

## Policy and Procedure Guidance - supporting Discretionary Top Up Assistance Payments

### **Introduction**

- 1.1 The purpose of this document is to set out the procedure that should be followed when the costs for a recommended adaptation that is to be provided to a service user's home through a Disabled Facilities Grant (DFG) exceeds the current statutory ceiling of £30,000.
- 1.2 All work undertaken in relation to Disabled Facilities Grants should be compliant with the following legislation:
  - Children's Act 2004
  - Children's Act 1989
  - Disability Discrimination Act 1995 (DDA)
  - Housing Grants, Construction and Regeneration Act (HGCRA) 1996
  - National Health Service and Community Care Act 1990
  - Chronically Sick and Disabled Persons Act 1970 (CSDP)
  - Equality Act 2010

### **Discretionary Powers**

- 2.1 If a proposed adaptation exceeds the statutory DFG of £30,000 and a family reports they are unable to contribute towards any costs and/or a Housing Authority fails to deliver the adaptations in the timeframes set out under legislation, and as a consequence difficulties and hardship are caused to the disabled child and/or their family, Children Services should consider exercising its duties under the CSDPA 1970.
- 2.2 The CSDP Act places a duty on Children's Social Care to assist in meeting unmet needs, but offers them discretionary powers to offer this support in a manner they feel fair and equitable.
- 2.3 An authority's duty to offer discretionary support to meet assessed needs can be offered in any form, such as a low interest loan, interest free loan, or an outright grant. When exercising discretionary powers to fund adaptations, the

authority should give consideration to the merits of each individual case whilst ensuring resources have been used and administered fair and equitably.

### **Role of the Local Authority (County Council) Children's Occupational Therapy Service**

- 3.1 The role of the Children's Occupational Therapist (OT) is to assess a service user's housing needs and to consult and work in partnership with the District Council grants officers to deliver appropriate housing adaptations to meet the assessed needs.
- 3.2 It is recognised that the Children's OT has to strike a balance between the "ideal" solution from the service user's point of view and the resources available, and has a responsibility to work economically and efficiently with regard to the Council's resources. This balance is not always a matter of recommending the cheapest option, it is a concern for effective solutions for individuals, bearing in mind that other people also have a claim on the Council's resources. The most economically appropriate options must therefore be considered first. Staff will be expected to demonstrate this in their recording, particularly of recommendations for major equipment and adaptations.
- 3.3 On identifying a need for housing adaptations the Children's OT should provide families with information about the Disabled Facilities Grant process. (OT Service information leaflet details all necessary information)
- 3.4 If it is established that a proposed adaptation is likely to exceed the statutory DFG of £30,000 the OT should provide family with information on the OT Services Discretionary Top up Assistance Grant.

### **Eligibility for a Local Authority (County Council) Top up Assistance Payment**

- 4.1 If formal approval for a DFG is given and the cost of works is in excess of the statutory DFG of £30,000, Nottinghamshire County Council will assist a service user in meeting their housing needs by exercising their discretionary powers under the Chronically Sick and Disabled Persons Act (CSDPA) 1970.
- 4.2 Nottinghamshire County Council Children's Services will offer to fund the shortfall for any adaptation in excess of the mandatory DFG of £30,000 by offer of a secured loan by way of a legal charge to the family home/property.
- 4.3 The term of the secured loan will be for no more than 10 years and the council must ensure that the charges made do not exceed the cost of providing the discretionary service.

- 4.4 The secured loan should be offered with conditions to mitigate risks of bankruptcy orders or disposal of the adapted property, by sale, lease or rent.
- 4.5 Due to the discretionary nature of the Top up Assistance Payment, Nottinghamshire County Council reserve the right to review the process for eligibility and support on a regular basis to ensure available resources are used equitably and effectively.
- 4.6 No Top up Assistance Payment can be formally agreed and signed off by Nottinghamshire County Council until the Housing Authority (District Council) have provided 'formal approval' for a DFG and they are in receipt of a copy of the 'approval letter' detailing the full costs of works to meet the assessed housing needs.
- 4.4 For those cases where recommended works have been tendered in excess of the mandatory DFG of £30,000 and a Top up Payment is requested, Nottinghamshire County Council will complete a financial assessment with the service user and/or their family to establish if their financial circumstances are such that they can afford to repay back the discretionary top up assistance payment, up to a maximum of £10,000.
- 4.5 For those families who are unable to fund any shortfall due to financial circumstances, Nottinghamshire County Council will offer financial assistance to fund the shortfall and place a legal charging order on the property for a period of no more than 10 years.
- 4.6 A charging order allows the County Council to reclaim the funding awarded should a service user and/or their family sell the property within a given time.
- 4.7 Where a financial assessment demonstrates that a family has some disposable income there will be an expectation from Nottinghamshire County Council that the service user and/or their family will contribute towards the costs of the adaptation in one of two ways.

## **5.0 Option 1**

- 5.1 The service user and/or their family may choose to secure funds independently through a loan from a high street bank and/or financial establishment.

## **6.0 Option 2**

- 6.1 Nottinghamshire County Council may exercise their discretionary duties under the CSDPA (1970) and offer the service user and/or their family an interest free loan toward the cost of works in excess of the mandatory £30,000.

- 6.2 The offer of a Top up Assistance Loan agreement will require the service user and/or their family to make a monthly repayment to Nottinghamshire County Council.
- 6.3 Top up Loans will be offered over a fixed period of up to a maximum 10 years.
- 6.4 Any repayment will be for no more than £10,000
- 6.5 Any Top up Loan will offer the service user/and or their family the opportunity to take a Loan Break or for the loan agreement to be terminated, should their financial circumstances alter significantly, rendering them unable to maintain repayments. This will be addressed by a review of a further of the family's current and future financial circumstances.