

# Home Improvement Loans 'Toolkit'



WLGA • CLILC

Lavender & Wilson

Housing Training & Consultancy Ltd

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**The information in this booklet is for the purpose of guidance only and it is a matter for each Local Authority to ensure that they seek their own legal advice**

## **1.0 Introduction**

- 1.0 The home improvement loan scheme has been developed in partnership between the Welsh Government, Welsh Local Government Association and Local Authorities in Wales as a way of providing additional finance to individuals and businesses for home improvements, which will contribute to the overall programme of improving the quality of homes and increasing housing supply.
- 1.1 The scheme will utilise £10 Million of financial transaction funding made available to Local Authorities via Welsh Government to provide recyclable loans for home improvements.
- 1.2 The Home Improvement Loans Toolkit has been developed to provide information about the scheme and its operation, to support Local Authorities in developing their individual arrangements and to provide an overview of the different types of financial assistance currently offered by Local Authorities in Wales to residential property owners.
- 1.3 Each Local Authority allocation has been determined by the percentage of private dwellings in their area. The expected allocation for individual Local Authorities is set out in Appendix G.
- 1.4 The funding will be available for a maximum of 15 years and will need to be repaid to Welsh Government by 31<sup>st</sup> March 2030.
- 1.5 This is a new way of providing finance to Local Authorities, instead of providing traditional grant funding. Local Authorities can borrow the funding from Welsh Government via 'financial transaction' money.
- 1.6 This new approach is with the purpose of establishing the most economically advantageous method, but ensuring that it is affordable.

- 1.7 The scheme will enable Local Authorities to provide loans, which are recoverable within 5 years (for landlords / developers), but can be extended up to 10 years where the loan is provided for the purpose of owner occupation.
- 1.8 In addition, the funding can be used to support Local Authorities undertaking works in default, where the Local Authority considers it appropriate in the circumstances.
- 1.9 The following products would **not** generally be supported through the scheme due to their non recyclability or time taken for recovery:
- **Grants** - including those linked to nomination rights;
  - **Property Appreciation Loans** - where repayment of the loan only occurs on the sale of the property or transfer of ownership;
  - **Longer Terms Loans** - interest free or otherwise that fall outside the existing time restraints of the scheme (as specified below), including those that result in longer-term nomination rights;
  - **Prudential Borrowing** - where the Local Authority borrows money and Welsh Government meets the interest payments;
  - **Compulsory Purchase Orders / Empty Dwelling Management Orders** - although Local Authorities will be expected to use these measures as part of an overall range of measures to maximise the number of properties brought back into use.
- 1.10 A number of Local Authorities currently offer a range of different grants and loans, therefore consideration should be given to ensure that the home improvement loan compliments existing products, rather than compete with or replace them. This initiative should be additional to the financial assistance currently offered by Local Authorities.
- 1.11 While the scheme has been developed to provide Local Authorities will a level of flexibility, there must be a consistent approach to the products offered in each region. This is a mandatory requirement of the scheme. Where Authorities are also in receipt of loan funding via Welsh Government's Vibrant and Viable Places programme, they are strongly advised to adopt a consistent approach on terms and conditions etc.

## **2.0 Power of Local Housing Authorities to provide assistance**

- 2.0 Until 2002 there was a complex scheme of mandatory and discretionary grants contained in the Housing Grants, Construction and Regeneration Act 1996.
- 2.1 This system was swept away by the Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 'the order' SI 2002/1860 (Appendix A), leaving only one grant under the 1996 Act still in place, that being mandatory disabled facilities grants
- 2.2 Before a Local Authority can provide any assistance under the order, an Authority must have adopted a policy for the provision of assistance, and give public notice of the policy<sup>1</sup>. In addition, they must ensure that a full copy of the policy is available at all reasonable times and available by post on payment of a reasonable charge. Any assistance must then be provided in accordance with the policy.
- 2.3 Consequently, it is incumbent upon Local Authorities to ensure that their financial assistance policy is updated to reflect the terms of this scheme and any other assistance they offer.
- 2.4 The purpose for which assistance may be provided is set out in Article 3 of the order. That is for the purpose of improving living conditions in their area and Authorities may provide direct or indirect assistance to a person for the purpose of enabling him:
- to acquire living accommodation (whether within or outside their area) - only where the Authority has acquired or proposes to acquire (compulsory or otherwise his existing living accommodation);
  - to adopt or improve living accommodation (whether by alteration, conversion or enlargement);
  - to repair living accommodation;
  - to demolish buildings comprising or including living accommodation;

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<sup>1</sup> Article 4 Regulatory Reform (Housing Assistance) (England and Wales) Order 2002

- where buildings comprising, or including, living accommodation have been demolished to construct buildings that comprise, or include, replacement living accommodation.

‘Living accommodation’ is defined in Part 2 of the Order as a building or part of a building, a caravan, a boat or similar structure, occupied or available for residential purposes.

- 2.5 The Order further states<sup>2</sup> that the ‘assistance’ may be provided in any form and may be unconditional or subject to conditions, including conditions as to the repayment of the assistance or of its value (in whole or in part), or the making of a contribution towards the assisted work.
- 2.6 Before imposing any such condition, or taking steps to enforce it, a Local Housing Authority shall have regard to the ability of the person concerned to make that repayment or contribution. Consequently, it is incumbent upon Local Authorities to ensure that the product offered is suitable and affordable.
- 2.7 Article 6 also allows a Local Housing Authority to require a person who has applied for assistance, or who has been provided with assistance, to provide them within a reasonable period with such information as they may reasonably require. This will enable the Local Authority to decide on eligibility for assistance and compliance with any conditions.
- 2.8 In addition, the Local Government Act 2000 created a discretionary power referred to as ‘the well-being power’ which enables Local Authorities to do anything that they consider is likely to promote or improve the economic, social or environmental well-being of their area and / or persons in it, provided that they are not restricted from doing so by other legislation<sup>3</sup>. The Home Improvement Loan Scheme would therefore fall within the terms of the [well being power](#)<sup>4</sup>.

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<sup>2</sup> Article 3 Regulatory Reform (Housing Assistance) (England and Wales) Order 2002

<sup>3</sup> Section 2, Local Government Act 2000

<sup>4</sup> Welsh Government Statutory Guidance on the power to promote or improve, economic, social or environmental well-being under the Local Government Act 2000

- 2.9 However, Section 2 does not enable a Local Authority to do anything which they are unable to do by virtue of any prohibition, restriction or limitation on their powers which is contained in any enactment (whenever passed or made)<sup>5</sup>.
- 2.10 Therefore, Local Housing Authorities must have regard to Section 24, Local Government Act 1988<sup>6</sup>, (subject to Section 25) which provides the Local Housing Authority with the power to provide any person with financial assistance for the purposes of, or in connection with, the acquisition, construction, conversion, rehabilitation, improvement, maintenance or management (whether by that person or by another) of any property, which is or is intended to be privately let as housing accommodation.
- 2.11 Private let as housing accommodation is defined 'at any time when it is occupied as housing accommodation in pursuance of a lease or licence of any description or under a statutory tenancy and the immediate landlord is a person other than a Local Authority'.
- 2.12 Section 25, Local Government Act 1988, states that consent from the Secretary of State or Minister is required for the provision of financial assistance, unless<sup>7</sup> the assistance or benefit is provided in exercise of any power conferred by Article 3 of the Regulatory Reform (Housing Assistance)(England and Wales) Order 2002<sup>8</sup>.
- 2.13 Consequently, the broad nature of the Regulatory Reform (Housing Assistance)(England and Wales) Order 2002 and the general 'well being' powers contained in the Local Government Act 2000, means that Local Authorities will be able to provide financial assistance through the Home Improvement Loan Scheme to the full range of applicants and can attach such conditions or terms that they consider appropriate in the circumstances.

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<sup>5</sup> Section 3, Local Government Act 2000

<sup>6</sup> Section 24, Local Government Act 1988

<sup>7</sup> Section 25 (1)(f) Local Government Act 1988

<sup>8</sup> National Assembly of Wales Circular 20/02, Renewal Guidance

### 3.0 State Aid

State Aid should only need to be considered for Landlord loans. Owner Occupiers do not constitute a commercial undertaking and therefore State Aid does not apply. Local Authorities, for the purpose of State Aid, should be able to rely on the de minimis exemption. On 24<sup>th</sup> December 2013, Commission Regulation 1407/2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union (TFEU) to de minimis aid was published in the Official Journal (*OJ* 2013 L352/1). Regulation 1407/2013 sets out the threshold **below which aid measures** are deemed not to meet all the criteria of Article 107(1) of the TFEU and are **therefore exempted from the notification obligation** under Article 108(3) of the TFEU. It replaced the current de minimis Regulation 1998/2006 from 1<sup>st</sup> January 2014. The current de minimis thresholds are maintained at (EUR 200,000 (approximate sterling equivalent (£163,500) per undertaking over a **three year period**).

- 3.1 The aid component is not the loan itself (which must be repaid) but the advantage conferred on the borrower through not having to pay interest or having a preferential rate of interest on the loan. Consequently, the amount of aid for each transaction, namely the present value of the interest that would be charged by a commercial lender over that part of the loan period which is interest free or lesser amount where the loan, is at a preferential interest rate. Provided that figure, plus the amount of state aid received by the borrower in the three years before the aid is given, does not exceed 200,000 Euros / £163,500 from all sources of public sector aid, then the de minimis rules can apply.
- 3.2 When we consider the terms of the scheme the most beneficial loan that can be provided to any applicant is £150,000 (maximum amount), for a maximum period of 5 years. If we consider the loan provided by the Local Authority was on an interest free basis, then considering the standard national interest rate currently 3.2%, the benefit of the loan would be £150,000 @ 3.2% x 5 years = £24,000. State Aid rules require the benefit to be measured over a three year rolling program, so the actual benefit of the loan considered under State Aid is £150,000 @ 3.2% x 3 years = £14,400. Consequently, the benefit of such a loan is well below the current threshold.



- 3.3 In most instances the loans will be targeted at individual home owners, small portfolio landlords or small developers. It is therefore highly unlikely that they will have received any other aid.
- 3.4 However, if Local Authorities are concerned in this regard then they should require borrowers as a condition (prior to drawdown of the loan) to notify them of all aid they have received in the past three years, and if the aggregate takes them over 200,000 Euros / £163,500, they should only receive the loan on the basis that they pay interest either at a commercial rate, or (if there is no market comparator) at a rate set in accordance with the European Commission's reference rate.
- 3.5 A form of word that could be included in any loan offer has been included in appendix E.

#### **4.0 Financial Conduct Authority & Consumer Credit Act**

- 4.1 Following the Government's reform of the regulation of the financial services sector, the consumer credit regime has passed from the Office of Fair Trading (OFT) to the Financial Conduct Authority (FCA) and the Prudential Regulation Authority.
- 4.2 The FCA regulates the provision of mortgages and conduct of parties engaged in regulated mortgage activity. Local Authorities are excluded from needing FCA permission for most consumer credit activities, but may still need permission for some types of lending.
- 4.3 The Consumer Credit Act 1974 (CCA) defines a consumer credit agreement as an agreement between an individual (borrower / debtor) and any other person (lender / creditor) by which the lender provides the borrower with credit of any amount (section 8(1), CCA 1974).
- 4.4 A regulated mortgage is defined (in article 61(3) of the Financial Services and Market Act 2000 (Regulated Activities) Order 2001 (SI 2001/544)) as a contract under which:
- a) the lender provides credit to an individual (the 'borrower'); and

- b) secured by a **first** legal mortgage over land in the UK, **at least 40% of** which is used, or is intended to be used, as or in connection with a dwelling by the borrower or that person's spouse, partner, parent, brother, sister, child, grandparent or grandchild.

- 4.5 A regulated mortgage contract, or regulated home purchase plan, entered into by way of business in the UK would fall outside the CCA 1974 by virtue of being regulated under the Financial Services and Market Act 2000.
- 4.6 However, under the Financial Services and Market Act 2000 (exemption) (Amendment) (No.2) Order 2003 both Local Housing Authorities and Registered Social Landlords offering mortgages have been exempt from the FCA regulatory regime, but on the basis that a comparable quality service is provided to the client.
- 4.7 To ensure that both Local Housing Authorities and Registered Social Landlords are able to meet the requirement of providing a comparative service, the National Assembly of Wales issued Circular 20/02 (Renewal Guidance)<sup>9</sup> and in England, the Department for Communities and Local Government (DCLG) issued the Mortgage Sales Guidance for Local Authorities and Housing Associations 2005<sup>10</sup>.
- 4.8 It should be noted that the exemption from the regulations only applies to Local Housing Authorities and Registered Social Landlords. Therefore, where mortgages are being offered by other agencies / organisations they will need to comply with the FCA regulatory framework.
- 4.9 Similarly, if a mortgage is being offered by a main stream lender via a partnership approach within the Local Housing Authorities or Registered Social Landlords, then lender would need to comply with the FCA regulatory framework.
- 4.10 If the loan provided by the Local Authority to an individual is not secured by a first charge, and therefore not regulated under the Financial Services and Market Act 2000, we need to consider whether it falls under the Consumer Credit Act 1974, unless it is an exempted agreement.

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<sup>9</sup> National Assembly of Wales Circular 20/02, Renewal Guidance

<sup>10</sup> Mortgage Sales Guidance for Local Authorities and Housing Associations 2005

- 4.11 An exempted agreement is one that is specified in, or under Section 16 to 16C of the Consumer Credit Act 1974.
- 4.12 Of particular relevance to this scheme is Section 16(1) of the CCA 1974, which states that the Act does not regulate consumer credit agreements where the creditor is a Local Authority. However, Section 16(2) states that Section 16(1) only applies where the agreement is 'Section 16 (2)(b) a debtor-creditor agreement secured by an land mortgage' provided that the LA has not entered into pre-existing arrangements or is in contemplation of future arrangements with the suppliers who it is intended will carry out the renovation works.

If the Local Housing Authority wishes to exert any control over the suppliers then the agreement must take the form of a regulated agreement.

- 4.13 The question then arises as to what is a land mortgage for the purpose of the CCA 1974. If we consider Section 189 of the CCA 1974 a 'land mortgage' is defined as including 'any security' charged on the land (does not have to be over the property being renovated). This definition would clearly include a legal charge registered with the District Land Registry but would also include a local land charge.
- 4.14 Consequently, if the Local Housing Authority provides a mortgage which is not a land mortgage (legal charge / local land charge) and does not fall within one of the other exemptions then it may be deemed to be a Regulated Consumer Credit Agreement, the Local Authority must then have regard to Article 2(2) of the Consumer Credit Directive (Directive 2008/48), which sets out the agreements that are outside the scope of the Consumer Credit Directive (Directive 2008/48).
- 4.15 If a loan to an individual is considered to be a Regulated Consumer Credit Agreement, then it may be necessary for the Local Authority to apply for a full consumer credit authorisation from the FCA, otherwise the Local Authority may be committing a criminal offence.
- 4.16 In addition, there are a number of requirements as to form and content which such an agreement must take and information which must be supplied before the consumer signs the agreement. The form and content of the advertisement for such loans is also regulated and there may be a need to comply with the Financial

Services Distance Marketing Regulations, if the financial services are not face to face.

4.17 Consequently, Local Housing Authorities should seek their own legal advice to ensure that they are operating in compliance with the relevant statutory framework.

4.18 It may be beneficial to Local Housing Authorities to ensure that all loans / mortgages are either secured as a land mortgage by way of a legal charge registered against the title at Land Registry or by registering it as a local land charge. This would further provide additional security for any monies loaned out. Please also see section on security of loan paragraph 7.75.

## 5.0 Terms of the Scheme – Summary

**Table 1 below provides an overview of the terms associated with the private sector loan scheme.**

<b>Eligible Applicants</b>  The applicant must own the property.  Registered Social Landlords / Registered Providers will not be eligible.  Tenants on repairing leases may be considered if the relevant interest offers adequate security.	Owners of substandard houses and includes: <ul style="list-style-type: none"><li>• Owner occupiers</li><li>• Landlords</li><li>• Developers</li><li>• Charities / Third Sector</li></ul> Priority must be given to homeowners in the first instance and  Priority must be given to landlords that offer affordable / social housing / nomination rights over market rent.
<b>Regional Approach</b>  Each region must ensure a consistent approach.	Any product offered must be available across the region. Products and eligibility must be consistent within the regions.

<b>Maximum Loan Charge / Cost</b>  The maximum fee chargeable	A one-off administration fee of up to 15%  e.g. a £10,000 loan would incur a maximum fee of £1,500.
<b>Minimum and Maximum Loan Value</b>	Min £1,000 up to a Max £25,000 per unit
<b>Maximum loan per applicant</b>  (Applicant can be individual, Company or Charity)	Up to £150,000
<b>Improvement Required</b>  (there is no requirement that the property must meet all of these criteria, the funding may target only one element)	Warm, Safe or Secure
<b>Loan Criteria for Private Rented Sector Only</b>	Property must be free of Cat 1 Hazards (HHSRS)
<b>Loans can be used to improve property to / for:</b>	Continued Ownership  To sell  To rent
<b>Maximum Loan Periods</b>	Landlords / Developers / Charities: Up to 5 years  Owner Occupiers : up to 10 years
<b>Repayment Terms</b>	Choice of Staged Payments (Region to define) <ul style="list-style-type: none"> <li>• Weekly</li> <li>• Monthly</li> <li>• Quarterly</li> <li>• Annual</li> </ul>

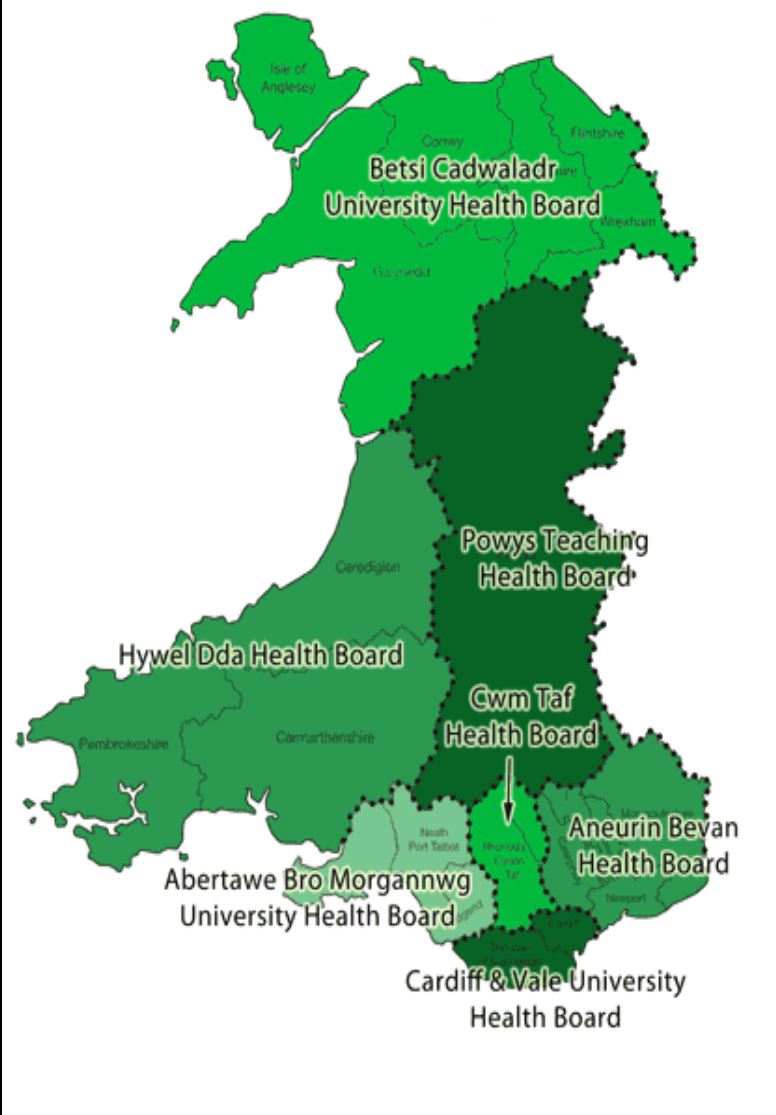
	<ul style="list-style-type: none"> <li>• Full repayment at the end of the loan period</li> <li>• Loan repayable on the sale of the property</li> </ul>
<b>Affordability</b>	<p>The applicant must be able to afford the loan or have the means to repay the loan on the due date:</p> <ul style="list-style-type: none"> <li>• Be able to meet the loan amount repayable; or</li> <li>• Be able to afford to repay the loan at the end of the loan period.</li> </ul>
<p><b>Other Criteria</b></p> <p>This is not an exhaustive list.</p> <p>It is a matter for each Local Authority to establish the suitability of the applicant to enable them to gain access to the funding.</p> <p>The risk of non-payment sits with the individual Local Authority.</p>	<p>Local Authorities must carefully consider whether it is appropriate to provide funding to an applicant with an adverse credit history:</p> <ul style="list-style-type: none"> <li>• An adverse credit history may include: <ul style="list-style-type: none"> <li>➢ County Court Judgements (CCJ)</li> <li>➢ Individual Voluntary Arrangements (IVAs)</li> <li>➢ Debt Relief Order (DRO)</li> <li>➢ Bankrupt (within last 6 years)</li> <li>➢ Company Insolvency / Liquidation</li> </ul> </li> <li>• Owe any outstanding debt to the Local Authority at the time of making an application.</li> </ul>
<p><b>Risk Mitigation Measures</b></p> <p>The Local Authority must take steps to minimise the risk from non-recovery of the loan.</p>	<p>Possible approaches to minimise the risk:</p> <ul style="list-style-type: none"> <li>• Undertake appropriate ID checks in line with money laundering and Land Registry requirements.</li> <li>• Undertake affordability check (LA / Credit Union) on applicants to ensure they can afford the loan.</li> <li>• Securing any loan as a charge against the property.</li> </ul>

	<ul style="list-style-type: none"> <li>• Ensure that any loan secured as a charge is up to a maximum loan to value</li> <li>• Obtain a RICS valuation of the property used as security for the loan.</li> <li>• Place a local land charge (Caveats – see note)</li> <li>• Obtaining two estimates for the cost of the works.</li> <li>• Consider applying a suitable default rate for breach of loan conditions i.e. 6%.</li> </ul>
<b>Grant Funding</b>	<p>Any other funding options such as Arbed / ECO should be explained to the applicant where appropriate.</p> <p>Other funding options can be used in conjunction with the loans</p>

## 6.0 Scheme Terms (Introduction)

- 6.1. The loans will be made available to owners / landlords to bring their properties up to standard for continued ownership, sale or rent.
- 6.2. The delivery of the project will be based on regional collaboration that was developed as part of the Houses into Homes Scheme. Table 2 shows the breakdown of Local Authorities by Regional Groups.

**Table 2: Breakdown of Local Authorities by Regional Groups**

	Regional Groups	Local Authorities
	<b><i>North Wales Regional Steering Group</i></b>	Conwy County Borough Council Denbighshire County Council Flintshire County Council Gwynedd County Council Isle of Anglesey County Council Wrexham County Borough Council
	<b><i>Mid &amp; West Wales Regional Steering Group</i></b>	Powys County Council Carmarthenshire County Council Pembrokeshire County Council Ceredigion County Council
	<b><i>Gwent Regional Steering Group</i></b>	Blaenau Gwent County Council Caerphilly County Borough Monmouthshire County Council Newport City Council Torfaen County Borough Council
	<b><i>Swansea Bay Regional Steering Group</i></b>	Bridgend County Borough City and County of Swansea Neath Port Talbot County Borough Council
	<b><i>Cardiff &amp; Vale Regional Steering Group</i></b>	Cardiff Council Vale of Glamorgan Council
	<b><i>Cwm Taf Regional Steering Group</i></b>	Merthyr Tydfil County Borough Council Rhondda Cynon Taf County Borough Council



- 6.3 A national steering group has been established to monitor progress and review the operation of the scheme. In addition, each region will have a steering group charged with managing and promoting the programme in their area and that each regional steering group will comprise of representatives from each Local Authority in that region.
- 6.4 Each Local Authority allocation has been determined by the percentage of private dwellings in their area. The expected allocation for individual Local Authorities is set out in Appendix G.
- 6.5 There is the ability for allocations to be transferred to other Local Authorities in the region and, should the region be unable to utilise the funds, then it can be re-allocated to other regions, subject to Welsh Government approval.
- 6.6 However, the responsibility of repaying the loan back to Welsh Government will be on the Local Authority that has utilised the funds, not on the Local Authority that funds were originally allocated to. As such, a formal process will be put in place to manage these critical transactions.
- 6.7 Upon receipt of a signed funding document, the Local Authority will receive its full allocation for 2014/2015. Payment of the 2015/2016 allocation will be made when a Local Authority provides evidence that it has used the 2014/2015 allocation.
- 6.8 Welsh Government has given a commitment to share the risk with Local Authorities in relation to applicants defaulting on their loans, up to a maximum of 5% of the loan fund shared equally between the Local Authorities and the Welsh Government. Consequently, depending on the loan fund approved (£ 10 million), the maximum liability that would be covered by the Welsh Government would be:

<b>Loan Fund</b>	<b>Default Rate</b>	<b>Amount Covered (Welsh Government)</b>
£5 Million	2.5%	£125,000
£10 Million	2.5%	£250,000
£15 Million	2.5%	£350,000

*See Appendix G*

- 6.9 All bad debts will need to be written off using the Local Authorities documented formal procedures. Evidence of the procedures being followed will need to be provided to Welsh Government to fund its share of the bad debt.
- 6.10 Having regard to statistics published by the Council of Mortgage Lenders (CML) and information obtained from a number of loan schemes operated by Local Authorities, and other organisations (Wessex Re-investment Trust, London Rebuilding Society and Kent No Use Empty), it is anticipated that a realistic default rate may be in the order of 5%. This will clearly depend on the type of products offered, the risk mitigation measures taken by the Local Authority in assessing the suitability of applicants and the security (if any) taken by the Local Authority.
- 6.11 Please be advised that any loans that have been repaid to the Local Authority must be recycled into further loans within 6 months of receiving the funds. If the funds have not been recycled within this period, then the money will need to be repaid to Welsh Government.
- 6.12 In addition, any interest paid in relation to monies held on account by the Local Authority must also be paid into the loan fund. This is to ensure that Local Authorities recycle the funds in a timely manner and do not hold the funds for the purpose of income generation (earning interest). Any interest payable of the loan fund held should be based upon the Authority's consolidated rate of interest payable on its loans pool.
- 6.13 This requirement only relates to interest earned on the monies held on account by the Local Authority prior to paying the loan monies out. This does not apply to any application fee or interest charge on any loan or interest earned as a result of the applicant's default.
- 6.14 Local Authorities will be required to enter into a binding legal contract with Welsh Government as part of the scheme.

## **7.0 Terms of the Scheme (Explained)**

- 7.1 The scheme has been developed to provide Local Authorities with a level of flexibility to enable them to meet local priorities. However, it is a mandatory requirement of the scheme that any product offered must be available across the region.

### **Eligible Applicants**

- 7.2 It is anticipated that Local Authorities will generally want to target their loans toward owners of substandard houses (*warm, safe or secure*) which may include:

- Owner occupiers;
- Landlords (individual & Companies);
- Developers (individual, partnership & Companies);
- Charities / Third Sector.

The applicant must own the property where the works are required.

- Priority must first be given to homeowners;
- Priority must next be given to landlords that offer affordable / social housing / nomination rights over market rent.

- 7.3. The funding cannot be used to assist Registered Social Landlords / Registered Providers in undertaking works to properties that they own or have taken a long term lease on.

- 7.4. Local Housing Authorities will have to carefully consider whether it is appropriate to provide funding to applicants that have a repairing obligation under a lease, but whose interest would offer little security for the purpose of securing a loan / mortgage i.e. those with a repairing lease obligation of more than 7 years.

- 7.5. In addition, Local Housing Authorities may wish to consider, as part of their process, whether the applicant would be able to gain access to funds or mortgages from the wholesale market.

7.6. It should be noted that since the credit crunch and the Mortgage Market Review changes that came into effect on the 26<sup>th</sup> April 2014, it has become more difficult for parties to secure mortgages.

### **Maximum Loan Charge / Cost**

7.7. The maximum loan charge is capped at:

- a single administration fee of up to 15% i.e. £10,000K loan, fee £1,500

7.8. Please note that this is the maximum that can be charged by a Local Authority. It is a matter for the region to decide what level of charge is appropriate in the circumstances. A tiered approach, lower or no fees, may be appropriate depending on the amount borrowed and the level of assistance offered by the Local Authority. If the Local Authority is merely processing the loan and not providing any additional service such as management of the works, then 15% may be considered disproportionate.

7.9. These charges should include all associated costs with the loan application, including application fee, Credit Union cost, credit check, RICS valuation, legal services, land registry and Companies House fees.

7.10. The fee could be added to the loan, but Local Authorities should not exceed the maximum of £25,000 per unit, payable to the application through the loan scheme. This does not prevent the Local Authority providing additional funds to contribute to the scheme.

7.11. In the case of an owner occupier who wished to borrow £25,000, assuming the Local Authority wanted to charge 15% fee (£3,750), then the loan approved would be £28,750 inclusive of fees, with the loan fund only paying out £25,000 to the applicant. The fee would be recovered through loan repayments over the term of the loan.

7.12. There is a benefit to requiring any potential applicant, particularly landlords, to pay the application fee, or percentage of the fee, up front. This will show a commitment to proceeding with the application and will assist the Local Authority in meeting

some of their upfront costs in processing the loan, such as Legal, land registry and Companies House fees. The process of requiring some payment upfront will discourage speculative applications, thus saving the Local Authority abortive costs.

### **Minimum and Maximum Loan**

- 7.13. The minimum loan must be £1,000 up to a maximum of £25,000 per unit.
- 7.14. It was felt that loans below this threshold were not considered value for money due to the level of administration and monitoring costs associated with each loan.
- 7.15. The maximum loan funding per applicant at any one time is £150,000.
- 7.16. Consequently, if the Local Authority wanted to fund the conversion of a commercial building into 10 self contained flats, then the maximum loan would be £25,000, per unit up to a maximum of £150,000 (6 flats).
- 7.17. However, this funding can be used to support any existing grants or other funding that the Local Authority is able to offer the applicant. For instance, if the applicant was in receipt of the maximum disabled facilities grant but still required additional support to meet their costs, then the loan scheme could be used for that purpose, subject to the approach being adopted across the region. It would of course be incumbent on the Local Authority to ensure that it was appropriate to do so in the circumstances.

### **Improvement Required**

- 7.18. Local Authorities have been given flexibility as to the type of work that can be financed through the Home Improvement Loan Scheme. This includes works to improve a property for the purpose of continued ownership / occupation, to sell or to rent.
- 7.19. Any loan requiring works must contribute to making the property **Warm, Safe or Secure**. There is no requirement that the property must meet all of these criteria. The loan could be targeted at one key element.

7.20. Consequently, the loan scheme could be used to support the following elements:

- Substandard Housing (Cat 1 / Cat 2 Hazards / Welsh Housing Quality Standard);
- Repair, Fire Safety or Security;
- Empty Homes (Renovation / Conversion);
- Energy Efficiency (ECO top up);
- Group Repair Schemes / Envelope Schemes;
- Private Rented Sector (Access Schemes);
- Aids and adaptations for older or disabled people or DFG top up.

This is not an exhaustive list and if the works contribute to making the property warm safe **or** secure, then it will fall within the terms of the scheme.

7.21. For instance, if an elderly owner occupier wanted a loan to undertake some improvement works such as renewal of a boiler and installation of insulation works, but did not want the upheaval of completely modernising the property, then this would be acceptable, subject to the Local Authority considering that it was appropriate in the circumstances.

7.22. However, where the loan is provided to a landlord or developer whose intention is to make the property available for rent, then it is a mandatory requirement that there be no Category 1 hazards in the property (Housing, Health and Safety Rating System) on completion of the work. Landlords, however, should be encouraged to do more than the bare minimum where appropriate.

7.23. Local Authorities, as part of the evaluation of the project, will be required to calculate the NHS Cost saving achieved through mitigating hazards in the homes (Building Research Establishment (BRE) Housing Health Cost Calculator).

### **Maximum Loan Periods**

- Owner Occupiers - maximum loan period up to 10 years;
- Landlords / Developers / Charities - maximum loan period up to 5 years.

## **Repayment Terms**

7.24. Repayment terms will be a matter for the Local Authority, but consideration should be given to the type of applicant and the purpose of the loan. It may be appropriate to have different repayment terms depending on whether the loan is for an owner occupier or landlord.

7.25. Payments could be made by the applicant on a:

- Weekly;
- Monthly;
- Quarterly;
- Annual; or
- Full repayment at the end of the loan period.

7.26. It may be beneficial in the case of owner occupiers to agree to a monthly payment plan for budgeting purposes, having assessed the affordability for the applicant in the first instance. It is advisable to set payments up as direct debits to ensure regular payments are made. This would allow early intervention should the applicant fall into difficulty with their re-payment schedule. However, this approach does require a greater level of administration and scrutiny by the Local Authority.

## **Owner Occupier**

7.27. In the case of an owner occupier the maximum loan is £25,000, assuming the Local Authority charged the maximum 15% fee (£3,750), the loan approved would be £28,750 inclusive of fees. The loan fund would only pay the applicant £25,000.

7.28. If the loan period is 10 years, this would equate to a monthly payment of £239.58. The affordability of the repayment amount can then be assessed.

## **Landlord Loan**

7.29. In the case of a Landlord, Developer or Charity, the maximum loan for a single unit is £25,000. The above approach becomes more problematic unless they have other

sources of income to support the repayment programme. The primary reason is that the maximum repayment period is 5 years.

- 7.30. Using a similar scenario, a landlord secures a maximum loan of £25,000, assuming the Local Authority charged the maximum 15% fee (£3,750), then the loan approved would be £28,750 inclusive of fees.
- 7.31. If we consider that the loan must be repaid in Year 5, this would equate to a monthly payment of £479.17. Depending on the Local Authority area, this may be above the market rent and assumes that there is no pre-existing mortgage that may also put a demand on the applicant's rental income.
- 7.32. This will be further exacerbated if the loan is for a larger amount i.e. multiple units.
- 7.33. Therefore, in such cases it may be beneficial to all parties to require repayment of the loan at the conclusion of the loan period (5 years), when the applicant can re-finance the property and release equity to repay the loan. This is primarily the way loans are repaid through the existing Houses into Homes Scheme.

### **Default Rate on Loans**

- 7.34. Local Authorities should consider applying a reasonable default rate where the applicant has breached the loan conditions, such as not paying the loan back on time. Under the Houses into Homes Scheme, the suggestion was to set the default rate to 6%.
- 7.35. This will encourage owners to re-finance at the appropriate stage rather than continue to breach the loan on preferential terms.
- 7.36. Non re-payment of the loan has an impact on the Local Authority's ability to recycle the funds and may prejudice their ability to repay monies back to Welsh Government in a timely manner.
- 7.37. The Local Authority will have to carefully consider whether pursuing the debt through the sale of the property is appropriate. Clearly, such an approach could



result in a negative impact on the Local Authority's image. Therefore, where possible, another solution or longer repayment period may be appropriate.

7.38. The position in relation to landlords and developers is very different in that the property is rarely their principal home and generally can be considered an investment property. Consequently, taking such steps to recover the loan is much more acceptable.

### **Affordability**

7.39. The Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 Article 3 (4) states that the Local Housing Authority shall have regard to the ability of the person concerned to make repayment or contribution. Consequently, it is incumbent on Local Housing Authorities to ensure that the product offered is suitable and affordable. In addition, the Local Housing Authority must satisfy themselves that person has received appropriate advice or information about the extent and nature of any obligation (whether financial or otherwise) to which he will become subject in consequence of the provision of assistance. This is further supported by the National Assembly for *Wales Circular 20/02: Housing Renewal Guidance*, which applies to mortgages granted by a Local Authority where:

- The mortgage is secured as a first charge over the property; and
- The customer is living or intends to live in the property.

7.40. Therefore, the Local Authority must ensure that the applicant can afford to meet the repayments on the loan / mortgage or to be able to afford to repay the loan at the end of the loan period i.e. refinancing.

7.41. When assessing affordability in relation to owner occupiers, the Local Housing Authority must assess their income and expenditure.

### **Income and expenditure**

7.42. In practical terms, when assessing affordability, the Local Authority should obtain reliable evidence and verification to confirm that the income declared by the applicant is correct, and that the lending decision should be based on that evidence.

Local Authorities should avoid self-certification and insist that evidence of income must be obtained from a source that is independent of the applicant. This can include pay slips, total income will be shown on a P60 (but could be up to 12 months old), tax documentation, bank statements and other 'official' documentation supplied by the applicant.

- 7.43. Self-employed individuals often have more difficulty proving income. Usually lenders will require evidence of income including the time the business has been running and profit and loss records for the last three years or SA302S (Self assessment tax form). Where the business is new, the customer's previous career / development record will be relevant. Local Authorities should avoid self-certification of income, which is generally not accepted in the commercial market.
- 7.44. If the term of the mortgage extends beyond the customer's expected retirement date (or state pension age), the Local Authority should take a 'prudent and proportionate approach' to assessing income beyond that date. More robust evidence is required the closer the customer is to retirement. For younger applicants, it may be as simple as checking that they have sufficient income, whereas for those near to retirement it may require sight of a pension statement to confirm the level of income.
- 7.45. Affordability must be based on the applicant's free disposable income - the amount left each month after normal expenses. There are three types of expenditure to be considered:
- **Committed Expenditure** that will continue after the loan starts. This would include items such as credit agreements and other contractual commitments;
  - **Basic Essential Expenditure** of the household, which includes costs needed to maintain the basic living needs of the household, together with items that cannot be reduced, such as council tax, utilities and insurances; and
  - Lastly, consider **Additional Expenditure** required to provide a basic quality of life beyond the bare necessities, such as clothing, household and personal items, basic recreation and childcare.
- 7.46. This process of assessing affordability can be undertaken by the Local Authority and sample forms for that purpose are included in Appendix C.

7.47. An alternative approach is to outsource this element of the work through a Credit Union or other third party. Both Powys and Ceredigion County Councils use a local Credit Union (Robert Owen Community Banking and CredCer Credit Union). Flintshire, Denbighshire and Gwynedd County Councils have outsourced their administration of Property Appreciation Loans and low income home owner loans to Street UK Services Limited.

#### **Landlords / Developer Loans / Charities**

7.48. As previously indicated the above method of assessing affordability may not be appropriate where the repayment of the loan will occur at the end of the 5 year period (unless it is a smaller loan). Repayment will usually occur through the applicant re-financing the property and releasing equity to repay the loan.

7.49. It may still be beneficial to have independent evidence of their current income such as pay slips, P60, tax documentation, bank statements and other 'official' documentation supplied by the applicant. If the applicant is self employed or a Limited Company then the provision of the last three year accounts or SA302S (Self assessment tax form), may be appropriate. Where the business is new, the applicant's previous career/ development record may be relevant.

7.50. However, one of the key factors that needs to be considered regarding the ability of the landlord / developer to repay the loan or the Local Authority to recover their monies is the level of mortgage compared to the value of the property offered as security. This is known as the loan to value ratio. The lower the loan to value ratio the greater the protection.

7.51. A further significant factor is whether the loan has been secured as a charge against the property or is an unsecured loan (see Risk Mitigation Measures).

#### **Risk Mitigation Measures / Other Criteria**

7.52. It is a matter for each individual Local Authority to determine the suitability of the applicant for the purpose of the loan. It must be noted that the risk of non recovery

falls to the Local Authority, subject to the Welsh Government agreement to cover up to 2.5% of the Local Authority's allocation towards defaults (see appendix G).

- 7.53. Therefore, the Local Authority may wish to consider whether any of the following measures should be incorporated into their processes to assist with minimising the risk, in appropriate circumstances.

### **Credit Worthiness of the Applicant**

- 7.54. It would be sensible for Local Authorities to undertake some form of credit worthiness check to identify clients that have had previous difficulties in managing their financial affairs. This would enable the Local Authority to make a more informed choice as to whether to lend to that applicant.
- 7.55. Any application form should ensure that it has a section relating to self declaration of any adverse credit history, level of income, savings and assets. The application form should state that the signing and returning the form provides consent to the Local Authority to undertake the appropriate credit check. This in itself will encourage disclosure of any adverse credit and may discourage applications from unsuitable parties.
- 7.56. Where the loan relates to a landlord or developer the form should also provide a section asking the applicant to provide a breakdown of their property portfolio, including address, current value and level of mortgages.
- 7.57. This can be helpful in establishing the applicants overall financial position in relation to his portfolio and identifies other assets that could be pursued if the loan was not repaid and there were inadequate funds from the sale of the property.
- 7.58. The existing Houses into Homes application form would be suitable, in most instances, to meet the requirement associated with landlords or developer loans. An example of application forms that may be suitable for owner occupiers are included in Appendix D.

7.59. Local Authorities must carefully consider whether it is appropriate to provide funding to an applicant with an adverse credit history:, which may include:

- County Court Judgment (CCJ)
- Individual Voluntary Arrangement (IVAs)
- Debt Relief Order (DRO)
- Bankrupt (within last 6 years)
- Company Insolvency / Liquidation

7.60. There are a number of methods of establishing the credit worthiness of the applicant, including credit reference agencies such as Experian, Call Credit and Equifax.

7.61. Local Authorities can pay an annual subscription and a fee per credit report required. The consent to enable the Local Authority to request a credit report would be part of the application form, which would have been signed by the applicant (Houses into Homes Scheme form). This approach can be quite expensive where the number of searches undertaken by the Local Authority is limited. Most Council Tax departments have access to such a service.

7.62. An alternative option would be to require the applicant to provide a copy of their credit report as part of the application. An applicant can do a self-referral to Experian to secure a copy of their [Statutory Credit](https://www.experian.co.uk) report online ([www.experian.co.uk](https://www.experian.co.uk)) or by post at a cost of £2.

7.63. The statutory credit report details the individual's credit history. It contains public and private information recorded in the applicants name and is available to authorised lenders carrying out a credit check.

7.64. Free online resources include the Individual Insolvency Register ([www.insolvency.gov.uk](https://www.insolvency.gov.uk)), which amalgamates the individual insolvency, bankruptcy restrictions and debt relief restrictions registers. The Individual Insolvency Register contains details of the following, but does not cover County Court Judgments:

- bankruptcies that are current or have ended in the last 3 months;
- debt relief orders that are current or have ended in the last 3 months;

- current individual voluntary arrangements (IVAs) and Fast-Track voluntary arrangements (FTVAs), including those that have ended in the last 3 months;
- current bankruptcy restrictions orders or undertakings (BROs/BRUs) and interim bankruptcy restrictions orders (iBROs);
- current debt relief restrictions orders or undertakings (DRROs/DRRUs) and interim debt relief restrictions orders (iDRROs).

7.65. [www.trustonline.org.uk](http://www.trustonline.org.uk), allows you to search against an individual or business name and can confirm whether that person or business has any County Court Judgements, High Court Judgments, Court Orders or fines. The cost of each search is £4.

7.66. In addition, a **Land Charges Search** (K15 (full search) / K16 (bankruptcy only) against the applicants name will confirm whether there are any bankruptcy proceedings pending.

### **Limited Companies**

7.67. If the applicant is a limited Company, then a search can be done at [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk), to confirm whether the Company is currently active or dissolved. It will confirm whether there is any Insolvency or bankruptcy entries against the Company. There may also be entries registered against the Land Registry title for the property. A Companies House search will also confirm the Company's Registered Office and the name and address of the Directors (free); and allow you to download any documents lodged with Companies House for a set fee. It must be noted that a Limited Company is a legal entity in its own right.

7.68. There are a range of online resources that enable you to assess the credit worthiness of a Company, such as [www.companycheck.co.uk](http://www.companycheck.co.uk). This website will provide free access to a limited amount of Company information and allows you to search by Directors name, to establish if they are a Director or Secretary of any other companies. You can also secure a credit risk report on the company at a cost of £10. However, there are a range of companies that offer such a service. Your Legal Services may already have a particular company they use for this purpose.

7.69. Lastly, if the applicant has an outstanding debt to the Local Authority, such as Council tax, business rates or as a result of statutory action, then it would not be appropriate to provide funding, until such time as the debt has been cleared.

### **Ownership / Money Laundering**

7.70. The Local Authority's application process should include the provision of a land registry title and plan for the property that is having the work done to it and the property that is being offered as security.

7.71. This will confirm that you are dealing with the appropriate person, who can consent to the work and has the authority to sign the legal paperwork.

7.72. Local Authorities must put in place procedures to verify the identity and address of the applicant before entering into a business relationship or transaction and to obtain information on the purpose or nature of the business relationship. This is to ensure that they are complying with the requirements of Money Laundering Regulations 2007, Proceeds of Crime Act 2002, and Terrorism Act 2000. This will also be a Land Registry requirement to enable registration of a charge, if the loan is to be secured.

7.73. However, all Local Authorities in Wales have been operating the Houses into Homes scheme for a number of years and should have the appropriate measures in place.

### **Secured or Unsecured Loans**

7.74. One of the main issues for the Local Authority to consider is whether to take security for the loan and if so, in what form.

### **Secured Loans (Legal Charge)**

7.75. Securing the loan / mortgage by way of a legal charge registered against the title at the land registry provides the greatest level of protection for the Local Authority. If the applicant defaults on the loan, then the Local Authority can step in and sell the

property to recover their monies. Local Authorities are now familiar with this process having administered the Houses into Homes Loan Scheme since 2012.

7.76. Local Authorities will be aware that there is a cost implication to this process, both in terms of Officer's time administering the scheme and in providing support to the applicant to enable them to make a full and complete application. There will be legal costs involved in producing the legal documents and registering the charge, as well as costs associated with land registry and Companies House.

7.77. In addition, the time taken from receiving a full and determinable application, through to securing the charge and releasing the funds can often be measured in months, rather than weeks.

7.78. However, should the client default on the loan then it will give the Local Authority the best chance of recovering their funds. This will be further influenced by the current value of the property (RICS Valuation), whether there is any existing mortgage and the loan to value (LTV) at which the loan scheme operates.

- Commercial lenders that deal with large schemes such conversion of properties into multiple units (flats conversion) or development sites (new build) usually operate up to a maximum of 60% LTV. The reason for this low loan to value is the perceived greater risk associated with these type of developments and therefore a greater level of protection is needed
- Buy-to-let lenders will generally operate up to a maximum 75 / 80% LTV.
- Personal mortgages from high street lenders may operate up to 80 / 90% LTV
- The Houses into Homes Scheme currently offers loans up to a maximum 80% LTV of the current value of the property offered as security.,

7.79. Consequently, the lower the loan to value ratio the Local Authority works to, the greater the chance of recovery of the loan if there is a default or non-payment in the future. However, operating a scheme at a lower loan to value ratio will mean that the Local Authority may only be able to assist those clients that can access commercial mortgages / loans and not those that are most in need.



- 7.80. Welsh Government has indicated that it would be beneficial to secure loans in excess of £5,000 and that the Local Authority should consider working to a maximum loan to value of 80%. Please note that this is guidance only and is not a mandatory requirement of the scheme.
- 7.81. Consideration should be given in appropriate cases to undertaking a Royal Institute of Chartered Surveyors (RICS) valuation, usually where the loan to value ratio is considered high or where there is an existing mortgage on the property. If the loan is for a modest amount, there is no mortgage on the property, or there is clear evidence of adequate equity, then the Local Authority may consider it unnecessary to have a valuation done.

### **Secured Loans (Local Land Charge)**

- 7.82. An alternative option that Local Authorities may consider is the placing of the mortgage / loan as a local land charge, instead of securing the loan as a legal charge registered against the title (land registry).
- 7.83. However, Local Authorities need to have a clear understanding of the process that enables the loan to be registered as a local land charge. It should be noted that a local land charge generally lacks priority and will still need to be registered at the Land Registry prior to the Local Authority being able to recover the loan.
- 7.84. Previously, under the Housing Grants, Construction and Regeneration Act 1996, there were mandatory and discretionary grants, which were registerable as local land charges
- 7.85. However, the act was superseded by the Regulatory Reform (Housing Assistance) (England and Wales) Order 2002. The 'Order' contains sections relating to 'grants' and 'loans', but the legislation no longer expressly makes any grants, other than 'disabled facilities grants' a local land charges.
- 7.86. Authorities are empowered to 'take any form of security in respect of the whole or part of any assistance (Article 3(6)) of the 2002 Order, including a charge on the property. To enable a registration to be made the Local Authorities would need to

formulate their own conditions (financial assistance policy) in line with the requirements of the Local Land Charge Act 1975 e.g. **conditions that would bind successive owners**. If there is no condition attached to the loan that binds successive owners, then it cannot be recorded as a local land charge.

- 7.87. **‘Section 7, Local Land Charge 1975**, a local land charge falling within Section 1(1)(a), shall when registered, take effect as if it had been created by a deed charge by way of a legal mortgage within the meaning of the Law and Property Act 1925, but **without prejudice to the priority of the charge**’. Therefore, if there are any prior mortgages or charges, then they will take priority.
- 7.88. The creation of a legal mortgage within the meaning of the Law and Property Act 1925, provides the Local Authority with the same remedies as a mortgagee would have under Section 101 Law & Property Act 1925 (power of sale, to appoint a receiver etc)’.
- 7.89. In essence, the Local Authority financial assistance policy under the 2002 Order, would require the loan to be binding on successive owners to fall within the requirements of Section 1(1)(a) of the Local Land Charges Act 1975.
- 7.90. However, Local Authorities must also have regard to Section 55 of the Land Registration Act 2002 (LRA 2002), which states that local land charges bind a successive owner of registered land, even when they have not been registered at the Land Registry (section 70(1)(e) LRA 2002). Although, they will normally appear in the local land charge register.
- 7.91. This section further provides that although a local land charge binds the owner, powers to realise the money due cannot be exercised until the charge is registered at the Land Registry. The reason for this is that, in principle, under a land registry system it is desirable that if any person has disposal powers over registered land, that fact should be apparent on the face of the register.
- 7.92. Such registration is quite distinct from the general requirement to registration of local land charges under the Local Land Charge Act 1975.

7.93. Consequently, it therefore seems appropriate for a charge document to be drawn up by the Local Authority in respect of any loan. Such a document should bind successors in title and should be entered in the local land charges register. However, it must be registered with the Land Registry to ensure that the Local Authority can enforce it. Any such application to the Land Registry must be supported by evidence of a charge (Land Registration Rule 2003 SI 2003/1417).

### **Unsecured Loans**

7.94. Clearly, non-secured loans are less onerous for the applicant and the Local Authority. The process is generally simpler with less administration, less legal work and less costs. However, this is at the expense of security in the event of the applicant's default.

7.95. Consequently, Local Authorities will need to carefully consider when non-secured loans are appropriate and the maximum level of loan to be offered in such cases. It may be appropriate to consider unsecured loans where they are minor in nature i.e. £5,000 or less. Where the cost and time involved in securing the charge is disproportionate to the level of funding being provided.

7.96. However, please have regard to paragraph 4.10 - 4.18. If a Local Housing Authority provides a loan which is not a land mortgage (legal charge / local land charge) and does not fall within one of the other exemptions, then it may be deemed to be a Regulated Consumer Credit Agreement. If a loan to an individual is considered to be a Regulated Consumer Credit Agreement, then it may be necessary for the Local Authority to apply for a full consumer credit authorisation from the FCA, otherwise the Local Authority may be committing a criminal offence.

7.97. In addition, there are a number of requirements as to form and content which such an agreement must take and information which must be supplied before the consumer signs the agreement. The form and content of the advertisement for such loans is also regulated.

7.98. Assuming that the above formalities are followed and the applicant defaults on the loan it will be a necessary to issue a claim in the County Court / High Court,

depending on the amount of monies outstanding. If the applicant fails to make payments after securing the judgement, then the Local Authority can apply to the Court to enforce the judgement or orders.

The options include:

- a writ or warrant of Execution (Bailiff)
- A third party debt order
- A charging order
- in the County Court an attachment of earning order
- the appointment of a receiver

7.99. Alternatively, anyone owed money can send a statutory demand, which requires the party to make payment. When an individual or company receives a statutory demand they have 21 days to either:

- Settle the debt; or
- Reach an agreement to pay.

If there is no agreement, whoever issues the statutory demand can start:

- bankruptcy proceedings (against individuals who owe £750 or more); or
- winding up a limited company that owes more than £750.

7.100. However, the above approaches can be costly and take a considerable amount of time to reach a conclusion. If there is an existing mortgage or other debts in priority of the loan, then there may be little money or equity available to recover the outstanding loan.

7.101. Consequently, there is a lack of control and a greater chance of non recovery through this method, when compared to a secured loan/mortgage.

### **Other Risk Mitigation Measures**

7.102. Ensure that appropriate affordability checks are carried out on the applicant to ensure that they can afford to repay the loan.

- 7.103. Consider whether loan monies should be paid upfront or retrospectively on completion of the works. If the applicant is an owner occupier, who is already heavily mortgaged and has limited funds, then it may be appropriate to consider payment of the loan monies on completion of the work or even seeking the owner's consent to pay the contractor directly.
- 7.104. Alternatively, if the loan is targeted toward more commercial projects such as conversion of an office into residential accommodation, then there may be merit in making the funds available up front to provide the applicant with working capital. If the funds were paid retrospectively, it would require the applicant to fund the initial stage to get the project off the ground.
- 7.105. In addition, many contractors require the owner to provide evidence of funds before they will enter into a contract for the work and may be reluctant to work where the Local Authority will only make payment on satisfactory completion of the work.
- 7.106. Clearly, if the loan is for a significant amount then it should be paid in tranches based on evidence of expenditure and progress on site. This approach has been adopted in relation to the Houses into Homes Scheme.
- 7.107. Local Authorities should ensure value for money and would normally require two estimates for the costs of the work or if the works are of a limited nature, then a single quote may be sufficient. Alternatively, working to a costed schedule that has been market tested may be acceptable.
- 7.108. When Local Authorities consider how to develop their regional schemes, it is important to consider the benefits to the applicant and the barriers or requirements placed as a precursor to providing the funding. To ensure an effective scheme, it will be necessary to have a measured approach, having regard to the risks to the Local Authority and the benefits to the applicant

### **Grant Funding**

- 7.109. Where there is grant funding or other sources of funding such as Arbed / ECO, then they must be clearly identified and explained to the applicant, so that they can make an informed choice.

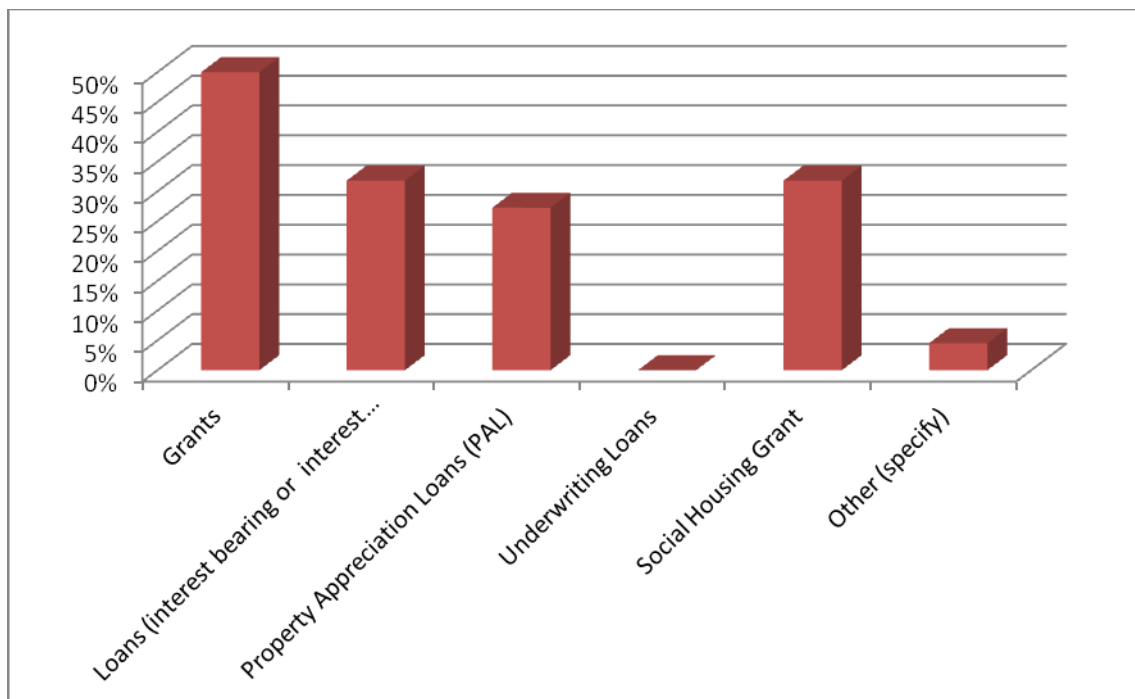
7.110. Please note that other funding options can be used in conjunction with the loan scheme as long as they are funding separate works. However, where other sources of funding are available such as ECO which does not cover the full cost of the works, then the loan can be used to fund the balance.

7.111. The loan scheme is not a replacement for those in absolute need and should be treated as complimentary to existing grant programmes provided to those who cannot afford to make loan repayments.

## 8.0 Types of Financial Assistance offered by Local Authorities in Wales

8.1 Local Authorities in Wales were asked what type of financial assistance they currently provide through their Housing Renewal Policy (excluding Disabled Facilities Grant). In total, 73% (16 LAs) offered some form of financial assistance.

**Figure 1: Types of Financial Assistance Provided by Welsh Local Authorities**



8.2 It should be noted that all 22 Local Authorities in Wales currently offer interest free loans through the Houses into Homes Scheme.

- 8.3 50% (11 LAs) offered grants, often linked to nomination rights, where the funding was provided to private sector landlords or empty property owners. 32% (7 LAs) offered some form of loan, either interest bearing or interest free.
- 8.4 27% (6 LAs) offered Property Appreciation Loans, where the level of funding provided was linked to an equitable stake in the property. On the sale of the property the monies become repayable. In a rising market the increase in capital value of the property ensures that the Local Authority recovers their initial investment and potentially provides a surplus. Most schemes ensure that, if the property depreciates in value, the initial investment by the Local Authority does not depreciate. These types of investments, by their very nature, require Local Authorities to provide additional protection to owners by ensuring that they comply with the Mortgage Sales Guidance for Local Authorities and Registered Social Landlords<sup>11</sup> to ensure that the product being offered is suitable.
- 8.5 Most Local Authorities previously operated this scheme through ART Homes or Home Improvement Trust (Houseproud).
- 8.6 However, Art Homes and Houseproud have withdrawn from the market and those Local Authorities that were involved, have either ceased to provide Property Appreciation Loans, provide them in-house or have found an alternative private sector partner.
- 8.7 Three North Wales Local Authorities have procured the services of Street UK Ltd (a joint venture company with SML Homes), to administer their loans schemes including Property Appreciation Loans, interest bearing monthly repayment loans and interest free loans. The other three North Wales Local Authorities have the option to join this scheme in future years.
- 8.8 Generally, no Local Authority in Wales has used their Regulatory Reform<sup>12</sup> or well being powers<sup>13</sup> for the purpose of underwriting loans. Although, a number of Local

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<sup>11</sup> Mortgage Sales Guidance for Local Authorities and Registered Social Landlords  
National Assembly for Wales Circular 20/02 Renewal Guidance

<http://www.communities.gov.uk/publications/housing/mortgagesalesguidance>

<sup>12</sup> Regulatory Reform (Housing Assistance) England & Wales Order 2002

<sup>13</sup> Section 2 & 3, Local Government Act 2000 & Section 24 & 25 Local Government Act 1988

Authorities have previously operated a Local Authority Mortgage Scheme (LAMS), which could be considered underwriting loans or providing a guarantee.

**Table 3: Type of Financial Assistance Offered by Local Authorities by Regions**

Regional Groups	Type of Financial Assistance						
	Do You Offer Financial Assistance	Grants	Loans (interest bearing or interest free)	Property Appreciation Loans (PAL)	Underwriting Loans	Social Housing Grant	Other (specify)
North Wales Regional Steering Group	6	6	4	1	0	3	0
Mid & West Wales Regional Steering Group	3	0	2	1	0	1	0
Gwent Regional Steering Group	2	2	0	1	0	2	0
Swansea Bay Regional Steering Group	3	2	0	1	0	0	1
Cardiff & Vale Regional Steering Group	1	0	1	1	0	0	0
Cwm Taf Regional Steering Group	1	1	0	1	0	1	0
<b>Total</b>	<b>16</b>	<b>11</b>	<b>7</b>	<b>6</b>	<b>0</b>	<b>7</b>	<b>1</b>
<b>Percentage</b>	<b>73%</b>	<b>50%</b>	<b>32%</b>	<b>27%</b>	<b>0%</b>	<b>32%</b>	<b>5%</b>

## **Financial Assistance**

8.9 Looking specifically at those Local Authorities that offer some form of financial assistance to property owners, they predominantly fall into two categories:

- **Grants:** that provide some level of funding but may require nomination rights at an affordable rent level (Local Housing Allowance), where they relate to landlord or minor works where they relate to owner occupiers; and
- **Loans:** usually interest free with payback over a period of years.

## **Conwy County Borough Council**

8.10 Home Improvement Assistance is a discretionary form of assistance which may be awarded in addition to mandatory disabled facilities grant, where the property needing adaptation and does not meet the required standard (significant risks to the health and safety to the occupant of the property). The test of resources (means test) which applies for mandatory disabled facilities grant will be applied in the same way to Home Improvement Assistance. If an application for a mandatory disabled facilities grant and Home Improvement Assistance are made at the same time, any financial contribution which the applicant is required to make, will be deducted from the total award. The maximum amount would be £35,000. The assistance is repayable if the property is sold within 5 years.



- 8.11 Area based improvement grants are to provide energy efficiency improvements to qualifying properties within the North Central Colwyn Bay and Llandudno Junction Renewal Areas. The grant is available to owner occupiers and landlords and covers such works as external insulation and associated works. The works are at no cost to the applicants in those areas.
- 8.12 Empty property loans for properties that have been empty for more than 6 months in the North Central Colwyn Bay Renewal Area; or disused space above commercial premises, which is to be considered for inclusion in the Town Heritage Initiative Property Improvement Grant Scheme.
- 8.13 The interest free loan is up to £25,000 per unit, subject to a maximum loan of £75,000. The properties must be rented at an affordable rent until the loan has been repaid. The term of the loan will be based on a reasonable timescale having regard to the amount of rental income.
- 8.14 Conwy, Powys, Ceredigion, Cardiff, Rhondda Cynon Taf and Pembrokeshire all operate a Local Authority Mortgage Scheme (LAMS). In some cases have been fully taken up and closed.
- 8.15 The Local Authority Mortgage Scheme was developed by Sector Treasury Services in response to Local Authority concerns about access to home ownership by first time buyers. It is aimed at those first time buyers who can afford mortgage payments but cannot raise the higher deposits now required. Lenders will not normally exceed a Loan to Value ratio (LTV) of 75 - 85%, even a modest entry level property may require a deposit in excess of £30,000.
- 8.16 Essentially the scheme involves a Local Authority indemnifying, for a period of 5 years, the difference between an LTV typically acceptable to a lender 75% LTV and a 95% LTV. This enables a borrower to obtain the terms associated with a 75% mortgage but on the basis of a 5% deposit only, not the 25% deposit commonly required by commercial lenders.
- 8.17 The borrower benefits from the lower rates associated with lower LTV loans because of the reduced risk.

8.18 However, the schemes have been suspended on the advice of Wales Audit Office.

### **Flintshire County Council**

8.19 Empty Homes Loan - primary assistance is in the form of an interest free loan which is registered as a charge against the property and is available County wide. The Local Authority requires nomination rights for a minimum of 2 years, but this requirement remains in place until such time as the loan has been repaid. The property must be managed by an RSL and the maximum loan is £10,000. However, they try to match fund any Scheme from NEST (Welsh Government Fuel Poverty Scheme), CERT (Carbon Emissions Reduction Target), ARBED (Strategic Performance Investment Programme) or CESP (Community Energy Saving Programme) where possible (of which there are 5 active areas).

8.20 Empty Homes Grant - £20,000 non-repayable grant but only available in strategic areas (Renewal Areas). Applicants must agree to 5 year nomination rights and must be managed by an RSL (only 4 properties to date).

8.21 Flintshire, Denbighshire and Gwynedd Councils have recently appointed Street UK Ltd to deliver equity and non-equity based loans. They are able to offer:

- Interest bearing monthly repayment loans (currently at 4% APR above base);
- Property Appreciation Loan;
- Interest free loan - where loan is less than £3,000.

8.22 The above loans are only available to vulnerable owner occupiers, defined as those on a means tested benefit or can demonstrate an inability to borrow money commercially. The works eligible under the loan scheme is targeted towards category 1 hazards.

8.23 Interest bearing monthly repayment loans are available to long-term empty home owners as a top up to either local or national empty homes schemes and to private landlords to address category 1 hazards in their property. They must also be registered with Landlord Accreditation Wales and be operating in the Local Housing Allowance market.

- 8.24 Interest free loans are used when the value of the loan is too small to justify the costs associated with Street UK Ltd set up fee. This product is mainly used for energy efficiency works in private housing, where the main cost is being funded through ECO. Although, consideration is being given to delivering this element through Robert Owen Community Bank.
- 8.25 Wrexham, Conwy and Ynys Mon Councils have been named in the framework agreement with Street UK Ltd, to enable them to take advantage of their services in the future, should they wish to.

### **Gwynedd County Council**

- 8.26 Gwynedd, Flintshire and Denbighshire Councils are partners in the framework associated with Street UK limited. However, there are some differences in terms of the product offered.
- 8.27 The Property Appreciation Loans have been developed and renamed 'Loans repaid on the transfer of title', the maximum loan offered is now £40,000.
- 8.28 There are three distinct models:
- Straight forward Property Appreciation Loans;
  - An interest roll up loan, whereby the principle amount borrowed is repaid on transfer of the title along with the accrued interest. These loans provide greater certainty around the cost of the loan for the home owner and the income anticipated from the scheme; and
  - Interest only loans - this loan is repaid on the transfer of the title and has the benefit of the home owner maintaining the debt at a similar level for the life of the loan and provides the Local Authority with some income (cash flow).
- 8.29 Capital and interest loans are offered at 4% above base and repaid over 7 years. The maximum loan is £15,000. These loans are available to owner occupiers who are unable to access other mainstream or commercial lending.

- 8.30 This type of loan is also available for bringing vacant homes back into use whether for owner occupiers or for use in tandem with an empty homes grant for letting.
- 8.31 Consideration is also being given to making this product available to landlords.
- 8.32 Empty Homes Grant - maximum grant £10,000 for a house, £7,500 for a flat created from a conversion, and £5,000 for an existing flat, to help with up to 75% of the renovation costs. The owner must provide nomination rights for 5 years, which is linked to their private sector leasing scheme (homeless). Only available in specific areas and must contribute to meeting housing needs for that area.
- 8.33 Gwynedd County Council has also developed a mortgage deposit loan to help local first time buyers' access mortgages. Primarily, the loans are available to deal with empty properties. However, occupied properties can be considered. The loan is offered over a maximum period of 15 years.
- 8.34 Lastly, there is an unsecured emergency works loan of up to £5,000, which is repayable on transfer of title. The loan is interest free and is not linked to property value.

### **Denbighshire County Council**

- 8.35 Gwynedd, Flintshire and Denbighshire Councils are partners in the framework associated with Street UK limited and provide loans through the RENEW Scheme.
- 8.36 The loans are specifically designed for homeowners in receipt of a means tested benefit, landlords of a long term-empty property or a first-time buyer, and cannot access financial assistance from a high street lender.
- 8.37 There are two distinct models:
- Straight forward Property Appreciation Loans
    - Can borrow between £5,000 and £25,000
    - Up to 80% of free equity of your home
  - Capital and Interest Repayment Loan
    - The loans can be used to carry out essential works or to assist with applicants meeting their contribution under a disabled facilities grant.

- Can borrow between £5,000 and £25,000
- Up to 80% of free equity of your home
- Loans are taken for a term of 1-7 years
- Interest is charged at 4% above base and the loan can be repaid at any time, with no redemption penalties.

8.38 Empty Homes Grant - The property must have been empty for at least 6 months. The grant is to cover up to 50% of the cost of the works, up to a maximum of £10,000. Landlords must let the property out for 3 years at Local Housing Allowance level. The property can be managed by one of their RSL partners for a period of 3 years for a 12.5% management fee. The grant is repayable if the property is sold within 3 years or is no longer made available at Local Housing Allowance level.

8.39 The above grant can also be accessed by first time buyers, if:

- Property must have been empty for more than 6 months prior to purchase;
- Ensure the property has previously been used as a residential dwelling;
- Be purchasing an empty home for their own occupation only;
- Be purchasing an empty homes in Council Tax bands A, B,C & D;
- The loans are registered as a local land charge.

### **Isle of Anglesey County Council (Ynys Mon)**

8.40 Empty Homes Grant - the property must have been empty for at least 6 months. The grant is to cover up to 100% of the cost of the work up to a maximum of £20,000 for a house or £15,000 for a flat. This grant is also available to first-time buyers (non-means tested) and a charge is placed on property for 5 years, if sold during this period then the grant becomes repayable.

8.41 In addition, the Authority is working in partnership with Rural Housing enablers to provide affordable housing via the Homebuy Scheme. In such cases there are energy efficiency grants up to £10,000 available for those purchasing an empty property (vacant 6 months or more) as owner occupiers. The grant is repayable if the property is sold within 5 years.

- 8.42 HomeBuy Direct - This is a variation of the FirstBuy Scheme where the equity loan element can be a maximum of 30%. Again, charges apply after 5 years. In both cases the equity loan has to be repaid after 25 years and in both cases there is a second charge on the property to secure the equity loan.
- 8.43 Fire Safety Grants will be provided to landlords of HMOs to install or upgrade appropriate fire safety equipment. Maximum loan £10,000 (non-means tested) or 75% of the cost of the works. Grant registered as a local land charge in perpetuity until the property is sold or transferred.
- 8.44 Emergency Assistance Grant, maximum £10,000, only available for to owner occupier and tenants / leaseholders with a repairing obligation (means tested). Grant registered as a local land charge in perpetuity until the property is sold or transferred.
- 8.45 Energy efficiency grants available for improvements to insulation of properties and provide or upgrade heating systems in targeted areas to take advantage of fuel switching programmes run in partnership with Wales and West Utilities and British Gas:
- Applicant must first apply to any other government funded schemes for assistance e.g. NEST, CERT, Green Deal and ECO;
  - Priority will be given to persons without central heating who are aged 60 or over;
  - Families with a child or children under 16;
  - Maximum grant up to £6,000.

### **Wrexham County Borough Council**

- 8.46 Grants are only available in the South West Wrexham and Brymbo-Broughton Renewal Areas for eligible properties:
- Loans to owner occupiers are means tested and are for a maximum of £13,000;
  - Loans to landlords are up to 40% of the cost of the works, maximum loan £13,000.

- 8.47 In addition, there may be limited funding through the Townscape Heritage Initiative in Cefn Mawr.
- 8.48 Vibrant and Viable Places Schemes operate two loan schemes in the Wrexham Town Centre and Caia Park & High Town Community First Cluster areas:
- Empty Properties: interest free loan up to £25,000 per unit, over 2-5 years to enable long-term empty residential properties to be brought back into use and for conversion or partial conversion of long-term empty commercial properties into residential properties.
  - Private Sector Loans: interest free loan up to £25,000 per unit, over 2-5 years to enable improvements to be carried out to private rented owned properties including owner occupied and private rented as required.

### **Torfaen County Borough Council**

- 8.49 There is some grant aid made available within declared Renewal Areas, which is supported by Welsh Government Specific Capital Grant.

### **Vale of Glamorgan Council**

- 8.50 Looking to develop a loan scheme to help support disabled facilities grant applicants in meeting the cost of their contributions.

### **Powys County Council**

- 8.51 Landlord interest free loans of up to £15,000, up to 50% of the cost of the work. There is no maximum level of funding and each case is dealt with on its own merits. First year is payment free, Years 2-5 20% of loan amount repayable. The loan is recovered within 6 years. Priority is given to landlords with empty homes and must be available to let for 5 years.
- 8.52 Renewal Area funding - landlord as above. Owner occupiers can secure up to £5,000 per property repayable on disposal, any additional finance offered under the same conditions as specified for the landlord loans.

- 8.53 Energy efficiency loans of up to £5,000 per installation is administered and recovered over 5 years, through Robert Owen Credit Union. The works can include Solar PV / hot water, air / ground heat pump, biomass boilers and EWI.
- 8.54 Safe, Warm and Secure Loans of up to £2,000 is administered and recovered over 5 years (or on disposal), through Robert Owen Credit Union, but delivered via Care & Repair. This loan is available to anyone subject to their ability to repay the loan and targeted towards category 1 hazards.

### **Ceredigion County Council**

- 8.55 Renewal Area Loans: If the empty property is in Aberystwyth Renewal Area, interest free loans are available for owner occupiers, landlords and leaseholders (with at least 10 years remaining) up to £24,000 (up to 50% for landlords). They are repayable over a period of 5 years to fund any renovation work needed including bringing empty properties back into use, the owner may be eligible for a loan up to 5 years. Nomination rights are in place for empty property loans.
- 8.56 Safe Warm and Secure Emergency Repair Assistance Grants and Loans: are available up to £3,000 and £5,000 respectively for owner occupiers and tenants with a life interest / long lease. The grant is available for the over 70s and for those between 18-70, who are on a means tested benefit. The Emergency Repair Loan is not means tested or age restricted and is repayable over a 5 year period by monthly direct debits. Eligible works include removal of Cat 1 or high Cat 2 hazards (HHSRS), emergency repairs and/or top up to ECO schemes.
- 8.57 Private Sector leasing: there may be an option to let your property under a private sector leasing scheme. You could grant a partner organisation such as a Local Housing Association or Lettings Agency a lease on your property for an agreed number of years (usually upwards of 5 years) and in return they will act as managing agent. They will find tenants, collect rent, deal with the administrative and legal side of tenancy agreements, deal with tenant queries and arrange repairs and maintenance.
- 8.58 The availability of these schemes is largely based on the location and condition of the property. Each scheme would be considered on an individual basis. If you are



interested in leasing your property to a Housing Association or Letting Agency it is best in the first instance to contact the Council's Public Health Protection Team who will be able to take details of the property and make some further investigations.

- 8.59 The advantages of this option include regular, guaranteed rental income for a fixed period, longer leases, effective management of the property, and the return of the property to you in good condition. If the property requires some work before it is ready for rental this may also be an option as the work may be financed by the Housing Association who will then recoup the costs from the rent.

### **Caerphilly County Borough Council**

- 8.60 Caerphilly continues to offer grants in varying forms. Loans are generally used to provide top up finance where the grant maximum has been exceeded, where a grant applicant has difficulty funding their means tested contribution or where an applicant does not meet the financial criteria to qualify for grant aid, but still needs assistance to alleviate serious disrepair or the removal of Category 1 hazards.

- 8.61 In addition, Caerphilly now offer a Home Improvement Repayment Loans. They are available to owner occupiers, Accredited Private Sector Landlords or Tenants with a repairing obligation whose properties are at least 10 years old. Eligible works include serious disrepair and to remove all Cat 1 hazards (HHSRS) from the property. Assistance available includes repayment loans of between £1,000 - £25,000 inclusive of legitimate fees and charges. The maximum repayment period is 5 years for landlords and 10 years for owner occupiers. All applicants will be subject to an affordability assessment

- 8.62 Home Repair Grant for owner occupier and tenants with repairing obligations for essential maintenance and repairs deemed necessary by the Council.

- The property must be more than 10 years old
- Properties in Council Tax band A-D
- Applicant in receipt of a means tested benefit or a nil contribution (means tested)
- Applicant other than first time buyers must have occupied the property for a minimum of 1 year prior to application

- Maximum grant amount £10,000
- Post grant conditions – 10 years occupation

8.63 Empty Property Grant and Conversion Grant of non-domestic accommodation to domestic accommodation - the grant will cover up to 50% of the cost of the works, up to a maximum of £15,000 per unit. The Local Authority requires 5 years nomination rights.

8.64 Renewal area grant - discretionary means tested:

- Owner occupiers and qualifying tenants - means tested maximum grant £30,000;
- Landlords - contribution 50% of the costs of works, maximum grant £15,000.

8.65 Group repair / block repair grants: are available to owner occupiers, landlords and tenants with repairing obligation to assist in meeting the cost of carrying out external works to the property. Owner occupiers and tenants with repairing obligation may have a contribution of between 0% and 25%, subject to means test. Private sector landlords must make a contribution of 25% towards the cost of the works.

### **Cardiff City Council**

8.66 Previously they offered Property Appreciation Loans through Home Improvement Trust, but are no longer available.

8.67 They do not offer any loan products, but offer a maximum grant of £5,000, to over 65's in receipt of a means tested benefit and live in a property which falls within Council Tax Bands A to D. The loan is registered as a charge against the property.

### **Bridgend County Borough Council**

8.68 Healthy Home Assistance: this is discretionary assistance for small scale works of repair or to mitigate a serious hazard that will adversely affect the health and / or safety of the applicant, and seeks to avoid the hospitalisation and potential requirement for major Disabled Facility Grant work at the property through

undertaking works to prevent trips and falls. It is intended to provide small scale safety assistance for those most vulnerable in the community. The grant is for owner occupiers who are Bridgend Care and Repair clients (older and disabled persons). The works are undertaken by Bridgend Care and Repair, or their agent. Maximum assistance £350 in anyone year.

- 8.69 Comfort, Safety & Security: The purpose of this grant is to provide owner-occupiers with assistance to undertake small scale works to a property for those most vulnerable and unable to organise works themselves. Assistance is for minor repair work for owner occupiers who are Bridgend Care and Repair clients (older and disabled persons). The works are undertaken by Bridgend Care and Repair, or their agent. Maximum grant £1,000, maximum of £2,000 in any 5 years.
- 8.70 Empty Property Grant: The property must have been vacant for at least 6 months and must be more than 10 year old. The grant will cover up to 75% of the cost of the works, up to a maximum of £10,000 or up to £15,000 for conversion of commercial to residential. The Local Authority requires 3 years nomination rights and must be rented at a local housing allowance level. Breach of any conditions within 3 year period requires repayment of the grant.
- 8.71 Group Repair Schemes: Bridgend Group Repair Schemes involve the repair and refurbishment of a group of properties. The schemes are organised and managed on behalf of or directly by the Authority. Only those properties in a declared Renewal Area may be included in a Group Repair Scheme. Maximum Grant of 90% to 100% of eligible works for an owner occupier, 50%-75% of eligible works for commercial / landlords.
- 8.72 Homes in Town Grant: This grant is designed to encourage town centre living in the County Borough. The Homes in Towns Grant (HIT) forms part of the Authority's overall approach to tackling vacant space in the Town Centres of the Borough, to breathe life and vitality back into the Town Centre areas and to increase the supply of affordable accommodation in key hubs of the Borough. The HIT grant will be prioritised in the target area that mirrors the Townscape Heritage Initiative grant area in the first instance. However, key buildings in the wider Town Centre area

that demonstrate a business case to attract additional grant aid will also be considered.

8.73 Maximum grant to assist with conversion 85% of the cost of the work up to a maximum of £10,000, to create a separate access and 65% of the cost up to a maximum of £30,000 per unit of accommodation, for the conversion of vacant space into a residential unit. Breach of grant conditions within 3 or 4 years require repayment of the grant.

### **City and County of Swansea**

8.74 City & County of Swansea offered Property Appreciation Loans through Art Homes before they withdrew from the market. These loans were taken in-house and became a lifetime loan with no interest, simply being redeemed at the point of transfer or sale. The Home Fix Loan Scheme introduced in 2012, operates on the following basis.

- All fees including valuation, solicitor costs are paid by the applicant;
- The loan is aimed at people who cannot afford monthly payments;
- Homeowners over the age of 60 and in receipt of a means tested benefit or on low income (based on means test) are eligible;
- Homeowners over the age of 18 in receipt of a disability benefit or on low income (based on means test) are eligible;
- The homeowner must have lived at the property for a minimum of 3 years and the property must be at least 10 years old;
- There must be adequate equity in the property;
- Total borrowing must not exceed 80% of the property value;
- Loan is registered as a legal charge;
- Must have less than £16,000 in savings;
- There must be a level of disrepair (Cat 1 hazards);
- Minimum loan £3,000, maximum loan £25,000 inclusive of contingency;
- No repeat loan within 5 years;
- Loan is interest free and loan redeemed at point of sale or applicant going into long term care.

## **Rhondda Cynon Taf County Borough Council**

- 8.75 Offer a range of grants and may be looking to develop more loans in the future due to the reduction in capital funds available.
- 8.76 Maintenance and Repair Assistance Grants: may provide help to carry out essential repairs only. Applicants must be aged 60 and over and in receipt of a means tested benefit and have less than £10,000 in savings. Where the applicant is aged 60 and over and not in receipt of a means tested benefit, will be subject to a means test. Applicants aged 90 or over are prioritised. Maximum grant £4,000, can be extended to £6,500 if there are structural works. There are no conditions attached to this grant.
- 8.77 Renovation Grants: Renovation Grants are only available to applicants who qualify because exceptional circumstances exist at their homes and grant is provided to address removal of serious (category one) hazards (HHSRS) within properties. The applicant must have lived in the property for a minimum of 5 years, the property must be less than 10 years old, and the property must have cat 1 hazards. The maximum grant is £35,000 but is means tested. Grant conditions, repayment of the loan if property sold within 5 years or not occupied as intended.
- 8.78 Empty Property Grant: is only available Borough wide for prospective owner occupiers. Maximum grant £10,000, but increases to £20,000 - in certain areas of housing need or where there is a long-term problematic vacant property. The property must have been vacant for a minimum of 12 months prior to purchase and subject to a mortgage. The applicant will be subject to a means test or agree to a maximum of 25% contribution to the cost of the works. Grant placed as a local land charge for a 5 year period grant and repayable if the property is sold or breach of conditions within that time period.
- 8.79 Empty Properties Grants (Landlords): The property must have been vacant for a minimum of 12 months prior to purchase and has to be in an area of housing need. In addition, the landlord must have been refused assistance under the Houses into Homes Scheme. Landlord subject to a maximum of 50% contribution to the cost of the works and an overall maximum grant of £10,000. Landlord must be accredited

and provide nomination rights to the Local Authority for 5 years. The grant is placed as a local land charge for a 5 year period, grant repayable if the property is sold or breach of conditions within that time period.

- 8.80 Living over the Shops Scheme (LOTS) / Homes Above Retail Premises (HARP) Grant – targeted at creating, restoring or improving accommodation above shops. The property must have been vacant for a minimum of 12 month prior to purchase and has to be in an area of housing need. In addition, the landlord must have been refused assistance under the Houses into Homes Scheme. The grant will cover up to 50% of the cost of the works, up to a maximum of £10,000. Maximum of 2 units per building. Landlord must be accredited and provide nomination rights to the Local Authority for 5 years. The grant is placed as a local land charge for a 5 year period, grant repayable if the property is sold or breach of conditions within that time period.
- 8.81 Strategic Energy Efficiency Grants: will only be made available in areas of strategic importance, to maximise any external funding. The scheme must comprise of a minimum of 5 properties. Maximum Grant £20,000, 100% grant to owner occupiers towards shortfall of any external funding, this is reduced to 50% for landlords. The grant is placed as a local land charge for a 5 year period, grant repayable if the property is sold or breach of conditions within that time period.

### **Pembrokeshire County Council**

- 8.82 The only funding available is in the form of £3,000 small works repair grants for persons over 65 on low income. Loans were used where grant aid did not meet the full costs or where grant aid was refused. The purpose of the loans was broad ranging depending on the needs of the owner, but generally used to support adaptations and repairs.

### **Carmarthenshire County Council**

- 8.83 Currently offer Property Appreciation Loans that are now administered in-house. They also offer capital repayment loans up to £10,000 per property to deal with category 1 hazards and to enable the property to be put into a lettable condition.

The property must be placed on their social letting scheme at an affordable rent. The loan must be repaid in instalments over a maximum period of 5 years or on the sale of the property.

### **Blaenau Gwent County Borough Council**

- 8.84 Living Independently Home Repair Scheme: may provide help to carry out essential repairs and is targeted towards the continuing welfare and independence of older persons, delivered in partnership with Care and Repair. Applicants must be aged 65 or over, owned and occupied the property for a minimum of 3 years and be in receipt of a means tested benefit and have less than £12,000 in savings. Where the applicant is aged 80 and over, they will not need to be in receipt of a means tested benefit, will be subject to a means test. Applicants aged 90 or over are prioritised. Maximum grant £4,000. There are no conditions attached to this grant.
- 8.85 Group Repair Schemes (Six Bell Renewal Area): Only those properties in a declared Renewal Area may be included in a Group Repair Scheme. Any means tested contribution is capped at 25% of the estimated cost for owner occupiers and tenants with repairing obligations. Landlords must contribute 25% of the estimated costs. Grant conditions, owner occupiers confirm they, or a family member, intend to live in the property for a minimum of 3 years. Landlords must make available the property to rent for a minimum period of 3 years. The grant is placed as a local land charge for the 3 year period.

### **Merthyr Tydfil County Borough Council**

- 8.86 Home Repair Assistance Grants: may provide help to carry out essential repairs only. Applicants must be aged 60 and are means tested benefit and have less than £8,000 in savings. Maximum grant 60 - 74 yrs £3,000, older than 75 maximum grant £5,000. Grant placed as a local land charge for a 3 year period. Grant repayable if the property is sold within 5 years or breach of conditions within that time period.
- 8.87 Improvement Grant: This discretionary grant may be available where a Category 1 Hazard exists. Maximum grant available is £25,000 and is only available to owner

occupiers over the age of 60 or be aged 18-60 yrs and be vulnerable or disabled. All applicants are subject to a test of resources (means test) and must have savings of less than £16,000. Grant repayable if the property is sold within 5 years or breach of conditions within that time period.



## Case Studies

### 1. Owner Occupier loan - over 10 years

<b>Reason for loan:</b>	To modernise the property, including electrics, new heating
<b>Loan amount requested:</b>	£15,000
<b>Loan Term:</b>	10 years (10 years maximum)
<b>Property value:</b>	£100,000, existing mortgage Lloyds Bank £65,000
<b>Application Fees:</b>	15% of loan amount, to be added to the loan (£2,250)
<b>Total loan amount over 10 years:</b>	£15,000 & £2,250 = £17,250
<b>Monthly Payment:</b>	£17,250 / 10 years £1,725 per annum / 12 months = £143.75

### Considerations

#### a. Secure the loan as a legal charge against the property

##### Strengths

- ✓ Affordability to repay the loan over the ten years should be assessed to ensure that the applicant can afford to repay the loan.
- ✓ The Local Authority should consider the loan to value ratio that they are prepared to work to. In this case taking into account the existing lending £65,000 and Local Authority loan of £15,000, the loan to value ratio is 80%. While this would be considered a fairly high loan to value ratio, it may be considered acceptable. Should a default occur then there is likely to be adequate funds available to pay both lenders. The level of risk will reduce as the owner occupier makes capital repayments to both lenders.
- ✓ Should the owner default on the loan or is unable or unwilling to repay the loan. The Local Authority can enforce the term of the charge and sell the property. Providing a strong recovery process, if necessary.

### **Weaknesses**

- ❖ The application process is more involved and requires a lot of information from the applicant and will take a considerable amount of officer's time to help the applicant through the application process through to releasing the funds.
- ❖ There are likely to be costs to the Local Authority, including legal work, RICS Valuation, land registry charges etc
- ❖ The application process is likely to take a number of months before funds can be released
- ❖ Consideration has to be given if the owner fails to repay the loan on time, would the Local Authority be prepared to enforce the sale of the property to recover their funds (Negative PR)

#### **b. Unsecured Loan**

##### **Strengths**

- ✓ Affordability to repay the loan over the ten years should be assessed to ensure that the applicant can afford to repay the loan
- ✓ The application process will be more straightforward, which will reduce the level of administration for the owner and Local Authority. The cost implication for each party will also be less.
- ✓ The time period between receipt of a full and complete application to the funds being released should be significantly quicker

##### **Weaknesses**

- ❖ As the loan is unsecured (not secured as a land charge) and does not fall within one of the other exemptions, then it may be deemed a Regulated Consumer Credit Agreement. Therefore, it may be necessary for the Local Authority to apply for a full consumer credit authorisation from the FCA. There are a number of requirements as to form and content which such an agreement must take and information which must be supplied before the consumer signs the agreement. The form and content of the advertisement for such loans is also regulated.

- ❖ If the owner re-mortgages the property to a very high loan to value (95%) or sells the property and fails to pay the loan back. The Local Authority will have to issue proceeding in the County Court / High Court. There are a range of remedies available but the Local Authority is likely to pursue a Charging Order or Bankruptcy. As the Local Authority is an unsecured creditor, priority will be given to legal charges and any charging orders secured against the property in priority to the Local Authority application. This process may take a considerable time to resolve and the Local Authority will incur considerable costs. In reality, if the applicant has no assets, then there may be limited scope to recover any monies.

## 2. Landlord Loan - over 5 years

<b>Reason for loan:</b>	To bring the property up to a reasonable condition including fire precaution works, heating, rendering the external walls
<b>Loan amount requested:</b>	£25,000
<b>Loan Term:</b>	5 years (5 years maximum)
<b>Property value:</b>	£100,000, existing mortgage Lloyds Bank £65,000
<b>Application Fees:</b>	15% of loan amount, to be added to the loan (£3,750)
<b>Total loan amount over 5 years:</b>	£25,000 & £3,750 = £28,750
<b>Monthly Payment:</b>	£28,750 / 5 years £5,750 per annum / 12 months = £479.17

### Considerations

The arguments as to whether or not the Local Authority should secure the mortgage as a legal charge against the property, where covered in the previous example. The loan amount is significant and therefore the Local Authority should consider securing a charge against the property.

In practical terms the landlord is unlikely to be able to afford to repay the loan back on a monthly basis over the 5 year period. Especially, if this is the only rental property and he has an existing mortgage.

The monthly payment to the Local Authority would be £479.17 a month, the existing mortgage £65,000 at 3% per annum, equates to £162.50 a month. Therefore, total mortgage payment = £479.17 & £162.50 = £641.67. Which is likely to be above the rental income achieved for the property, not taking into account any void periods, disrepair and non payment of rent during this period?

It should further be noted that when both mortgages are taken into account (Local Authority being second charge) the loan to value ratio is 90%. The Local Authority is

at significant risk if the landlord defaults on the loan at this stage and consideration needs to be given as to whether to support the application at that level.

A possible approach to mitigate the risk is to approve the loan but only release the funds on completion of the works, either to the owner or directly to the contractor. The completed works would have increased the capital value of the property and therefore the loan to value ratio may be at a more acceptable level.

Therefore, based on the above information, it would be more appropriate to require the repayment of the loan at the end of the 5 year period, through re-financing rather than requiring a monthly payment that would not be affordable for the landlord.

### 3. Landlord loan / Owner Occupier loan – over 5 years

<b>Reason for loan:</b>	To provide insulation works and upgrade the heating system
<b>Loan amount requested:</b>	£3,000
<b>Loan Term:</b>	5 years (5 years maximum)
<b>Property value:</b>	£100,000, existing mortgage Lloyds Bank £65,000
<b>Application Fees:</b>	15% of loan amount, to be added to the loan (£450)
<b>Total loan amount over 5 years:</b>	£3,000 & £450 = £3,450
<b>Monthly Payment:</b>	£3,450 / 5 years £287.50 per annum / 12 months = £23.96

#### Considerations

The amount of funding being provided is fairly small and therefore the Local Authority needs to consider whether it is proportional to secure the loan as a legal charge against the property. This will be dependent on the absolute need of the Local Authority to be able to recover their monies to repay Welsh Government

In addition, the Welsh Government has confirmed their willingness to underwrite 2.5% of the Local Authority's allocation against any loan defaults (formal procedure).

In practical terms the landlord / owner is likely to be able to afford the repayment of £23.96 a month, even if we take into account the existing mortgage payment. Therefore, monthly repayments over a 5 year period would be an appropriate repayment method in this instance.

However, the Local Authority should consider making the loan a local land charge (ensuring the paperwork is satisfactory to achieve this i.e. binding on subsequent owners). This will provide limited protection to the Local Authority in a default situation but would also preclude the need for the Local Authority to draft their loan documents in compliance with the Consumer Credit Act 1974 etc.

In addition, should the Local Authority need to take steps to recover the loan, then there is a reasonable amount of equity in the property for them to pursue.

## **Appendix A**

### **Regulatory Reform (Housing Assistance) (England and Wales) Order 2002**

## **Appendix B**

### **Mortgage Sales Guidance for Local Authorities and Registered Social Landlords**



## **Appendix C**

### **Sample Affordability Questionnaires**



## **Appendix D**

### Sample Application Forms

## **Appendix E**

### State Aid Wording

The following paragraphs into the Offer of Loan letter which should be issued with the Loan Agreement and Legal Charge Agreement.

The loan is made on an interest-free basis up until [ ].

If the loan is not repaid on that date, then interest will accrue as detailed in the attached Loan Facility Agreement and Legal Charge Agreement.

By lending you money on an interest-free basis, we are providing you with aid equivalent to the net present value of the interest not charged, namely £[ ].

This aid is being given in line with Commission Regulation (EC) No 1407/2013 of 24th December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union (TFEU) to de minimis aid.

It is being given on the basis of your express representation to us that, when aggregated with other state aid received by you during the period of three years ending on the date the loan is made, it will not exceed the threshold for de minimis aid of EUR200,000 approximately £163,500.

If this representation is incorrect, you will have to pay the aid back to us.

You will need to declare this de minimis aid to any other aid awarding body who requests information from you on how much aid you have received.

*Courtesy of Rhondda Cynon Taf County Borough Council*

## **Appendix F**

### **Loan Facility Agreement for Owner Occupiers Legal Charge Document**

## **Appendix G**

### **Local Authority Capital Allocation**

Regional Groups	Local Authority	Allocation £5 Million	Allocation £10 Million	Allocation £15 Million
North Wales Regional	Conwy County Borough Council	£215,181	£430,362	£645,542
	Denbighshire County Council	£159,482	£318,963	£478,445
	Flintshire County Council	£240,858	£481,715	£722,573
	Gwynedd County Council	£225,119	£450,237	£675,356
	Isle of Anglesey County Council	£127,065	£254,129	£381,194
	Wrexham County Borough Council	£198,153	£396,305	£594,458
Mid & West Wales Regional	Powys County Council	£238,053	£476,106	£714,159
	Carmarthenshire County Council	£312,671	£625,343	£938,014
	Pembrokeshire County Council	£225,392	£450,783	£676,175
	Ceredigion County Council	£134,616	£269,232	£403,848
Gwent Regional	Blaenau Gwent County Council	£103,531	£207,062	£310,592
	Caerphilly County Borough	£270,581	£541,162	£811,743
	Monmouthshire County Council	£150,261	£300,522	£450,783
	Newport City Council	£219,479	£438,959	£658,438
	Torfaen County Borough Council	£131,496	£262,991	£394,487
Swansea Bay Regional	Bridgend County Borough	£228,320	£456,640	£684,960
	City and County of Swansea	£379,764	£759,527	£1,139,291
	Neath Port Talbot County Borough Council	£223,061	£446,122	£669,183
Cardiff & Vale Regional	Cardiff City Council	£531,066	£1,062,133	£1,593,199
	Vale of Glamorgan Council	£211,057	£422,114	£633,172
Cwm Taf Regional	Merthyr Tydfil County Borough Council	£87,617	£175,234	£262,850
	Rhondda Cynon Taf County Borough Council	£387,179	£774,357	£1,161,536
Total		£5,000,000	£10,000,000	£15,000,000



## ***Appendix H***

### ***Home Improvement Loan Evaluation Form***

Information per application (WG to collect quarterly):	Outcomes					
Property Postcode						
Who is the loan recipient	PRS Limited company	PRS individual	PRS Unincorporated entity / Charity	Owner Occupier	Other Specify	
If PRS: Is the house to be sold following the works?						
If PRS: Who is/will be the tenant	Homeless	LA register - social	Intermediate rent	Market	Other Specify	
If Owner Occupier: What is the household income?	Under £10,000 per	£10,000 - £14,999	£15,000 - £19,999	£20,000 - £29,999	£30,000 - £39,999	More than £40,000
Is it a vacant property?	Yes	No				
If vacant, how many units brought back into use?						
If vacant, how long has it been empty?	<1 year	<2 years	<3 years			
What works were required?	Category 1	Category 2	SWS	Other specify		
What are the costs of the works (including VAT)?						
What is the value of the loan ?						
What is the private sector leverage?						
What is the assumed NHS saving? BRE Housing Health Cost Calculator						
Security for the loan	Legal Charge	Local Land Charge	Unsecured	Other specify		
<b>Information on all data (WG to collect annually):</b>						
How many applications approved?						
How many applications declined to date?						
How many applications outstanding?						
How many loans issued using recycled funding?						
Do you anticipate spending your full allocation for this year?						
If you are transferring funds to another LA, please state how much, when and to whom.						
Was the external impact of the home having a negative impact on the area?						
FTE time working on HIL						
No. of loans written off						
Amount of loans written off						
No. of loans in default						
Amount of loans in default						

