a scheme is staircased to outright ownership (or the maximum percentage allowable for that scheme) the total net sales receipt is less than the grant recoverable, (that is recoverable grant from this staircasing plus any previously deferred recoverable grant) the final shortfall may be written off by the RP.

Shared Ownership: Repossessions

For an overview of repossessions, see Mortgage Default in the Shared Ownership section of the Housing for Sale chapter.

Repossession occurs where the leaseholder's mortgage company takes possession of the property, and then does one of three things:

- Sells the lease to another purchaser;
- Staircases to a higher percentage (but not to 100% ownership) and sells the lease to another purchaser; or
- Staircases to 100% and then sells the property in the open market.

The mortgage company then uses the sale receipt to pay themselves the loan outstanding from the defaulting leaseholder and (in the second and third scenarios) will pay a sum to the RP as the staircasing premium. If there is any money left over after the loan has been paid off and the RP has been paid, the mortgage company passes it to the leaseholder.

From the RP's perspective, therefore, repossessions involving staircasing are theoretically the same as any other situation where someone staircases out, and the RP gets a capital receipt. However, the Mortgagee Protection Clause means that the gross sale receipt that the RP receives from the mortgage company is not necessarily the value of the property multiplied by the RP's equity share. Where this is the case it is not a requirement that Registered Providers must first seek the GLA's consent in order to write off grant.

The Mortgagee Protection Clause in the shared ownership lease allows the leaseholder's mortgagee to staircase at a lower price than that normally required. The amount to be paid for the outstanding share is the actual sale price of the property (not the equity percentage of a property valuation) less those sums due to the mortgagee, i.e. the sum of the mortgagee's reasonable and proper expenses incurred in:

- Exercising the right to purchase a new lease or the freehold.
- Exercising its powers of sale.
- The amount of principal due under the mortgage approved under Clause 34(15) (or equivalent) of the Lease;
- Up to 18 months unpaid interest;
- Advances to the RP to cover any sums such as rent and service charges due under the lease:
- Reasonable legal fees;
- Reasonable estate agent's fees;
- Reasonable valuation fees; and
- Other costs incurred in connection with the protection of the security or sale of the property.

The approach to calculating recoverable grant, including deferment and potential write off is the same as for any other shared ownership staircasing. However:

- RPs may accept (for recovery purposes) the valuation by the mortgagee's valuer instead of one by an Independent RICS Qualified Valuer; and
- The gross sale receipt is the money received from the mortgagee, as stated in the mortgagee's statement of account.

RPs may deduct the following eligible deductions from the gross sale receipt:

- The Deemed Loan Debt attributable to the percentage sold;
- The Staircasing Allowance.

Any shortfall on staircasing receipts remains a debt due to the RP by the defaulting leaseholder.

Where the leaseholder's mortgagee has used the Mortgagee Protection Clause in the shared ownership lease, and the RP has suffered a shortfall on staircasing receipts recoverable grant may be written off by the RP or deferred if the RP confirms in supporting documentation to the written calculation that it:

- Is in the process of obtaining legal advice, or have already obtained legal advice on prospect of recovering the money due from the leaseholder;
- Will take all necessary steps to recover the money due; and
- Undertake to credit all money received, less reasonable costs incurred, to the Recycled Capital Grant Fund, or pay the money to the GLA if applicable within fourteen days of receipt.

In deciding what action is reasonable to pursue the debt RPs should obtain written legal advice. A copy of the solicitor's advice must be kept with the written calculation for audit purposes.

If RPs take action as advised by their solicitor, and no receipts are generated, any expenses or abortive costs will **not** be allowed as eligible deductions **unless** the surpluses from shared ownership staircasing sales completed in the previous twelve months are insufficient to cover the costs.

Where RPs incur such a loss, they can deduct the costs incurred from a future grant recovery on a shared ownership sale or staircasing in that scheme.

If the amount for which the defaulting leaseholder is liable under the Mortgagee Protection Clause would have left the RP with a surplus after full grant recovery, then it is a matter for the RP to decide whether to seek to recover this amount when taking action to recover other monies due.

Where grant recovery is to be reduced or deferred, the supporting documentation should include an appropriate certification signed by the RP's authorised signatory together with a copy of the completion statement provided by the leaseholder's mortgagee and a copy of the mortgagee's explanation if the sale price is lower than the valuer's valuation.

Co-ownership equity sharing sales

When a co-ownership (equity sharing) society sells property to one of its members, the society should calculate the grant attributable to the property on a pro-rata basis, based on the capital amounts of the purchasing members.

The GLA does not permit deferral or write off by the RP of the recoverable grant in this scenario. In other words, the amount of grant recoverable is not reduced if the sales receipt is less than the grant recoverable. There are no eligible deductions for this product.

Where a case is handled solely by the co-ownership society, the recoverable grant must be repaid to the GLA.

Where a case is handled through an RP, that RP should credit its own RCGF with the recoverable grant.

Change of Ownership

Sales or transfers of grant-funded property between any class of RP are not Relevant Events if the GLA gives prior approval. Where this is the case, grant recovery is not triggered. Instead, the liability for grant passes to the recipient RP as if it had originally received the grant. Grant becomes recoverable from the recipient RP following any future Relevant Event. See paragraph 29 of the Recovery Determination.

The GLA may decide against approving the disposal to another RP if, acting reasonably, it has reason to believe that the motivation for the disposal is to gain from short-term increases in values.

Both the exporting and receiving RPs are required to keep adequate records of grant transferred to and from each other in respect of properties for future reference as this information will be required to be included in the annual RCGF End of Year Return.

Right To Buy

In addition to the Right to Buy provisions for local authority and former local authority tenants, prior to 15th January 1989 certain housing association tenants with secure tenancies (not assured tenancies) also had the Right to Buy under the Housing Act 1985 Right to Buy provisions. Although

anticipated to be extremely rare purchase under these provisions is still possible should any existing tenants still have secure tenancies.

The sale price must not be less than the Cost Floor (see the **Glossary** for a definition of this term) unless the Cost Floor is greater than the Valid Valuation at the time of offer.

Example

The market value of a home is £100,000 and the cost floor is £70,000. The gross sales receipt (the sale price) is the market value less the applicable Right to Buy discount, provided the discount does not reduce the sale price below £70,000 of the cost floor. If the eligible discount is more than £30,000 (for example £33,000) then the sale price (and so the gross sale receipt) is £70,000 (£100,000 market value - £30,000 discount) not £67,000.

Where the Cost Floor is greater than the property's market valuation (without discount) the sale price should equal the valuation.

Example

The market value is £100,000 but the cost floor is £110,000. The sale price, irrespective of eligible discount, is £100,000, which is what the tenant will have to pay.

RPs may deduct the following eligible deductions from the gross sale receipt:

- The Deemed Loan Debt;
- Reasonable valuation expenses;
- Reasonable legal expenses relating to the disposal;
- The Right To Buy (RTB) sales allowance; and
- Any previous abortive RTB sales expenses.

The cost of preparing Right to Buy 'notices' is covered by the Right to Buy sales administration allowance. However, the GLA may, upon request, also consider cases where an application is withdrawn before an offer notice has been served but after a considerable amount of work has been done. Supporting documentary evidence similar to that needed for completed sales will be required. Neither the Right to Buy sales allowance nor actual administrative expenses can be claimed in respect of abortive sales.

Reasonable expenses can also include deficits on Right to Buy service charges in respect of repairs. Section 4 of the Housing and Planning Act 1986, which took effect on 7 January 1987, requires providers to notify prospective Right to Buy purchasers of any known structural defects and to provide in the offer notice binding estimates of service charges for repairs and improvements to be carried out during the initial period of the lease

(currently five years), i.e. service charges cannot be increased above the estimate except to take account of prescribed inflationary allowances. Thus, in certain circumstances, Registered Providers may incur expenditure which cannot be recouped from the Right to Buy purchaser via the service charge.

Deficits incurred on service charge Grant recovery arrangements allow RPs to deduct as an admissible expense a one-off insurance premium against the possibility of hitherto unknown structural defects arising in the ten-year period immediately following the Right to Buy sale together with the cost of the associated survey.

Providers, thus, already have the means of insuring themselves against the possibility of paying for structural work which was not foreseen at the time of a Right to Buy sale of a flat and for a longer period than that entailed by the binding estimates requirement of the 1986 Act. Also the survey associated with the structural insurance together with the valuation survey should go some way towards defining what structural defects will need remedial work within the initial period (currently five years) and assist in providing a basis for estimating the associated costs.

There remains the possibility that estimated work turns out to cost more than originally anticipated. Under normal circumstances, such cases should be rare. If the increased costs arise because, for example, the opening of a particular element reveals a hitherto unknown defect, they should normally be covered by the structural defects insurance. The 1986 Act provides for estimates to be uprated to take account of cost increases limited to inflation, so deficits should arise only in respect of inaccurate estimating of works included in the service charges or where the inflation upgrading does not fully meet the actual increases in costs.

Where deficits on repairs arise they should be offset against any surpluses arising on Right to Buy sales in the same accounting period in which the deficit was incurred.

In cases where there are no Right to Buy surpluses or insufficient surpluses, grant will be paid on any remaining deficit arising on repairs (not improvements) after the association has met the first £250 per unit and 10% of the remainder up to a combined limit of £500 per unit. This payment can be made on a year by year basis for the initial period only.

Grant will only be paid where the deficits arise on repairs not on improvements. Applications for grant funding of any such deficits incurred on Right to Buy service charges must be made to the GLA, within six months of the end of the accounting period in which the deficit was incurred.

Grant will be payable on a per unit basis. Where more than one unit is involved, each unit will be dealt with separately.

Survey costs

In view of the need to provide binding estimates for the first five years, providers will need to consider the necessity for detailed structural surveys in order to assess their service charge estimates. Although survey costs are an admissible expense for the purposes of grant recovery, the Department of the Environment wishes to ensure that such costs are reasonably incurred given the circumstances of a case.

Given limitations on an association's liability to fund any deficits incurred, and given the possibility that some protection should normally be available by way of insurance cover, the Department of the Environment will only admit those survey costs which may be regarded as reasonable under particular circumstances. In addition, providers would be expected to have a reasonable knowledge of the state of their properties at any given time.

It is emphasised that survey costs remain an eligible cost for the purposes of Right to Buy sales and the proposal to assess the reasonableness of such costs relates to the need for a full structural survey and the frequency with which such a survey needs to be updated. There will be circumstances in which a provider already had adequate knowledge of the state of a property either because of an earlier Right to Buy sale or for some other reason.

Abortive Right to Buy sales: A copy of the completion notice or a signed statement by the tenant that he or she does not intend to proceed with the sale should be attached to the written calculation of recoverable grant as supporting evidence.

The net sales receipt must be used to recover grant attributable to the property in question. If the net sales receipt is insufficient to enable full recovery of the attributable grant (e.g. because a right to buy discount, which is ineligible for grant funding, has been paid), then the shortfall may be written off by the RP.

With a Right to Buy sale, the discount that the tenant is entitled to is not covered by grant and is met by the Registered Provider. It is not uncommon therefore for the capital receipt less eligible deductions to be insufficient to repay the attributable grant in full.

Where a RP has deducted expenses following abortive or deferred sales when calculating the net sales receipt, a schedule or similar evidence must be attached to the written calculation of recoverable grant demonstrating

that surpluses from Right to Buy sales of grant funded property in the previous accounting period, and the current accounting period to date, are insufficient to cover these costs.

Further grant recovery may occur if the new 'owner' should dispose of the property within the discount repayment period and be required to repay all or part of their discount.

Grant recovery must not be deferred or written off by RPs to give discounts to sitting tenants greater than those provided for in Section 129 of the Housing Act 1985 and/or as subsequently amended.

6.3.31 Relevant Event (n)

A disposal of Property or land funded by Capital Grant that would give rise to a repayment of discount under section 155 of the Housing Act 1985

This is an historical Relevant Event, relating to the repayment of discounts repayable in a particular timeframe, which has now passed. It is not anticipated that this situation will arise in the future.

6.3.32 Relevant Event (o)

A disposal of Property or land funded by Capital Grant that would give rise to a repayment of discount under sections 11 and 12 of the Housing Act 1996 as modified by section 179 of the Housing and Regeneration Act 2008.

This is a historical Relevant Event, relating to the repayment of discounts repayable in a particular timeframe, which has now passed. It is not anticipated that this situation will arise in the future.

6.3.33 Relevant Event (p)

A disposal of Property or land funded by Capital Grant that would give rise to the repayment of a payment made to a tenant as an incentive to vacate a Dwelling owned by a RP under the terms of the mortgage deed requiring repayment of the original payment.

This Relevant Event relates to Tenant Incentive Schemes (TIS). These schemes had a requirement that discounts received by tenants would need to be repaid if the property is disposed of within three years of purchase. Given the length of time that has now elapsed since discounts under Tenant Incentive Schemes were available, it is not envisaged that any recovery issues will arise in the future.

6.3.34 Relevant Event (q)

The redemption, or a disposal of Property or land funded by Capital Grant giving rise to the redemption, of an Equity Percentage Loan

Equity Loans paid under the former New Build Homebuy product which was available before April 2006

Prior to April 2006, Registered Social Landlords were able to develop new build schemes for sale and market them on the (then) HomeBuy basis. The purchaser bought 100% of the property, but only paid the Registered Social Landlord 75% of the market value. The remaining 25% of market value was treated as an equity loan provided to the purchaser by the Registered Social Landlord. This loan became repayable when the purchaser subsequently sold the property. The amount to be repaid to the Registered Social Landlord was 25% of the market value of property at the time of re-sale. Registered Social Landlords received grant towards the cost of both developing the scheme as well as covering the costs of providing the equity loan to the purchaser.

Under the pre-2006 New Build Homebuy product, grant recovery occurred in two main stages:

- Initial sales stage (recovery of grant paid in respect of development); and
- Subsequent disposal of the property (repayment of the loan amount).

As there have been no outstanding pre-2006 New Build Homebuy schemes for some time, the GLA does not anticipate that there are any initial sales left to complete. However, if, at the time of the original sale of property, the net sales receipt was insufficient to enable grant recovery then this may have been deferred until the owner sells on and is required to repay their 25% equity loan. In this case, the deferred grant would be recovered from the 25% of the value that is payable to the RP.

If, on repayment of the equity loan the receipt is insufficient to recover the 'loan' element of grant, plus any deferred 'development' grant the shortfall may be written off by the RP.

Equity loans paid by RPs or HomeBuy Agents under HomeBuy (i.e. products existing before the 2006-08 National Affordable Housing Programme), Expanded Open Market HomeBuy (EOMHB), and Government Loan Only (GLO).

An owner redeeming all or part of an equity loan, either voluntarily or when obliged to do so upon selling their property, is a Relevant Event (para 8(q) of the Determination).

Redemption of a pre-2006-08 National Affordable Housing Programme, HomeBuy Equity Loan – Rising Market

<p>Value of property at original sale = £180K Percentage of Value covered by Equity Loan = 25% Amount of grant = £45K Value of property at redemption = £250K Value of percentage covered by Equity Loan = £62.5K</p>

Amount of grant to be recovered = £45K

Redemption of a pre-2006-08 National Affordable Housing Programme, HomeBuy Equity Loan – Falling Market

*Value of property at original sale = £180K
 Percentage of Value covered by Equity Loan = 25%
 Amount of grant = £45K
 Value of property at redemption = £150K
 Value of percentage covered by Equity Loan = £37.5K
 Amount of grant to be recovered = £37.5K*

Redemption of an EOMHB Equity Loan – Rising Market

*Value of property at original sale = £180K
 Percentage of value covered by grant funded Equity Loan = 12.5%
 Amount of grant = £22.5K
 Value of Property at redemption = £250K
 Value of percentage covered by grant funded Equity Loan = £31.25K
 Amount of grant to be recovered = £22.5K*

Redemption of an EOMHB Equity Loan – Falling Market

*Value of property at original sale = £180K
 Percentage of value covered by grant funded Equity Loan = 12.5%
 Amount of grant = £22.5K
 Value of property at redemption = £150K
 Value of percentage covered by grant funded Equity Loan = £18.75K
 Amount of grant to be recovered = £18.75K*

Redemption of a GLO Equity Loan – Rising Market

*Value of property at original sale = £180K
 Percentage of Value covered by Equity Loan = 17.5%
 Amount of grant = £31.5K
 Value of property at redemption = £250K
 Value of percentage covered by Equity Loan = £43.75K
 Amount of Grant to be recovered = £31.5K*

Redemption of a GLO Equity Loan – Falling Market

*Value of property at original sale = £180K
 Percentage of Value covered by Equity Loan = 17.5%
 Amount of grant = £31.5K
 Value of property at redemption = £150K
 Value of percentage covered by Equity Loan = £26.25K
 Amount of Grant to be recovered = £26.25K*

The grant recoverable is the lower of:

- The grant attributable to the property (including any grant paid to cover the scheme on costs); or
- (Where property values have fallen) the amount attributable to the percentage of the open market value for which the equity loan accounts. If the funds redeemed after the first charge lender has recovered the outstanding mortgage monies are insufficient to cover the required amount, the shortfall will be written off by the RP.

It is not intended that RPs will need to consult first with the GLA or seek consent in order to write off grant shortfalls in relation to equity loan redemption activity under these programmes.

If the loan is being redeemed voluntarily (or in other circumstances not involving the sale of the property, such as redemption of the main mortgage with no replacement senior lender), administrative costs associated with the redemption are not eligible deductions from the gross sales receipt. This is because there are no costs of sale, as there is no sale, only the redemption of the loan.

Equity loans paid by Equity Loan Providers under Open Market HomeBuy products from 1st April 2008 (other than under transitional arrangements in place up to 30 September 2008).

An owner redeeming all or part of an equity loan, either voluntarily or when obliged to do so under the terms of their equity loan agreement, is a Relevant Event (paragraph 8(q) of the Determination).

On receipt of the home owner's equity loan repayment the Equity Loan Provider will be required to process that receipt in accordance with the terms agreed with the GLA and the relevant clauses in their equity loan agreement.

Equity Loans paid under the Mortgage Rescue Scheme (Shared Equity product)

The Mortgage Rescue scheme is now closed and the following requirements apply to equity loan redemptions for property funded under this programme. An owner redeeming all or part of a mortgage rescue equity loan, either voluntarily or when obliged to do so under the terms of their equity loan agreement, is a Relevant Event (para 8(q) of the Recovery Determination).

On receipt of the equity loan redemption payment, the equity loan provider will be required to process that receipt in accordance with the terms agreed with the GLA and the relevant clauses in its equity loan agreement.

Equity Loans paid through FirstBuy/HomeBuy Direct

An owner redeeming all or part of a FirstBuy/HomeBuy Direct equity loan provided by an RP developer, either voluntarily or when obliged to do so under the terms of their equity loan agreement, is not a Relevant Event under the Recovery Determination).

This is because, for these products, grant is paid directly to the homeowner (in the form of a loan) and equity loans are repaid direct to Post Sales HomeBuy Agent. The home owner's solicitor then repays 50% of the amount redeemed to the developing loan provider 50% to the GLA. The

whole process is administered through contract, with the grant being sent to the developer and GLA via the home owner's solicitor on the day of completion, the process for which is managed by the Post Sales HomeBuy Agent. There is therefore no option to recycle recovered grant in respect of FirstBuy/HomeBuy Direct.

Equity Loans paid under the Mortgage Rescue Scheme (Shared equity product)

The Mortgage Rescue scheme is now closed and the following requirements apply to equity loan redemptions for property funded under this programme.

An owner redeeming all or part of a mortgage rescue equity loan, either voluntarily or when obliged to do so under the terms of their equity loan agreement, is a Relevant Event (para 8(q) of the Determination).

On receipt of the equity loan redemption payment calculated in accordance with Section 7 of the Mortgage rescue shared equity chapter, the RP will be required to ring fence 73% of this amount and either repay this to the GLA or place it in its RCGF. The remaining 27% is to be retained by the RP.

6.3.35 Relevant Event (r) – (requires repayment)

A change in the status of a Private Registered Provider from an unincorporated body to an incorporated body by whatever means.

The GLA recognises that charities and trusts may want to instigate a change in their legal status from an unincorporated to incorporated body in order to limit the personal liability of their trustees. It's further recognised that a change in the private Registered Provider's legal personality will not necessarily generate a receipt.

However, such a change in a provider's legal personality is deemed by the GLA to be a relevant event for recovery and would therefore trigger recovery of grant. On a case-by-case basis, the GLA will seek to put in place a deed of covenant, in which both the unincorporated body and the newly incorporated body acknowledge grant liability. Once a deed of covenant is in place, the GLA will waive recovery until a subsequent relevant event. Where a private Registered Provider does not agree to enter into a deed of covenant, the GLA will always seek to enforce recovery of grant.

6.3.36 Relevant Event (s) – (requires repayment)

All or some of the assets of a Registered Provider become vested in a third party.

The GLA considers the vesting of part or all of a Registered Provider's assets to a third party who is not a Registered Provider to be a relevant event for recycling. Where the assets become vested in a third party who is a Registered Provider, the grant liability will pass to the new Registered Provider, as if it had received the grant. The passing of social housing assets to a third party that is not a Registered Provider of social housing is considered to be a disposal and therefore a trigger for the recycling of grant.

6.3.37 Relevant Event (t)

The sale of a Dwelling under the Voluntary Right to Buy or the Right to Acquire.

The disposal of a property funded by grant under the Voluntary Right to Buy or the Right to Acquire is considered to be a relevant event for the recycling of grant. RPs are therefore required to recycle the capital grant attributable to properties disposed of on these terms and reinvest in line with the GLA's priorities and permitted uses.

RPs should refer to the Department for Communities and Local Government's (now MHCLG) and National Housing Federation's policy guidance for advice on how to recycle the proceeds of voluntary Right to Buy net of capital grant.

RPs should note that the net proceeds of sale from the Right to Acquire are not ringfenced within the Recycled Capital Grant Fund; it is only the capital grant attributable that is to be recycled. The net proceeds can be reinvested in line with the provider's objects and purposes. See paragraphs 6.6.3 and 6.4 for more details.

6.3.38 Relevant Event (u) – (requires repayment)

Failure to provide the GLA with written notification in accordance with any timetable and/or terms specified by the GLA of the occurrence or, in specified circumstances, anticipated occurrence of a disposal of Property or land funded by Capital Grant unless such disposal is:

- i) the grant of a tenancy to the occupier of accommodation of the type described in section 69 of the Housing and Regeneration Act 2008 for use as their only or principal home;*
- (ii) the sale of the first share of a Dwelling under a Shared Ownership Lease;*
- (iii) a disposal to a statutory undertaker for the purposes of the supply or transmission of statutory services to the Property or land funded by Capital Grant;*

(iv) a disposal pursuant to or required by a planning obligation within the meaning of s106 or s299A of the Town and Country Planning Act 1990 in connection with the Property or land funded by Capital Grant

(v) a disposal to a highway authority for the purposes of or in connection with the adoption of roads, footpaths or cycleways on the Property or land funded by Capital Grant;

(vi) the grant of any mortgage or charge over the Property or land funded by Capital Grant.

RPs should notify the GLA not less than 14 days in advance of the disposal occurring. RPs should contact their GLA Area Manager in cases where this is not possible.

6.3.39 Relevant Event (v) – (requires repayment)

An LLR home is let at intermediate rent levels for less than 10 years

London Living Rent

- 6.3.40 Disposal of an LLR home on the open market, or voluntarily to a tenant on shared ownership terms is a Relevant Event for grant recovery purposes. IPs should credit the apportioned grant to their Recycled Capital Grant Fund in the normal way, and ring fence these amounts to be spent on further supply of affordable housing.
- 6.3.41 In addition to grant recovery following disposal, the GLA shall, for all funding programmes, recover grant on LLR homes based on the model outlined below for calculating the grant to be recycled. The model is based on the following principles.
- 6.3.42 If an LLR home is let at intermediate rent levels for less than 10 years, then this will be a relevant event (under paragraph 8(j) of the Recovery Determination for registered providers) for the purposes of grant recovery, as identified at paragraph 6.3.39 above. IPs will be responsible for identifying that this has occurred and informing the GLA.
- 6.3.43 For grant recovery calculations on LLR homes, a period of 10 years of intermediate renting (from first letting) is assumed for all LLR homes (d, below).
- 6.3.44 If an LLR home is let at intermediate rent levels for longer than the time assumed by the IP at the time of bidding, then this is done at the IP's own risk and there is no option for increasing the level of grant available, but nor will this be a relevant event for grant recovery purposes.
- 6.3.45 The sale of the home on a shared ownership (SO) basis (and subsequent staircasing) will be treated for grant recovery purposes in the same way as standard SO first sales within this funding guidance, i.e. the initial SO sale of an LLR property will not be a relevant event under paragraph 8(m) of the Recovery Determination for Registered Providers for the purposes of grant recovery, but staircasing sales will be.
- 6.3.46 In order to recover grant for staircasing sales following the initial sale on a SO basis, the grant given for an LLR home is assumed to be made up of the base grant for shared ownership (40% of total grant) and the intermediate rent premium for renting the home at LLR levels (60% of total). The 40:60 split is applicable regardless of the total grant amount paid.
- 6.3.47 However, where LLR homes have been developed under the Approved Provider route, or the Developer-led route within AHP 2016-23, applying a £28,000 grant:
- i. the intermediate rent premium component is considered to be nil;
 - ii. all LLR grant is considered as 'base grant for shared ownership'

- iii. the standard provisions of grant recovery for shared ownership apply, illustrated below in the formulae applicable to 2 (b) and 2 (c).

Model for grant recovery: illustration

In this illustrative example, an IP claims £80,000 grant to deliver one LLR home.

Value of grant claimed (a)	£80,000
Shared ownership base grant (40% of grant) (b)	£32,000
Intermediate rent premium (60% of grant) (c)	£48,000
Term of intermediate rent period in months (d)	120 months (=10 years)
Amount of intermediate rent premium paid for each month/year of intermediate rent period (e = (c / d))	£400 / month (=£4,800 / year)

In the following scenarios, the LLR home is occupied from 1 April 2021.

Scenario 1 – conversion within 10 years of commencement of LLR tenancy

The sale of the LLR on a SO basis takes place on 1 March 2027 (i.e. four years and one month before the 10-year assumed intermediate rent term).

Number of complete months property let at intermediate rent (f)	71 (April 2021 to February 2027)
Amount of intermediate rent premium used for the purpose for which it was paid ($g = (e \times f)$)	£28,400
Amount of intermediate rent premium recoverable ($h = (c - g)$)	£19,600

Total recoverable in 2026-27 RCHF return is $h = £19,600$

The calculation for grant recovery of the base grant for shared ownership, on the initial tranche sale and on the subsequent staircasing, would then be undertaken as per the formulae detailed in Scenario 2 (b) and (c) below.

Scenario 2 – conversion to SO following LLR tenancy

(a) The sale of the LLR home on a SO basis takes place on 1 April 2031 (i.e. following a ten-year intermediate rent term).

As there is no sale in the first 10 years, no intermediate rent premium grant is recoverable:

Number of complete months property let at intermediate rent (i)	120 (April 2021 to March 2031)
Amount of intermediate rent premium used for the purpose for which it was paid ($j = (e \times i)$)	£48,000
Amount of intermediate rent premium recoverable ($k = (c - j)$)	£0

(b) The home is sold on a SO basis with a 35% initial share (1 April 2031), with a further 10% then purchased on a staircasing basis a year later (1 April 2032).

No grant is recoverable on the initial share (this is the case no matter when the share is sold):

Current property value 1 April 2031 (l)	£400,000
Initial share purchased / first tranche sale (m)	35%
Value of share ($n = l \times m$)	£140,000
Amount of grant recoverable on first tranche sale (o)	Nil – first tranche sale is not a recovery event re the SO element of the grant

(c) The grant recovery for the 10% staircasing share, purchased subsequent to first tranche sale, is calculated as per existing staircasing recovery rules (see Capital Funding Guide):

Shared ownership base grant attributable to property (b, as above)	£32,000
Initial share sold (m, as above)	35%
RP's share ($p = 100\% - m$)	65%
Staircasing tranche / additional equity purchased (q)	10%
Equity staircasing as proportion of RP's equity ($r = (q / p)$)	15.38%
Amount of grant recoverable for SO staircasing ($s = (r \times b)$)	£4,923.08

Total recoverable through end of March 2031 is $k = \text{nil}$

Total recoverable in 2031-32 RCGF return is o = nil

Total recoverable in 2032-33 RCGF return is s = £4,923.08

6.4 Grant Liability

Apportionment of Grant: Rented Properties

- 6.4.1 This section sets out the requirements for apportioning grant on a reasonable basis to individual properties where a relevant event does not affect the whole scheme. It also makes reference to apportionment of grant to and within schemes in respect of the 2011-2015 Affordable Housing Programme where grant is payable on an Agreed Payment Rate per unit basis but also subject to Total Grant Required as indicated in the offer. (The agreed payment rate applies only to the 2011-15 AHP and not to schemes delivered under later programmes.)
- 6.4.2 For schemes funded with set grant rates (inclusive of new grant and RCGF) only, the amount of grant to be apportioned is typically the applicable grant rate for each home. For example, if the grant rate in the relevant GLA funding programme was £60,000 for a London Affordable Rent unit, £60,000 should be apportioned for each London Affordable Rent home in the scheme that is affected by the relevant event. Where these schemes also received additional grant (for example, any of the amounts specified in paragraph 6.4.4 this additional grant should be apportioned to each home using one of the methods specified in paragraph 6.4.3.
- 6.4.3 The following principles of apportioning grant where a relevant event has occurred within schemes applies regardless of the programme under which funding has been given. Acceptable methods of grant apportionment to individual properties are:
- Rents as charged on first letting.
 - Floor area.
 - Equal division where properties are similar in size.
 - Rateable value where this has been used in previous disposals in the scheme.
 - Any other method approved by the GLA in advance.
- 6.4.4 The total amount of grant paid in respect of a scheme and to be apportioned must include:
- Funding (including new grant and RCGF) received on the initial development.
 - Grant paid to clear the loan on a scheme originally approved under S.41 of the Housing Associations Act 1985, and the works funded under later legislation.
 - Grant paid for re-improvement, Major Repairs, and Minor Miscellaneous Works.

- Grant paid on any previous scheme on the site, which has been demolished whose recovery has been deferred (i.e. previous grant less any grant already recovered).
- Simple interest (i.e. interest arising for late payment of grant to the RP).

6.4.5 For schemes grant funded under the 2011-2015 Affordable Homes Programme (AHP) the grant amount used must be the amount of grant indicated on IMS as being 'the Total Grant Required', not the Agreed Payment Rate that would have actually been paid.

Apportionment of Grant: Shared Ownership Properties

6.4.6 For schemes funded with set grant rates (inclusive of new grant and RCGF) only, the amount of grant to be apportioned is typically the applicable grant rate for each home. For example, if the grant rate in the relevant GLA funding programme was £28,000 for a London Shared Ownership unit, £28,000 should be apportioned for each London Shared Ownership home in the scheme that is affected by the relevant event (less any amounts previously recovered, e.g. for staircasing).

6.4.7 Where these schemes also received additional grant (for example, any of the amounts specified in paragraph 6.4.4) this additional grant should be apportioned to each home using one of the methods specified in paragraph 6.4.3 .

6.4.8 For shared ownership schemes approved on or after 1 April 1993, grant is apportioned according to the market values of the dwellings at practical completion of the scheme.

6.4.9 For shared ownership schemes approved before that date, the grant calculations take into account the percentage of equity initially sold - see Deemed Loan Debt in the **Glossary**.

6.4.10 For shared ownership schemes grant funded under the 2011-2015 AHP, it must be the Total Grant Required as entered on IMS and not the Agreed Payment Rate that is used.

6.4.11 NOT USED

Shared ownership staircasing sales

6.4.12 A shared owner may 'staircase' by purchasing a further share, or shares, of the dwelling. The grant attributable to the staircased share will be the appropriate percentage of all the grant attributable to the property, including that grant paid on interest arising after the relevant date. It will also include any recoverable grant deferred from previous staircasing within the same scheme. The following is a worked example.

A 25% share of a dwelling was initially purchased and the total grant attributable to the unsold equity (75%) in the property was £21,000.
--

The shared owner buys a further 25% of the property. This is one third of the equity owned by the RP (25% out of 75%).

The grant attributable to that staircasing is therefore one third of the grant paid (£21,000) i.e. £7,000.

Recovery of £2,143 had been deferred from a previous staircasing of a different dwelling in the same scheme.

The total grant recoverable is therefore £7,000 + £2,143 = £9,143.

If the net sale receipt of this current staircasing is £8,250 then £8,250 of grant is recovered and the balance of £893 (£9,143 - £8,250) is deferred to the next staircasing within this scheme.

Note that in respect of 2011-2015 Affordable Homes Programme funded schemes it must be the Total Grant Required that is attributable to the property and not the Agreed Payment Rate per unit.

Initial sales of existing rented stock into shared ownership

6.4.13 A dwelling forming part of an RP's existing rented stock may be sold voluntarily on shared ownership terms. The grant attributable to the initial share sold will be the entire grant attributable to the dwelling as defined above in paragraphs 6.4.1 to 6.4.5 (including that grant relating to interest arising after the Relevant Date).

Leasehold Schemes for the Elderly (LSE)

6.4.14 In all cases RPs should refer back to the procedures under which these schemes were developed for the special features relating to sale and grant recovery. The special features are summarised below.

- For LSE schemes where the units were sold outright at a discounted sale price, the grant-funded discount is not recoverable.
- For LSE shared ownership schemes, the recoverable grant is the total grant paid less 25% (or the specified percentage) of the cost of providing that dwelling at final cost stage. For these dwellings, grant will never be recovered in full unless the whole dwelling is disposed of, in which case the procedures for outright sale will apply. Below is an example.

25% of a dwelling was initially purchased, with grant attributable to the remaining 75% of the dwelling of £21,000.

If the shared owner then buys the maximum shares allowed, that is a further 50% of the dwelling, (ie two thirds of the remaining shares) the grant attributable to that staircasing is two thirds of £21,000 = £14,000. The balance of £7,000 grant remains in the property.

Rural Restricted Equity/Rural Buyback and Rural Repurchase

6.4.15 Outside of London, for Rural Restricted Equity and some Protected Area properties, a cap is placed on the proportion of equity that the shared owner

can purchase, e.g. restricting the shared owner to a maximum share of 80%. This is to assist with the retention of shared ownership properties in areas where these properties would be hard to replace once fully staircased.

- 6.4.16 The GLA does not generally consider these restrictions are required in London for shared ownership properties.

Apportioning Grant on Land

- 6.4.17 When a RP sells the land or buildings that make up an entire scheme, no apportionment of grant is necessary, as the recoverable grant will be the entirety of the grant paid, or for 2011-15 AHP funded schemes, the entirety of the grant that was indicated on IMS as the total grant required.

However, RPs may sell land that is a part of a grant-funded scheme under the following scenarios:

- Scenario 1. "Spare" Land that is part of a completed development.
- Scenario 2. Land swap or sale, using land from a completed development, to enable site assembly undertaken either by the RP or another body.
- Scenario 3. Land and / or part-completed properties sold or swapped prior to completion of the development.

It is necessary to apportion grant to cater for these scenarios.

- 6.4.18 Spare Land – Scenario 1:

Grant will not be recovered when RPs dispose of 'spare' land associated with a scheme. 'Spare' Land includes:

- Part of a garden or general landscaping;
- Plots of land for electricity sub-stations or similar utilities;
- Land swaps to regularise boundaries; and/or
- Rights of way, access, or easements.

Spare Land excludes any area of land designated at scheme approval for any future phase or phases. If in doubt about whether land is spare, consult the GLA.

- 6.4.19 Land Swaps & Sales (partially completed developments or before building work starts) (Scenarios 3):

If, after disposing of part of the site, or some of the partially completed dwellings, RPs are still able to deliver the number of units housing the agreed number of people, and comply with all other funding conditions, then the grant can be apportioned to the properties, rather than being apportioned between land and properties. There will therefore be no grant attributed to land (as opposed to properties) and although a Relevant Event will have occurred, there is no grant to be recovered.

If, after disposing of part of the site or some of the partially completed dwellings, RPs are unable to deliver the required number of units etc, they must seek confirmation from the GLA as to whether or not the GLA is willing to continue to fund the scheme. The GLA may be willing to allow a (reduced) scheme to proceed at lower level of grant and will consider whether the provider may be able to deliver the balance of units elsewhere. If the grant payable for the revised scheme is less than had already been paid for the original scheme, the difference will be recoverable.

Where the GLA does not agree to proposed changes, the scheme may be cancelled. This would be a Relevant Event, triggering recovery (by immediate repayment) of all grant paid on the scheme (or Total Grant Required as indicated on IMS for 2011-15 AHP funded schemes).

6.5 Recycled Capital Grant Fund Administration

General

- 6.5.1 This section sets out how the Recycled Capital Grant Fund (RCGF) must be administered, including crediting to the fund, its use and management. The following arrangements apply to all recycled capital grant generated in Greater London and these requirements are applicable to all classes of RP that operate a RCGF. Local authority RPs should also refer to their contractual terms which require LAs to be able to account for and report separately on the operation of their RCGF.
- 6.5.2 The principles governing grant recovery are set out in the Recovery Determination. These principles include the establishment and use of the RCGF.
- 6.5.3 Recycled grant held in a RCGF may be spent (recycled) by RPs on permitted uses outlined in section 6.6. RPs must seek the formal permission of the GLA before committing any RCGF spend.
- 6.5.4 Not all Relevant Events referred to in the Recovery Determination allow an option to recycle grant. For some of them, the GLA will require grant to be repaid – please refer to section 6.2 for more details.
- 6.5.5 Recoverable grant arising from Key Worker Living or Starter Homes Initiative programmes is no longer ringfenced for that purpose and can be recycled by RPs on GLA priorities, subject to express GLA approval.

Process for Crediting the Recycled Capital Grant Fund

- 6.5.6 Following those Relevant Events that do not require repayment of grant (see section 6.2) RPs have the option of repaying the recoverable Capital Grant to the GLA, or instead crediting it to a RCGF.
- 6.5.7 Each RP must weigh up any advantage of being able to recycle grant against the cost of setting up and administering an RCGF including the likelihood of a usable balance being built up in the fund and spent within three years.
- 6.5.8 Where RPs opt to maintain an RCGF they will be required to calculate the amount of recoverable grant to be credited to the fund as per section 6.3. For each relevant event, RPs must complete, and retain, written documentation showing the calculation of the recoverable grant. This amount must be credited to the RCGF with effect from the date of the relevant event. The written documentation must also show whether any of the recoverable grant is to be deferred or written off by the RP in accordance with details provided in section 6.3, or elsewhere in this chapter.
- 6.5.9 Where a Relevant Event occurs for a property that utilised funds from the RCGF, a recovery calculation must be made in the same manner as if it

had been funded with new capital grant and either credited to the RCGF or paid to the GLA in accordance with the requirements and procedures applicable at that time.

- 6.5.10 Each year, RPs must calculate and credit notional interest to their fund – as detailed further below in this section. This notional interest becomes part of the RCGF and may only be spent, with GLA approval, on permitted uses outlined in section 6.6.
- 6.5.11 Where a property is disposed to tenants under Social HomeBuy or Right to Acquire procedures, RPs must recycle only the attributed grant through their Recycled Capital Grant Funds. The net proceeds can be reinvested by the RP with its surpluses in line with their objects and purposes.
- 6.5.12 RPs should note that where recycled grant amounts are generated inside Greater London, they must be spent inside Greater London (typically within the borough in which they were generated). Similarly, recycled grant amounts generated outside Greater London must be spent outside Greater London.

Administering the Recycled Capital Grant Fund

- 6.5.13 In allowing RPs to maintain and administer an RCGF, the GLA expects the fund to be robustly managed. Credits to the fund must be closely monitored, spend planned, and the fund regularly reviewed to guard against large sums of uncommitted amounts accumulating. RPs that are subject to a new supply agreement should expect that their review meetings will in part be used to monitor RCGF spend. While the GLA acknowledges that it will be desirable to allow useable amounts to accrue, this must be balanced against being able to spend those amounts within the prescribed time scale of three years – see below for further information.

6.5.14 Circumstances Leading to Repayment of Grant Held in an RCGF

Under certain circumstances the GLA will require repayment in total or in part of any current balance in the RCGF. These circumstances are:

- a) The GLA discovers that an RP has provided incorrect information or made a material error (defined as including any sum greater than £500) in the calculation of its RCGF.
- b) The GLA learns that an RP has not applied all or part of its RCGF to a permitted use within three years.
- c) The GLA discovers that an RP has failed to administer its RCGF according to the principles set out in the Recovery Determination and detailed in this Guide or has failed to report or supply information on the amounts of grant in its RCGF to timetables established by the GLA (as set out in this chapter).

- d) The GLA discovers that an RP has applied its RCGF for purposes other than those in the Determination and detailed in this guide.
 - e) The GLA decides that an RP's financial or management circumstances are such that grant held in an RCGF is at risk and/or the option of placing recovered grant into an RCGF in the future would put that grant at risk.
 - f) The GLA decides that an RP is unlikely to be able to apply all or part of its RCGF to a permitted use within three years.
 - g) The Regulator of Social Housing de-registers an RP under section 118 or 119 of the Housing and Regeneration Act 2008. However, the GLA may consider allowing recovery to be deferred until a further Relevant Event occurs, using the definition of Relevant Events current at that future time or alternatively repayment by instalment.
 - h) The RP coming under Regulatory supervision and the Regulator of Social Housing deciding that retention of RCGF monies by the RP would be inappropriate. The Regulator may change this decision at any time after the RP ceases to be a supervision case. The GLA will not return any previous RCGF balance or recovered grant that had been paid during the period of supervision to the GLA.
 - i) Any other relevant provision arising under events 8 a) to i) or (r) in the Recovery Determination.
- 6.5.15 For (a) and (b) the GLA will require repayment of the specific sum involved.
- 6.5.16 For (c) to (i) the GLA will require repayment of all or part of the current balance (and for (c) and (d) additionally any grant from the RCGF already spent by the RP using processes or for purposes which do not comply with those set out in the Recovery Determination and this guide.
- 6.5.17 The GLA may also direct that grant recoverable upon future Relevant Events is repaid to the GLA without the option for recycling for as long as the GLA considers appropriate.
- 6.5.18 In all cases notional interest that was added to the sum in the RCGF to be repaid will also be recovered.
- 6.5.19 In addition to the circumstances listed above, the GLA may withdraw an RP's option of maintaining an RCGF in accordance with the principles of the Determination at paragraph 19, if it considers that it would be appropriate to do so in the circumstances of a particular case.
- 6.5.20 Where repayment of monies previously credited to an RCGF is required, the GLA will issue an explanatory letter and invoice, including the payment schedule and terms.

Accounting Arrangements for the Recycled Capital Grant Fund

- 6.5.21 If recycling recoverable grant, RPs must maintain a designated fund within their accounts entitled 'Recycled Capital Grant Fund'.
- 6.5.22 The fund must be supported by a robust audit trail of relevant paperwork detailing individual amounts of:
- Recoverable grant credited to the fund;
 - Recoverable grant by local authority;
 - Notional interest added;
 - Any withdrawals made; and
 - Any amount written off.
- 6.5.23 RPs may be asked to produce evidence of the audit trail. Supporting documentary evidence must be retained for ten years.
- 6.5.24 Rules covering the disclosure of RCGF balances and transactions are contained within the [Regulator's Accounting Direction for Social Housing in England from April 2012](#).

Expenditure from the RCGF

- 6.5.25 Properties developed or repaired with RCGF will be subject to the same regulatory requirements as those funded with new grant from the GLA.
- 6.5.26 Where properties funded through RCGF are defined as Social Housing under sections 68-70 of the Housing and Regeneration Act 2008, they will become or remain subject to the regulatory standards.
- 6.5.27 Withdrawals should be debited on the date of the Start on Site and/ or other payment milestones. Please note that these may differ depending on the scheme type and/or programme period.
- 6.5.28 Expenditure from the fund should be debited on a first-in, first-out basis (see example at paragraph 6.5.69).

RCGF levels

- 6.5.29 When developing property with recycled grant RPs can choose how much recycled grant to use up to a defined maximum amount. RCGF expenditure requires express GLA approval via Open Project System. Typically, the GLA will approve RCGF expenditure on the same terms (e.g. same grant rates) as its current affordable homes programme.
- 6.5.30 The maximum amount of RCGF that can be used on the scheme is calculated as follows:
- Total capital costs of the scheme (i.e. the amount capitalised on the balance sheet) less
 - The sum of any sales receipts (if applicable) less

- The Notional Loan Debt that the RP is able to support from the rental stream produced by the properties (if applicable) less
- Any other resources, including the RP's own.

Repurchased units

- 6.5.31 Where an RP opts to repurchase properties where 100% has been sold in accordance with the requirements of 6.6.2 (and this offers value for money and fits with local investment priorities) this must be funded from its own resources and where necessary RCGF balances (subject to express GLA approval).
- 6.5.32 The RP will be able to make use of capitalised rental income from the newly created rental unit. The RP may therefore debit from its RCGF, subject to GLA approval, an amount up to the purchase price minus an amount equal to the capitalised rental income and plus an allowance for administrative expenses (it should use the staircasing sales allowance current on the date of completion of the repurchase).

Approval and accounting

- 6.5.33 The GLA's express approval is necessary for the use of the fund or the calculation of the amount to be withdrawn from the RCGF, unless specified elsewhere (e.g. for non-priority permitted uses). The RP can choose whether to debit the full amount of RCGF to be used on the scheme at the first payment milestone (such as Start on Site), or to debit the amounts in a way which matches grant claims.

Addition of Notional Interest

- 6.5.34 At 31 March each year, RPs must add notional interest to their RCGF.
- 6.5.35 While the RCGF balance is £250,000 or less, the notional rate that the RP must use is that which an RP would obtain by placing the money in the high-interest deposit account operated by its own clearing bank. Therefore an RP should keep a record of these rates available for its auditor.
- 6.5.36 While the RCGF balance is greater than £250,000, the notional rate is linked to the Bank of England's (BOE) base lending rate, as follows:

Size of RCGF Rate of notional interest calculations.

- £250,001 to £500,000 Base lending rate minus 75 basis points
- £500,001 to £750,000 Base lending rate minus 50 basis points
- £750,001 to £1,000,000 Base lending rate minus 25 basis points
- Over £1,000,000 Base lending rate

A floor of 0% is applicable to notional interest calculations. Therefore, if the BOE base rate is at such a level as to produce a nil or negative amount of notional interest, then no interest should be added for the relevant period.

- 6.5.37 RPs must calculate notional interest on a daily basis, to take account of varying balances, according to a 365 day year convention, that is:
- Balance x rate x (days for which this balance held/365)
 - The base rate used in the calculation must be amended in line with clearing bank or BOE rate changes.
- 6.5.38 RPs who pay Corporation Tax on their RCGF interest earnings may deduct that tax from their RCGF balance at the standard corporation tax rate that applied at the time.
- 6.5.39 In the calculation, notional interest must be compounded at 31 March of each year. The RP must clearly identify whether RCGF credits are recovered grant or notional interest. However, when using RCG funds, the RP will simply be drawing against the balance on the account, and does not need to identify whether it is using money that was recovered grant or notional interest.
- 6.5.40 In calculating notional interest, the date the interest should be calculated from should be the date the recovered grant must be credited to the RCGF, i.e. the date of the Relevant Event.
- 6.5.41 Where one RP is transferring all or some of its RCGF balance to another RP (for details of the circumstances under which this is acceptable, please see section below), notional interest is added at the end of the year. The transferring organisation will calculate interest on the balance up to the date of the transfer debit; the receiving organisation from the date of the credit.
- 6.5.42 All such transfers must be recorded as withdrawals and inputs from/to the relevant RP's RCGF balance.

Uplift amounts

- 6.5.43 Profit-making RPs only are subject to a requirement to recycle capital grant with uplift upon the occurrence of a relevant event.
- 6.5.44 The definition of 'uplift amount' set out in the Recovery Determination is as follows: 'Uplift amount' means an amount calculated by reference to any increase in market value of any housing or other land acquired, constructed, converted, improved or repaired as a result of capital grant.
- 6.5.45 The GLA has published a methodology for For-Profit RPs to use to calculate Uplift Amounts (see [here](#)). For-Profit RPs should contact their GLA Area Manager if they have questions about the methodology.

Transferring Balances Between RPs

- 6.5.46 RPs may, in the circumstances defined below, transfer all or some of their RCGF to other RPs, where this helps create a usable balance and/or supports the quick and efficient use of RCGF to meet local priorities. This

includes downward staircasing, under the terms defined in Grant Recovery
6.6.3 RPs will be required to seek GLA approval for such transfers.

6.5.47 Transfers may occur between RPs which are:

- Members of a group structure (although each member of the group must have its own RCGF).
- Members of a Development Partnership or Consortium which is currently in receipt of grant.

6.5.48 Transfers may also occur subject to the GLA's prior agreement where these are:

- To another local Registered Provider; and/or
- To a similar type of Registered Provider (e.g. a specialised housing provider).

Recycling grant generated within Greater London must only be spent within Greater London, and recycled grant generated outside Greater London must not be spent within Greater London

6.5.49 The receiving organisation must ensure:

- It documents the transfer.
- It receives notification of the date on which each sum being transferred was originally credited to the transferor's RCGF.
- The date on which it credits its own RCGF is no more than one day after the date the sums are debited from the transferor's RCGF.

6.5.50 The donating organisation must debit the sum from its own RCGF on the date the amount is transferred and document this accordingly.

6.5.51 Transfer of sums between organisations' RCGF accounts does not reset the three-year repayment schedule. The time limit for spending transferred recoverable grant remains within three years following the year in which the date of the original Relevant Event occurred.

6.5.52 Transfers to and from other RPs must be separately accounted for in the Annual End of Year Returns, to avoid the possibility of double counting withdrawals and inputs.

6.5.53 Where a transfer of engagements has occurred the process described above should be used, with a transfer of the full RCGF balance to the receiving RP. At 31 March, an Annual End of Year Return should be made for both the receiving and the transferring RP (the latter covering the period to transfer).

Repayment of RCGF

6.5.54 If RPs do not recycle the grant within three years, the GLA will collect it, including notional interest, and recycle the money through its current

affordable homes programme. For profit-making Registered Providers, repayment will be in accordance with the uplift principles and methodology defined at paragraphs 6.5.43 to 6.5.45. See section 6.5.69 and following paragraphs regarding collection processes.

- 6.5.55 While three years is the normal time allowed before seeking repayment of amounts in the RCGF, the GLA reserves the right to collect it sooner.
- 6.5.56 Notional interest due will be calculated by the GLA, added to, and identified in the invoices sent to RPs.
- 6.5.57 RPs must pay the invoice by the due date, or be liable for interest for late payment.
- 6.5.58 RPs must not simply send payment to the GLA without having first received an invoice. See Interest Chargeable on Delayed Notification or Repayment 6.2.20 for how this is calculated.
- 6.5.59 When recycled grant, plus notional interest, is repaid to the GLA the amount must be debited from the fund on the date of repayment.
- 6.5.60 RPs may choose to repay sums in their RCGF to the GLA at any time during the three-year period. Where this is the case, RPs should forward full details to their relevant GLA Area Manager who will arrange for an invoice to be distributed.
- 6.5.61 The GLA will only allow RPs to roll over balances of “three-year-old grant” into subsequent years in exceptional circumstances.

How to identify "three-year-old grant"

- 6.5.62 RPs must identify the amount of three year RCGF repayable, if any, while preparing their annual electronic end-of-year data return.
- 6.5.63 The three years starts from the end of the RCGF year (31st March) in which the recoverable grant was credited. The RCGF three-year period should be calculated as follows:
 - £100,000 credited to the RCGF on 16.8.2017.
 - That is during the 2017/18 RCGF year.
 - The three-year period following the year of credit therefore includes 2018/19, 2019/20 and 2020/21.
 - If not spent by 31 March 2021 the £100,000 will become subject to collection.
- 6.5.64 When calculating the amount of three-year-old grant repayable to the GLA, RPs must calculate grant as having been spent on a first in, first out basis.

Operating on a first in, first out basis means that if by the end of the following third year, the RP has spent, in total, more than it deposited during the year in question, it has nothing to pay, e.g.:

- During the year ending 31 March 2018 £500,000 was credited to the RCGF;
 - The three-year period therefore includes 2018/19, 2019/20 and 2020/21;
 - In 2018/19, the RP deposits £100,000 into the fund
 - The total RCGF balance is now £600,000
 - Between 1 April 2018 and 31 March 2021, £550,000 is spent
 - While there is a balance of £50,000, there is no three-year old grant as at 31 March 2021 since the £50,000 balance is from the 2018/19 deposit.
- 6.5.65 If, by 31 March of the year in question, RPs have entered into a written contractual commitment to incur expenditure on permitted, approved uses, then that amount of RCGF can be treated as having been spent.
- 6.5.66 Only the following count as contractual commitments:
- An exchange of contracts to acquire;
 - Signing a building contract;
- 6.5.67 Contracts devised to avoid repayment of three-year-old grant are not acceptable. The GLA expects contractual commitments to result in the contracted expenditure being incurred within six months. On a building contract, that would mean signing building contracts and starting on site within six months.
- 6.5.68 RPs must not repay any outstanding three-year old grant to the GLA until they receive an invoice as per 6.5.58 above.

Collection process

- 6.5.69 Following a review of an RP's Annual End of Year RCGF Return (see 6.7.4) the GLA will raise an invoice for:
- Any three-year-old grant (where a rollover request has not been approved);
 - The interest that the RP is required to calculate on that three-year-old grant up to 31 March of the year in question; plus
 - Interest that the GLA will calculate as due from 1 April to the date of the invoice.
- 6.5.70 The GLA will issue the invoice as soon as possible after the End of Year Return has been submitted. RPs should not send a payment until they receive the GLA's invoice.
- 6.5.71 If payment arrives later than the date required by the invoice, the GLA will calculate and invoice for additional interest, as pre-warned in the invoice.
- 6.5.72 Where RPs report sums over three years old, which the GLA has agreed to roll over beyond the usual deadline, no invoice will be raised for this amount.

6.6 Permitted uses

General

- 6.6.1 RCGF expenditure requires express GLA approval. Grant recycled from the RCGF will have the same funding conditions and conditions of grant as if the scheme had been funded with new Social Housing Assistance, although properties provided from the RCGF are not subject to the Right To Acquire under section 180 of the Housing and Regeneration Act 2008 and section 16 of the Housing Act 1996, except when recycled grant is used in combination with money from the Disposal Proceeds Fund or new grant.

Priority uses

- 6.6.2 The GLA expects that, in the first instance, RPs will spend recycled grant on GLA priorities. Any proposed reinvestment of RCGF will be assessed on the same basis as new grant funding from the GLA.
- 6.6.3 The GLA priorities, in line with its current affordable homes programme are:
- New supply of social rent, London Affordable Rent, London Living Rent and London Shared Ownership homes.
 - Supported housing for vulnerable Londoners including the provision of care and support schemes and initiatives for tackling homelessness.
 - Land acquisition that leads to the delivery of new homes within a three-year period.
- 6.6.4 In addition to GLA priorities, recycled grant may also be spent, with the GLA's prior approval, on the following Permitted Uses (although these will be subject to some restrictions or additional criteria as detailed below):
- To repurchase homes sold outright under Social HomeBuy post April 2006 where the freehold transfer includes a 21-year re-emption right.
 - To repurchase properties sold under Right to Buy or Right to Acquire after 1 Jan 2005 (the Housing Act 2004 gives a 10-year right to repurchase properties sold under Right to Buy or Right to Acquire);
 - To repurchase a shared owner's equity in a grant-funded shared ownership property provided the circumstances detailed in the Shared Ownership section of the Housing for Sale chapter are satisfied. This can include the repurchase of properties where sales are proving especially problematic due to building safety issues, and the shared owner has exceptional circumstances requiring them to move more urgently on compassionate grounds. Non-grant funded properties affected by building safety challenges where sales are proving especially problematic due to building safety issues, and the shared owner has exceptional circumstances requiring them to move more urgently on compassionate grounds, may also be repurchased using RCGF.

- To repurchase properties sold under Social HomeBuy or New Build HomeBuy post April 2006 on shared ownership terms, where the leaseholder has staircased to 100%.
- Other activities for which the GLA could make Social Housing Assistance funding available, except where a restriction is stated in this section of the Affordable Housing Capital Funding Guide.

Restrictions and/or additional criteria to permitted uses

Affordable Rent

- 6.6.5 RPs that are not on their own, nor as part of a consortium, developing Affordable Rent under an agreed grant agreement, may not use RCGF to provide Affordable Rent, unless they are party to a [Housing Supply Delivery Agreement \(HSDA\)](#) with the GLA.
- 6.6.6 RPs that are developing Affordable Rent under an agreed grant agreement may use their RCGF to provide additional Affordable Rent (which includes London Affordable Rent) property, with GLA approval.

HomeBuy

- 6.6.7 RPs that are not on their own, or as part of a consortium, developing or providing affordable home ownership such as Shared Ownership or Equity Loans under an agreed grant agreement, may use RCGF to provide shared ownership, subject to the usual considerations of local authority support and value for money.

Section 106

- 6.6.8 The GLA does not expect to fund section 106 with new grant, except where additionality can be demonstrated. This applies to the use of recycled grant to fund section 106 developments as well. If RPs wish to use recycled grant to support delivery of homes on a section 106 site, they should contact their GLA Area Manager.

Shared Ownership repurchasing

- 6.6.9 As outlined in 6.6.4, RCGF can be used to repurchase properties where the shared owner wishes to move on but is unable to do so because of issues associated with selling their home arising from building safety challenges and where there are individual circumstances that warrant making a compassionate decision. The GLA will grant approval of the use of RCGF to repurchase shared ownership properties only where it facilitates a conversion to intermediate rented tenure (excluding use as temporary accommodation). The GLA expects RPs to market the converted property transparently to ensure prospective applicants are aware of the building safety challenges associated with the property. The availability of this

option to buy-back shared ownership properties is at the discretion of RPs and does not constitute an automatic entitlement for shared owners.

- 6.6.10 Providers should make details of any policies related to the repurchase of a shared owner's equity available on their websites in a clear and accessible format, even if it is to make clear that they do not operate such a policy.
- 6.6.11 RPs wishing to buy-back shared ownership homes should submit details of the project via OPS once they have signed and returned to the GLA a Housing Supply Delivery Agreement, which can be requested from their Area Manager.
- 6.6.12 The RP will need to submit viability information on an open book basis to the relevant Area Team demonstrating the amount of RCGF that is required to repurchase the home, including (but not limited to) acquisition costs, legal and other professional costs, management and maintenance costs, rents and any other sources of income.

Absolute Restrictions

- 6.6.13 The following may not be funded with recycled grant:
- Social HomeBuy or Right to Acquire discounts.
 - Work to existing stock that is ineligible for funding because of the terms under which it was originally financed. Examples are major repairs to general needs projects funded under the Housing Acts 1988 and 1996 and stock transferred from a Local Authority.
 - Day-to-day and cyclical maintenance.
 - Tenant Incentive Schemes.
 - Provision of equity loan products.
 - Leasehold enfranchisement.
- 6.6.14 RPs must consult the GLA if unsure about a proposed use of RCGF.

Housing needs – locality and priority

- 6.6.15 RPs must apply their RCGF in accordance with the investment priorities of the Mayor's statutory London Housing Strategy, and expenditure is expected to be for the provision of new affordable housing supply.
- 6.6.16 RPs may make the case for an alternative use to:
- Meet other strategic priorities; and
 - Ensure the RP remains financially viable.
- 6.6.17 All requests must be submitted to the GLA for consideration and approval.
- 6.6.18 Typically, the GLA expects that expenditure should take place within the local authority area within which the recycled fund was generated. RPs' internal records of recoveries will therefore need to record the originating local authority area in which the credit to the fund was generated.

6.6.19 In some cases, the GLA may allow expenditure of RCGF in a different London borough from the one in which it was generated. RPs should discuss any such proposals with their GLA Area Manager prior to submitting bids on Open Project system.

6.6.20 Please note that from 1 April 2012 amounts generated within Greater London should not be invested outside Greater London, and vice versa.

Combining RCGF with new grant, DPF and other finance

6.6.21 RPs may combine recycled grant with DPF and new grant in the following ways:

- Combine recycled grant with grant in schemes receiving an allocation within the Mayor's affordable homes programme. Such schemes could only be those that are permitted uses of the DPF (for DPF Permitted Uses, see [here.](#))
- Combine recycled grant and DPF (but no new grant). Such schemes could only be those that are permitted uses of the DPF (for DPF Permitted Uses, see [here.](#))

6.6.22 All schemes require a proportion of the costs to be met with private sector loans or a contribution from the RP's own resources.

6.6.23 Resource inputs to a scheme from RCGF must not normally exceed the level stated within the relevant bid (including if zero). Any proposal to add additional resources from RCGF to an existing allocation must be agreed with the GLA in advance.

Downward staircasing through the RCGF

6.6.24 Downward staircasing (also referred to as "flexible tenure") is a permitted use of the RCGF only in cases where other options for avoiding repossession have been exhausted. It is a last resort option to enable a shared owner (NOT an outright owner) experiencing severe financial difficulties to remain in their own home despite changes in their financial circumstances. It is aimed at preventing repossessions and the loss of the home. It is not a means of allowing the shared owner to restructure their debts (including rent arrears) or otherwise improve their financial position.

Note: recycled grant may only be used to fund up to a maximum of 70% of the downward staircasing purchase costs.

6.6.25 There is no 'right' to downward staircasing and any offer is at the RP's discretion. However, where offered by RPs the following eligibility criteria must be met:

- RPs must confine offers of downward staircasing to shared owners in their own stock, but can include both grant-funded and non-grant funded stock;

- RPs may set their own detailed procedures provided that they comply with the required general policy and procedures in this section of the Guide.
- The shared owner must currently own less than 100% of the property.
- The shared owner must be paying rent on the unsold equity in the property. The term 'rent' excludes ground rent and service charges. Downward staircasing is not available for other owner occupiers including former shared owners or those who have bought a property through a discount or incentive scheme such as Right To Buy (RTB), Right To Acquire (RTA), the Tenants' Incentive Scheme or any of the GLA's equity loan products. RPs must be satisfied that the shared owner has explored and exhausted other options. The shared owner must produce suitable evidence to prove their difficulty with mortgage repayments although they need not already be in mortgage arrears.
- Shared owners must be able to show that other short- and long-term options have been exhausted such as loan rescheduling, or selling and moving to cheaper property within a reasonable travel-to-work area.
- RPs must also take into account the shared owner's ongoing ability to meet future repair and maintenance liabilities.
- Future sustainability should be based upon advice from an independent debt-counselling agency, and should include consideration of Housing Benefit eligibility.
- For Shared Ownership for the Older Persons properties, the same policy applies. However, downward staircasing repurchase from the maximum shares permitted under this product will also be permitted to allow essential repair and maintenance work to be carried out where the leaseholder demonstrates that there is a need for such work to the property and that they lack the funds to pay for it.
- For non-grant funded stock, should RPs consider repurchasing all the leaseholder's share thereby converting the tenure to an assured tenancy, they must undertake a survey of the property before completion of the downward staircasing application in order to assess any immediate and future repair liabilities that would be required under the Regulator of Social Housing's social housing standards.

6.6.26 RPs cannot use recycled grant funds to help shared owners release equity for any other purpose than avoiding threats, or potential threats, to their ability to remain in their home. Recycled grant cannot be used to allow shared owners to repay debt (other than their principal mortgage debt and arrears), or to buy other goods or services. This is NOT downward staircasing. Note: The Disposal Proceeds Fund cannot fund downward staircasing.

- 6.6.27 Under downward staircasing, RPs must repurchase enough equity to reduce the leaseholder's total housing costs to a level which they and the RPs are confident is manageable and sustainable in the long term.
- 6.6.28 This can include repurchasing sufficient equity to:
- Clear the mortgage;
 - Pay off arrears of interest and principal on the mortgage; and/or
 - Reduce mortgage payments to nil.
- 6.6.29 In order to meet the needs addressed in the above paragraph, the repurchase of shares by RPs under downward staircasing is not restricted to particular tranches in the same way as for upward staircasing. In order to repurchase sufficient equity as per the requirements at 6.6.23, RPs may repurchase shares of any percentage, and are not restricted to 10% tranches. A repurchase of shares may also be to a level where the shared owner retains less than 25%. Where RPs are considering repurchases that will leave the shared owner with less than a 25% share, they should discuss the implications with the shared owner and make clear that under the terms of the shared ownership lease the shared owner will still have full responsibility for any repairs.
- 6.6.30 There is also the option of full re-purchase, under which the shared owner becomes an assured tenant of the RP. However, once a property has been re-possessed by the lender, downward staircasing ceases to be an option.
- 6.6.31 Where an RP does offer downward staircasing, its policy and procedures should be published and made available to all shared owners in its property. RPs should also ensure they retain any documentary evidence in support of their decision to use recycled grant to fund downward staircasing.
- 6.6.32 For any form of equity repurchase, the RP should ensure that any offer is acceptable to both the shared owner's mortgagee, and its own lender. The latter may require a revolving credit facility.
- 6.6.33 The same general procedures apply to downward staircasing as for upward staircasing, i.e. the maximum amount payable by the landlord will be the appropriate percentage of the shares to be purchased at their current open market vacant value as determined by an independent qualified valuer.
- 6.6.34 It will probably be a condition of the shared owner's mortgage that the sale proceeds are paid directly to the first lender of the first mortgage. The RP's solicitor should advise on this, but it would avoid any risk of misuse of the money. The shared owner must pay for the valuation and their own legal fees. In practice, if paid by the RP, these costs may be deducted from the payment to the shared owner or the shared owner's mortgage company allowing the RP to recoup the costs.

- 6.6.35 The amount to be debited should be drawn down from the RCGF on the completion date of the legal transaction, and calculated as follows:

Debit from RCGF = (staircasing sales allowance) + (payment due for the shares to be purchased x 70%). The staircasing sales allowance at the level current at the date of completion should be used in this calculation.

The payment due to the shared owner or mortgagee must be the market value of the share to be repurchased. However, only 70% of that share's market value is the maximum that can be funded with recycled grant. The remaining balance must be funded from an RP's own resources. Lesser amounts of recycled grant topped up by the landlords own resources are also permitted.

- 6.6.36 The resulting amount of public subsidy (Housing Assistance Grant, Social Housing Grant or Social Housing Assistance plus Recycled Capital Grant) attributable to the property must take into account any deferred recovery of Housing Assistance Grant, Social Housing Grant or Social Housing Assistance in the same scheme.
- 6.6.37 The resulting Deemed Loan Debt (DLD) for the property will be the outstanding balance of the original DLD plus the new DLD attributable to the repurchased part of the property (i.e. the 30% (or more) of the payment to the leaseholder that was not funded by recycled grant).
- 6.6.38 The following is a worked example:

A shared owner owns 75% of a house valued at £160,000, and staircases down to 25% ownership.

The owning RP pays £79,400 to the shared owner's mortgage company (£80,000 less valuation and the shared owner's legal fees totalling £600).

The staircasing sales allowance is (for illustrative purposes) £400.

The withdrawal from the RCGF is (£400 staircasing allowance) + (£80,000 x 70%) = £56,400

If the rent is 2.75% of the value of the equity owned by the RP (ex-RSL) per annum, the rent increases from £21 a week on 25% to £63 a week on the 75% now owned by the (exclusive of service charge).

The RP has increased the Deemed Loan Debt on the property by the element of the payment to the leaseholder that was not funded by recycled i.e. 30% x £80,000 = £24,000.

- 6.6.39 Should the shared owner's financial circumstances deteriorate even further, subsequent downward staircasing purchases are permitted, even to the extent of a complete repurchase of the property by the RP.

- 6.6.40 Where a shared owner benefits from downward staircasing to reduce their share to a lower level of equity, the terms of the existing lease will continue, including the right to staircase again.
- 6.6.41 Where a shared owner's financial circumstances improve and they wish to purchase additional shares, then normal staircasing procedures should be followed. In these cases, RPs must treat the recycled grant drawn down to fund the downward staircasing as if it were new grant, and add this sum to any outstanding original funding for grant recovery purposes.
- 6.6.42 Whenever the shared owner benefits from downward staircasing or staircases again, the rent should be adjusted pro rata for the changed percentage rented and comply with all relevant rent policies.
- 6.6.43 Where a shared owner becomes an outright tenant, the shared ownership lease must be formally terminated and an assured tenancy agreement entered into on the same terms as for any other new tenancy agreement for rented housing let by that RP. It would be at the Registered Provider's discretion whether to offer a shared ownership lease in the future.
- 6.6.44 An ex-shared owner who becomes an outright tenant will not be able to purchase the property under the Right to Acquire because the property was not originally provided with public money for the purposes of being a rented property. This means it would not be an eligible property under RTA rules. However, the assured tenancy would count towards future RTA residency criteria (see the Right to Acquire section of the Housing for Sale chapter). As a tenant they may, if circumstances improve, be eligible for any discount or incentive scheme if offered by the RP such as Social HomeBuy with any eligibility period starting from the date of this new tenancy.

Land Acquisition

- 6.6.45 RPs may use funds from the RCGF to acquire land where the intention is to develop the additional supply of affordable housing. This use of recycled grant requires express GLA approval.
- 6.6.46 Recycled grant may also be used to acquire land for market housing schemes which will include an affordable housing element. Recycled grant should be attributed pro-rata to affordable housing subsequently developed and shown as an RCGF input at bidding stage in addition to any new affordable grant bid for.
- 6.6.47 RPs will be required to begin development on any land purchased with recycle grant within three years of purchase. If start on site has not progressed after three years, RPs will be required to pay back the recycled grant to the GLA; it cannot be re-credited back into the RP's RCGF.
- 6.6.48 RPs are not to use RCGF to acquire land for speculative gain.

Management and maintenance of new units produced from the Recycled Capital Grant Fund

- 6.6.49 Eligibility for grant to fund major repairs in respect of RCGF funded units is the same as for units initially funded with new grant; please refer to the Repairs section of the Housing for Rent chapter for further information. In this context, please note that RCGF expenditure requires express GLA approval.
- 6.6.50 Where applicable, property provided from the RCGF could be sold under Social HomeBuy or on the open market.
- 6.6.51 Properties provided from the RCGF must be made available to local authority nominees in the same way as property provided with grant.

6.7 Reporting and Audit Requirements

General

- 6.7.1 All RPs who operate a Recycled Capital Grant Fund (RCGF) must report annually on credits to and expenditure from their RCGF.
- 6.7.2 RPs that are subject to a Grant Agreement must also separately record RCGF (nil grant schemes) funded units on Open Project System as and when developed as required by their agreements.
- 6.7.3 RPs must retain documentary evidence to support an audit trail for all transactions leading to recovery and re-use of grant (for further details on this, please see 6.5.21).

Annual returns

- 6.7.4 RPs who operate a RCGF must submit an annual RCGF End of Year Return electronically using the GLA's Open Project System. It is the RP's responsibility to ensure its return is submitted on time. The deadline for returns is typically 30 June of the year in question. The GLA will inform RPs if this date is different.
- 6.7.5 RPs that operate inside and outside of Greater London should ensure that balances generated and reinvested in London are reported to the GLA and balances outside of London to Homes England. This requires two separate returns.
- 6.7.6 RPs must submit a return for every year that they have been in business and operating a Recycled Capital Grant Fund. If, for example, an RP was subject to a transfer of engagements that completed in March 2019, a return would still be required for 2018-19. A nil return should be submitted if there has been no activity during a particular year. However, in the case of continuous periods of inactivity, the RP can determine whether or not to submit a return. If an RP is subject to a transfer of engagement, a return will still be required for the financial year in which the transfer took place.
- 6.7.7 In the event that an RP misses the deadline for submitting its End of Year Return and has a good reason for not having met the deadline, it should still submit its return on Open Project System as normal. RPs should contact their GLA Area Manager and provide a justification for review.
- 6.7.8 The GLA may seek repayment and can require repayment of all or part of the balance of an RCGF if information is not supplied to schedule, including either a late or absent annual End of Year Return.

Completion of the annual return

- 6.7.9 The annual End of Year Return comprises an annual RCGF submission and a forecast RCGF submission, both of which must be completed and

submitted using the GLA's Open Project System. RPs will be required to provide the following information:

- RCGF income generated during year
- RCGF spent during year
- Details of any expired balance (in the fund for 3 years)
- Three-year RCGF expenditure forecast (total forecast expenditure should equal closing RCGF balance at end of financial year just passed unless an RP plans to return some funds to the GLA).
- Age analysis of RCGF held (broken down by expiration year)
- Confirmation that the RP has met the certification requirements related to the information being submitted

6.7.10 The GLA publishes guidance to help them complete and submit their annual returns via OPS on its website (see [here](#)) and may also circulate additional guidance to RPs each year. This will cover the process for Disposal Proceeds Fund submissions (while the DPF is still in operation).

Collection and administration of the annual returns

6.7.11 The GLA collects the RCGF End of Year Return via Open Project System and RPs submitting an End of Year Return will require access rights. RPs who do not have access to Open Project System and require help should contact their GLA Area Manager.

6.7.12 After reviewing the electronic end of year returns the relevant GLA Area Manager will contact the RP detailing any errors and/or adjustments required.

6.7.13 Any adjustment will be effected in the following year's return. Where a prior year adjustment is made, notional interest should be recalculated (and credited to or debited from the RCGF) using the adjusted balance and across the full term of the adjustment. If a further explanation on this is required, the RP should contact their GLA Area Manager.

6.7.14 Having reviewed the annual returns the GLA will also require repayment of three-year-old grant as per section 6.5.54 and invoice RPs accordingly.

Role of the external auditor

6.7.15 The RCGF return is an integral part of an RP's annual independent audit. Therefore, RPs' auditors must have regard to the disclosure of RCGF balances and transactions and the overall accuracy of the return within their sign-off of an RPs accounts (see 6.5.21).

6.7.16 RPs must keep a record of external auditors' examinations of RCGF accounts. Any observations by the external auditor should be communicated to the GLA and the Regulator of Social Housing.