

**Appendix E**

**(Draft) Housing Assistance Policy**

**2012 - 2015**

	<b>Page No:</b>
<b>1.0 Purpose and Form of Housing Assistance</b>	<b>3</b>
<b>2.0 Persons Eligible for Housing Assistance</b>	<b>3</b>
<b>3.0 Making a Formal Application</b>	<b>4</b>
<b>4.0 Restrictions on Assistance</b>	<b>5</b>
<b>5.0 Supervision of Works</b>	<b>5</b>
<b>6.0 Payment of Assistance</b>	<b>5</b>
<b>7.0 Types of Housing Assistance</b>	<b>6</b>
<b>8.0 Repayment of Housing Assistance</b>	<b>8</b>
<b>9.0 Enquiries and Applying for Assistance</b>	<b>10</b>
<b>10.0 Decision and Notification</b>	<b>10</b>
<b>11.0 Re-determination of the Assistance</b>	<b>10</b>
<b>12.0 Appeals Against Decisions</b>	<b>11</b>
 Appendix 1: Conditions Common to all Types of Housing Assistance	 12
Appendix 2: Applications Under Special Circumstances and Appeals Process	14
Appendix 3: Calculation of the Assistance and the Test of Resources, or Means Test	16
Appendix 4: The Housing Health and Safety and Rating System	18
Appendix 5: DCLG Guidance on Decent Homes Standard	22

## **(Draft) HOUSING ASSISTANCE POLICY 2012-2015**

This Policy will commence 1 July 2012 and is made under the Regulatory Reform (Housing Assistance) (England and Wales) Order 2002. It sets out the basis on which Epping Forest District Council will offer financial assistance ("Housing Assistance") for works of repair, renewal or adaptation in the private housing sector. It is to be read in conjunction with the Council's Private Sector Housing Strategy 2012-2015.

With the exception of mandatory Disabled Facilities Grants (DFGs) all Housing Assistance referred to in this Policy will be discretionary and subject to the Council having sufficient funds. DFGs will continue to be processed in line with the previous Housing Assistance Policy 2007 and with the appropriate legislation, however, the Policy does affect the amount of an individual DFG that will be repayable on the sale of a property after the completion of work.

This Policy will be subject to annual review to take into account changing policies at national and regional level and all available information on the condition of private sector housing in the District.

### **1.0 PURPOSE AND FORM OF HOUSING ASSISTANCE**

1.1 Housing Assistance may be offered by Epping Forest District Council in accordance with this Policy towards the cost of: -

- a) The improvement, repair or adaptation of existing living accommodation including mobile homes and houseboats;
- b) The creation of new living accommodation by bringing back into use empty dwellings; and,
- c) Any other initiatives consistent with the aims and objectives of the Council's Private Sector Housing Strategy 2012-2015.

1.2 Housing Assistance may be offered in any form including but not restricted to loans or loan guarantees, grants, advice, provision of materials and carrying out of works. Some forms of financial assistance are delivered by the Council's Home Improvement Agency, Caring and Repairing in Epping Forest (C.A.R.E.). The Council may enter into partnership with other organisations or agencies to deliver financial assistance.

1.3 The specific types of Housing Assistance available in this Policy, the conditions for eligibility and the amounts for each type of assistance are specified in Part 7 of this Policy.

### **2.0 PERSONS ELIGIBLE FOR HOUSING ASSISTANCE**

2.1 Any person who makes an application for Housing Assistance must:

- a) Be over 18 years of age at the date of the application; and,
- b) Live, or in the case of Empty Homes Repayable Assistance intend to live, in the dwelling as his/her main residence; and,
- c) Have an owner's interest in the dwelling (other than an interest by virtue of being a Registered Social Landlord under Part 1 of the Housing Act 1996 or being eligible for such registration), or be a tenant or licensee of the dwelling, alone or jointly with others but not being a member of the landlord's family, with a tenancy or license permitting occupation of the dwelling for a minimum period of twelve months after approval of the assistance; and,

- d) Have the power or duty to carry out the works and where appropriate have the owner's consent in writing to carrying out the works; and,
- e) Satisfy such test(s) of resources (see Part 7 and Appendix 3 of this Policy) as determined by the Council; and,
- f) In the case of applications in respect of houseboats and mobile homes (and in the event of any approved applications for works outside the scope of assistance listed in Part 7 which may be approved in wholly exceptional circumstances), an owner occupier or long leaseholder must have owned the property for a period of three years prior to making the application (in all other cases one year); and,
- g) Not be ineligible by virtue of the Housing, Grants, Construction and Regeneration Act 1996, Housing Act 2004, Regulations made under the Acts or any other enactment.

### **3.0 MAKING A FORMAL APPLICATION**

3.1 All applications must be on a form provided by the Council and must include the following original documentation: -

- a) Where the estimated cost of the work is below £2,000, one quotation set out on the schedule of grant works provided by the Council is required. Where the estimated cost of the works is from £2,000 up to £5,000, a minimum of two such quotations is required. If the estimated cost of the works is £5,000 or above, a minimum of three quotations is required. The Council may accept less than the specified number of quotations where the works involve specialist services or the nature of the work makes it reasonable to do so. The Council reserves the right to require additional quotations in all cases; and,
- b) Particulars of the work to be carried out including where appropriate plans, schedules of work/specifications and specialist reports; and,
- c) Details of any professional fees or charges relating to the work and for which Assistance is being sought; and,
- d) Confirmation of Planning and/or Building Control approval where appropriate; and,
- e) Proof of ownership from a solicitor or mortgagee, or copies of the title deeds/land certificate, or copy of the tenancy agreement or licence to occupy; and,
- f) A signed undertaking to repay the Housing Assistance if the conditions imposed by this policy as to future occupation are breached.

3.2 Except in the case of mandatory DFGs, where a property is jointly owned and one or more of the owners is not resident at the property, when assessing the contribution, it will be the income and savings of all owners that will be taken into account not just that of the owner(s) resident at the property.

3.3 The application will only be considered complete when the Council has all the information it needs to be able to make a decision on the application. Part 9 explains how to go about making initial enquires and the processes involved before the formal application.

3.4 The Council expects all work receiving Housing Assistance to be carried out by a reputable contractor with a proven record. Details of the Council's requirements in respect of choice of builder (Appendix 1 of this Policy) are available by contacting the Grants Team in the Housing Directorate or C.A.R.E. (contact details at the end of this Policy).

### **4.0 RESTRICTIONS ON ASSISTANCE**

4.1 No Assistance will normally be given for work started before formal approval of an application, except that:

- a) The Council may in exceptional circumstances exempt an application from this condition, for example where a defect may present a serious risk to health and safety;
- b) The Council may, with consent of the applicant, treat the application as varied so to exclude any works that have been started before approval;
- c) This provision will not apply where the relevant works have been started/completed by the applicant in order to comply with a statutory notice served by the Council.

4.2 The Council will not consider an application for Assistance in respect of premises built or converted less than 10 years prior to the date of the application, except in the case of an application for a DFG.

4.3 No Assistance will be given in respect of properties owned by Statutory Authorities or trusts. This includes properties owned by NHS Trusts and Police Authorities. Applications for DFGs will be considered from applicants who are tenants of Registered Housing Providers but in these cases landlords will be expected to make a contribution towards the cost of the work.

## **5.0 SUPERVISION OF WORKS**

5.1 In the absence of any agency agreement with C.A.R.E., the responsibility for supervision of the works rests with the applicant or with any suitably qualified and indemnified building professional or agent acting on the applicant's behalf and not with the Council.

## **6.0 PAYMENT OF ASSISTANCE**

6.1 The Housing Assistance will only be paid if:

- a) The assisted works are completed within six months from the date of approval for Small Works Repayable Assistance and within twelve months for all other forms of Assistance; and
- b) The assisted works are carried out in accordance with the Schedule of Work and/or a Specification set out in the formal Approval Notice, or as varied with the agreement of the Council; and
- c) The assisted works are carried out to the reasonable satisfaction of the Council and the applicant; and
- d) The Council is provided with an invoice, demand or receipt for payment in an acceptable format. Any such invoice must contain sufficient detail for the Council to identify in full the works carried out and the price charged and must not be provided by the applicant or a member of his/her family.

6.2 If the cost of the work varies because of agreed changes in the Schedule of Work/Specification, the Council may vary the amount of grant payable and notify the applicant accordingly.

6.3 The Council may pay the Housing Assistance to the applicant in the builder or contractor's name or, if requested in writing by the applicant and agreed by the Council, direct to the builder or contractor engaged by the applicant. The Housing Assistance may be paid in one lump sum on satisfactory completion of the works or in instalments ("stage payments") as the work proceeds. Stage payments will only be made where the Council is satisfied the value of the work completed exceeds the value claimed. The total value of interim payments shall not exceed 90% of the Housing Assistance approved.

6.4 No Housing Assistance will be given until agreements appropriate to the form of Assistance have been formally executed.

6.5 The Council will not enter into any Form of Contract with a builder or contractor and, in the absence of any agency agreement between the applicant and C.A.R.E. it is a matter for the applicant to agree any contract with the builder or contractor.

## **7.0 TYPES OF HOUSING ASSISTANCE**

7.1 The types of Housing Assistance offered from 1 July 2012 and the conditions applicable are as follows and will remain so until this Housing Assistance Policy is revised and published. With the exception of mandatory DFGs, all the types of financial assistance listed below are discretionary and are subject to the Council having sufficient resources.

7.2 **Small Works Repayable Assistance** is available:

- a) Where there is a statutory Hazard within the property rated at Band D or above, or a defect which is likely to damage the fabric of the property unless repaired.
- b) The maximum eligible expense is £3,000.
- c) Eligible works will include works to rectify a significant Hazard under the HHSRS, works to rectify any disrepair likely to damage to the fabric of the property and works to improve thermal comfort.
- d) Applicants must be 60 years or above or be chronically sick or disabled or be a household with dependent children.
- e) The applicant must satisfy a test of resources and/or be in receipt of a means tested benefit.
- f) Owner occupiers and long leaseholders are eligible to apply.
- g) Assistance will only be available for properties in Council Tax Bands A – E.
- h) Owner occupiers and long leaseholders must have been resident for at least one year prior to making an application. The Council may consider waiving this requirement in exceptional circumstances.
- i) No more than one application can be made in any twelve month period commencing from the date of the Completion Certificate for the last Assistance.
- j) The applicant will enter into an agreement to repay to the Council the whole amount of the Assistance paid on sale or any other disposal of the Applicant's interest in the property.

7.3 **Decent Homes Repayable Assistance** is available:

- a) Where there is a significant Hazard within the property rated at Band D or above, or disrepair which amounts to a breach of the Decent Homes Standard.
- b) The maximum eligible expense is £10,000.

- c) Eligible works will be any works necessary to ensure the property meets the Decent Homes Standard including:
- Work to rectify any significant Hazard rated at Band D or above under the HHSRS.
  - Work to repair or replace building components which are old and because of their condition require replacing or repair. (If there is only one such building component it must be a key building component – for the definition of key building component please see paragraphs 2.8 – 2.10 of Appendix 5).
  - Work to replace defective kitchen or bathroom/WC fittings or kitchen fittings over 20 years old and bathroom fittings over 30 years old.
  - Work to improve thermal comfort.
- d) Applicants must be 60 years or above or be chronically sick or disabled or be a household with dependent children.
- e) The applicant must satisfy a test of resources and/or be in receipt of a means tested benefit.
- f) Assistance will only be available for properties in Council Tax Bands A – E.
- g) Owner occupiers and long leaseholders are eligible to apply.
- h) Owner occupiers and long leaseholders must have been resident for at least one year prior to making an application. The Council may consider waiving this requirement in exceptional circumstances.
- i) The applicant will enter into an agreement to repay to the Council the whole amount of the Assistance paid on sale or any other disposal of the Applicant's interest in the property.

**7.4 Mandatory Disabled Facilities Grants (DFGs).** The rules for processing Mandatory DFGs and the conditions attached to them are laid down in the Housing Grants Construction and Regeneration Act 1996 as amended. They are to help provide:

- Essential facilities within the home, such as a level access shower; and/or,
- Essential adaptations to give better freedom of movement into and around the home and to essential facilities within it, such as widening doorways for wheelchair access.

7.5 The amount of the grant is determined by the 'Test of Resources' or Means Test carried out on the disabled person that the work is being carried out for. If this person is under 18 years of age, however, no means test is carried out and the grant is for the full cost of the work up to the maximum eligible expense limit. Appendix 3 to this Policy gives details of the Means Test. The maximum eligible expense for mandatory DFGs is currently £30,000.

7.6 Regardless of who the work is for, the application must be made by the legal owner, tenant or landlord of the dwelling and any applicant must be over 18 at the time the application is made. Tenants must get their Landlord's permission before the grant can be approved.

7.7 The person for whom the work is being requested must live in the dwelling as their main or only residence. They must be registered, or eligible to be registered, as disabled, and the Occupational Therapist at Essex County Council's Adult Social Care and Community Wellbeing department must confirm that the work is both necessary and appropriate for them.

7.7 The normal conditions attached to Housing Assistance requiring repayment if the property is sold within the condition period do not apply in the case of mandatory DFGs. However, if the property is sold in the five years following the completion of the work the Council may recover specialist equipment installed under the grant. If the Council intends to do so this will be specified in the grant Approval Notice.

7.8 Where the grant is above £5,000, the Council will recover costs up to a maximum of £10,000 if the property is disposed of within 10 years of the date of the completion of the grant-aidable work. This will be protected by a charge on a property which will be removed after a period of 10 years if there is no disposal of the property. Repayment will not be required for the costs of providing stair lifts, through floor lifts or removable equipment such as hoists. The Council may waive this requirement in exceptional circumstances.

7.9 A **Relocation Grant** may be available subject to the following conditions:

- a) Where a person qualifies for a mandatory DFG but the necessary works are not feasible at their existing property, or could only be carried out at wholly disproportionate cost, then the Council may consider a grant towards essential relocation costs and/or the difference in price of the new home.
- b) In order to consider a Relocation Grant, the new property must be capable of being occupied as it stands or with adaptation at reasonable cost.
- c) The maximum relocation grant will be £10,000.
- d) Such grants will only be made in exceptional circumstances and subject to the Council having adequate budgetary provision at the time of the application and will require the express approval of the Director of Housing.
- e) No household can receive more than one Relocation Grant.
- f) The standard DFG test of resources will be applied to applications for relocation grants.

7.10 **Empty Homes Repayable Assistance** may be available:

- a) Where a property has been vacant for a minimum period of one year before the application is submitted.
- b) There must be a significant Hazard within the property rated at Band D or above, or disrepair which amounts to a breach of the Decent Homes Standard.
- c) Eligible works are as for Decent Homes Repayable Assistance.
- d) Persons intending to live in the property are eligible to apply.
- e) The applicant will enter into an agreement to repay to the Council the whole amount of the Assistance paid on sale or any other disposal of the Applicant's interest in the property.

## **8.0 REPAYMENT OF HOUSING ASSISTANCE**

### **General**

8.1 If an application is approved but it subsequently appears to the Council that the applicant (or one of two or more joint applicants) was not, at the time the application was



approved, entitled to the Assistance approved, then no payment shall be made (or no further instalments paid) and the Council may seek to recover immediately from the applicant any payments made together with interest accruing from the date of payment.

8.2 If the applicant is the owner of a dwelling in respect of which Housing Assistance has been approved and ceases to be the owner before the works are completed he/she shall repay to the Council on demand the total amount of Housing Assistance that has been paid.

### **Breach of Undertakings**

8.3 Where an owner occupier or leaseholder has given a signed undertaking to occupy a property as his/her principal residence after completion of the assisted works, and if they cease to occupy the relevant dwelling as their principal residence during the period specified in the undertaking, then they shall repay on demand to the Council the total amount of Housing Assistance paid out.

8.4 Where the Council has the right to demand repayment but extenuating circumstances exist, the Council may determine to waive the right to repayment or to demand a sum less than the full amount of Housing Assistance.

### **Death of Applicant**

8.6 If the applicant should die before the Housing Assistance is approved, the application will be treated as withdrawn.

8.7 If the applicant should die after approval of the Housing Assistance or while the approved works are in progress, the Council may at its discretion agree to completion or making good of the works and pay the Housing Assistance in full or, if the works originally agreed are not completed in full, an appropriate proportion of the Housing Assistance.

8.8 Where an applicant dies after completion of the works but before the expiry of the period of the undertaking, the Council will seek repayment of the Housing Assistance from the applicant's estate if a disposal by sale or a change in tenure takes place.

### **Additional Conditions**

8.9 The Council reserves the right to impose additional conditions when making an approval for Housing Assistance. These may include but are not restricted to:

- a) A contribution to the cost of the assisted works by the applicant;
- b) Housing accommodation being maintained in reasonable repair after completion of the assisted works; and,
- c) The right of the Council to recover specialised equipment when no longer needed.

8.10 Breach of any additional conditions will give the Council the right to seek repayment of the Housing Assistance on demand.

### **Security and Repayment**

8.11 With the exception of park homes and houseboats, where a condition of the Housing Assistance imposes a liability to repay the Housing Assistance, the condition will be registered by the Council as a local land charge.

8.12 The Council may at its discretion determine to require repayment of a lesser sum than the full amount of Housing Assistance. Examples of circumstances where the discretion may be exercised include breaches of Assistance conditions arising where the application or spouse or partner has had to move to avoid unemployment or because the applicant's employer has required a move, or where the property is subject to a mortgage entered into before the application for housing assistance and the mortgagee is exercising the power of sale.

## **9.0 ENQUIRIES AND APPLYING FOR ASSISTANCE**

9.1 All enquiries should be addressed to the Grants Team on 01992 564092 and/or C.A.R.E. on 01992 564086. Leaflets explaining the types of financial assistance and advice on these will be available during normal office hours (9.00am – 5.00pm) or from the Council's website on [www.eppingforestdc.gov.uk](http://www.eppingforestdc.gov.uk). Informal advice is available by telephone contact or by e-mail from [PSHGrantsandCare@eppingforestdc.gov.uk](mailto:PSHGrantsandCare@eppingforestdc.gov.uk).

9.2 Persons wishing to pursue a grant where a test of resources (see Part 7 and Appendix 3 of this Policy) applies will be asked to complete an application form to confirm whether they are eligible and their financial status. After preliminary assessment, the Council will give an initial indication of the Assistance likely to be available before the enquirer decides if they wish to proceed further with an application.

9.3 Where a person decides to continue with an application, then an inspection of the property will be carried out and where appropriate to proceed, a schedule of works drawn up. The schedule will specify the works to be carried out as a requirement for financial assistance and will be used by the applicant to obtain quotations from builders and/or specialist suppliers.

9.4 The application will be considered to have been formally made when the applicant has submitted a formal application along with a priced schedule and any other document required (such as plans, building and planning consents, specialist reports, etc). The documents required are set out in Part 3.

9.5 Once approval has been given the work must be completed within a specified timescale. This is up to six months from the date of approval for Small Works Repayable Assistance and up to twelve months from the date of approval for all other forms of Assistance.

## **10.0 DECISION AND NOTIFICATION**

10.1 The Council will notify applicants in writing whether their application has been approved or refused. The decision will be notified as soon as reasonably practicable and in any event no later than six months after receipt of a complete application.

10.2 If the application is approved, the notification will specify the works that are eligible for assistance, the value of the assistance, the form the assistance will take, the builder/contractor who will carry out the works and the time by which the works must be completed.

10.3 If the application is refused, the Council will give the reasons for the refusal and also confirm the procedure for appealing against the decision (see Appendix 2 of this Policy).

## **11.0 RE-DETERMINATION OF THE AMOUNT OF FINANCIAL ASSISTANCE**

11.1 Where the Council is satisfied that because of circumstances beyond the control of the applicant and which could not have reasonably been foreseen, the cost of the assisted works has either increased or decreased, the Council may at its discretion re-determine the assistance

given in accordance with the Assistance framework set out in this document and notify the applicant accordingly. See Part 4 of Appendix 1 of this Policy, 'Unforeseen Work'.

## **12.0 APPEALS AGAINST DECISIONS**

12.1 Any person who is aggrieved by a decision not to give financial assistance as a consequence of this policy may appeal to seek review of the decision. The Appeals Process is set out in Appendix 2 of this Policy.

12.2 Any possible departure from this Policy will only be considered where the applicant can demonstrate wholly exceptional circumstances to justify such a departure.

12.3 If you are not happy with the service you receive (rather than any part of this Policy) you should first contact directly the Private Sector Housing Officer on 01992 564177 or the Private Housing Manager (Grants and C.A.R.E.) on 01992 564287.

## APPENDIX 1

### CONDITIONS COMMON TO ALL TYPES OF HOUSING ASSISTANCE

#### 1.0 CONTRACTORS

1.1 Where the Council is giving Housing Assistance, including mandatory DFGs, the work must be carried out by a reputable contractor with a proven record. Competent contractors who have, within six months before the application is made, carried out assistance/grant work in the EFDC District will automatically be accepted but others will have to provide documentation to the Council before their estimates will be accepted as part of a Housing Assistance application. The requirements are:

##### ***For work costing under £2000***

- Public Liability and Employer's Liability Insurance including Product Liability;  
and:
- Accounts for last two years or a letter from the contractor's accountant confirming that he/she is a bona fide trader in the construction industry and the length of time for which he has been trading as such;  
and:
- Landline entry in telephone directory;  
and (if applicable):
- VAT Registration number;  
and (if relevant):
- Proof of membership of a regulatory body or trade association, e.g. CORGI, IEE, FENSA, Federation of Master Builders, etc.

##### ***For work costing over £2000***

- Is contractor registered with Constructionline? (If yes no other proofs are necessary);  
or:
  - All of the checks for work costing less than under £2000;  
and:
  - National Anti-Fraud Network Company/Director search including credit check. Please note that the contractor has to give written permission for this to be carried out. The Council will supply a form for contractors to do this.
- 1.2 The Council does keep a list of the names of contractors who have previously carried out assistance/grant work and this will be supplied upon request to anyone applying for Housing Assistance. It is made clear to applicants wishing to use one of the contractors from the list that the contractors are not recommended or approved by the Council although they do fulfil the requirements outlined above.

1.3 Housing Assistance will not be given for work carried out by the applicant or anyone related to them except on a Do-it-Yourself basis, where no charge is being made for labour.

1.4 In normal circumstances the work must be carried out by one of the contractors that supplied estimates with the application. If more than one estimate was supplied this will usually be the one who gave the lowest estimate. Where the builder is no longer trading, for example, and this is not possible, the applicant must obtain written approval from the Council to use a different contractor.

## **2.0 DATA PROTECTION AND FRAUD**

2.1 The Council has a duty to protect the public funds it handles and Documentary proof will be required to verify that the information given by the applicant in support of any application is correct.

2.2 Epping Forest District Council is a Data Controller under the Data Protection Act and holds information for the purposes specified in its notification made to the Information Commissioner.

2.3 In processing an application for assistance the Council may get information about the applicant from others, or give information to them. If this is the case, it will only be as the law permits, to:

- Check accuracy of information.
- Prevent or detect crime.
- Protect public funds.

2.4 The Council may check information received about the applicant with other information already held in Council records. This can include information provided by the applicant as well as by others such as government departments and agencies.

2.5 Information about the applicant will not be given to anyone outside Epping Forest District Council unless the law permits it.

2.6 Applicants can obtain further information from the Councils Data Protection Officer.

## **3.0 INSURANCE**

3.1 If the applicant receives a payment from an insurance company for work that has already been paid for out of Housing Assistance they will be required to repay the assistance/grant from the proceeds of the insurance payment.

## **4.0 UNFORESEEN WORK**

4.1 Once the Housing Assistance has been approved it can only be reassessed if there is additional work that could not have been foreseen at the time the original estimate was given. Examples of this might be where the Housing Assistance is for an extension and the Building Surveyor requires the foundations to be dug to a greater depth, or where rotten woodwork is uncovered when a roof repair is being carried out. It would not be where a contractor has given insufficient time to making a proper inspection of the work before preparing his estimate or failed to include work that should have been apparent.



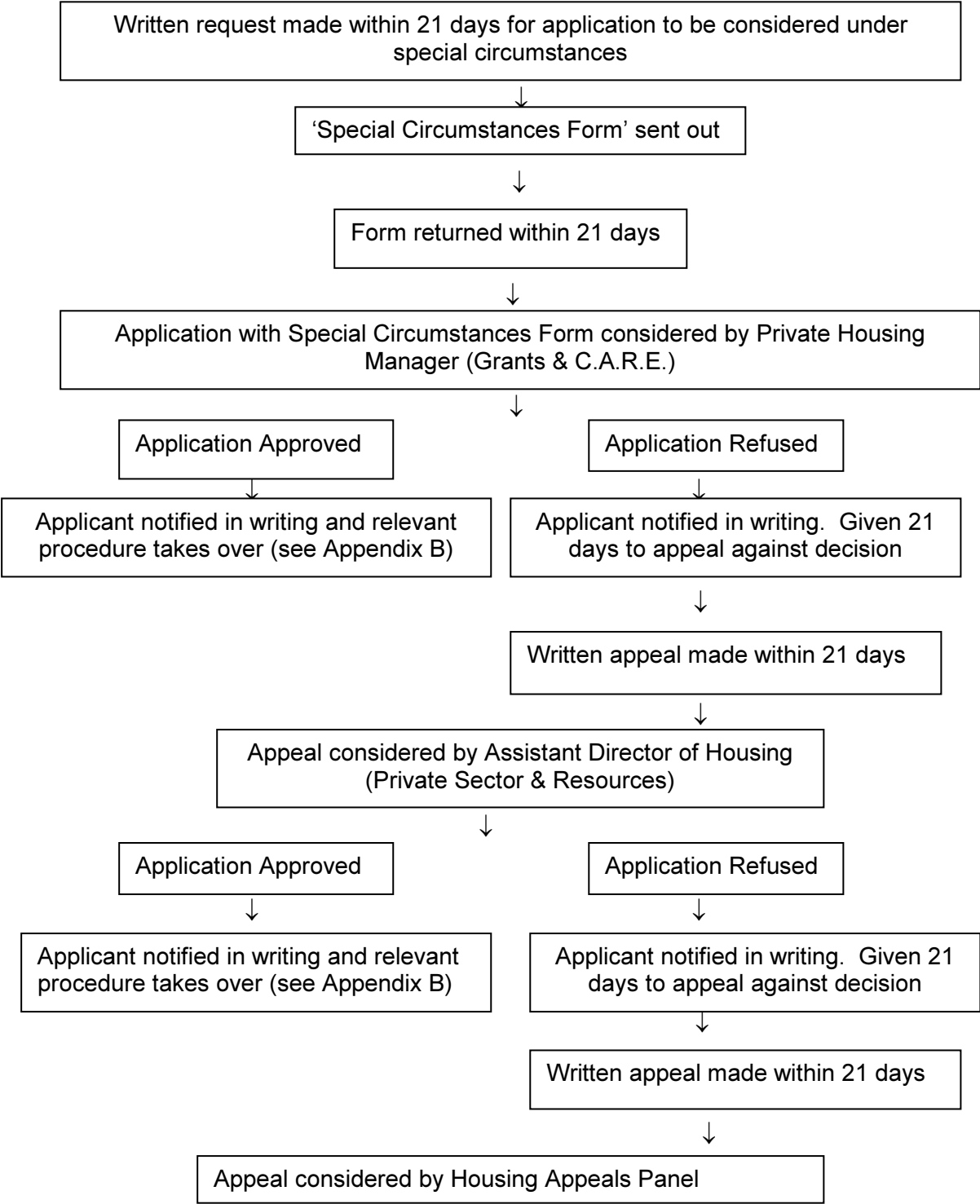
## **APPENDIX 2**

### **APPLICATIONS UNDER SPECIAL CIRCUMSTANCES AND APPEALS PROCESS**

- 1.0 When the Council receives the appropriate completed Housing Assistance application form, the Private Sector Housing Officer will decide whether the applicant appears to be eligible for Housing Assistance. If the application meets the criteria, the applicant will be notified in writing and one of the procedures outlined below will be followed.
- 1.1 If the application does not appear to fulfil the requirements, the applicant will be notified in writing and given a period of twenty-one days to say whether they wish to apply under 'special circumstances'. This would apply where the applicant felt that their personal circumstances were such that the Council should make an exception to its normal policy in their case.
- 1.2 The budget for Housing Assistance is limited. Whatever the circumstances the Council can only provide Housing Assistance if funds are available. Preference will always be given to mandatory DFG applicants.
- 1.3 The procedure for processing an application for Housing Assistance under 'Special Circumstances' follows on the next page.

***Please turn over to the next page:***

**APPLICATIONS UNDER SPECIAL CIRCUMSTANCES AND APPEALS PROCESS**



The decision of the Housing Appeals Panel is final with regard to the Council’s internal processes although allegations of maladministration can be referred to the Local Government Ombudsman. The Council’s complaints procedure can also be used if you wish to make a complaint about the way something has been done, or not done, after being asked.



## APPENDIX 3

### CALCULATION OF THE HOUSING ASSISTANCE/GRANT AND THE TEST OF RESOURCES, OR MEANS TEST

#### 1.0 THE 'BENEFITS PASSPORT'

- 1.1 Applicants who fulfil certain criteria can be 'passported' through the means testing part of the application process for discretionary Housing Assistance.
- 1.2 Where the applicant is in receipt of and is eligible for one of the benefits below, provided they satisfy the other eligibility criteria, they will automatically qualify for the full amount of the Housing Assistance up to the relevant eligible expense limit:
- Income Support
  - Income Based Job Seekers Allowance
  - Income Based Employment Support Allowance
  - Council Tax Benefit
  - Guarantee Pension Credit
  - Working Tax Credit with an income under £15,050
  - Child tax Credit with an income under £15,050
- 1.3 Applicants who do not satisfy at least one of the criteria may still receive Housing Assistance by submitting to the Mandatory DFG Means Test (see below).

#### 2.0 TEST OF RESOURCES: MANDATORY DISABLED FACILITIES GRANTS (DFGS) & DISCRETIONARY HOUSING ASSISTANCE

- 2.1 All Mandatory DFGs are means tested with the exception of those for work for disabled children. The rules governing the way in which the means test or 'Test of Resources', is carried out is specified in The Housing Grants Construction and Regeneration Act 1996 as amended. The same rules are used for determining eligibility/amount of assistance for discretionary Housing Assistance.
- 2.2 With Mandatory DFGs, it is the disabled person that work is being carried out for that is means tested regardless of whether they are the legal owner of the property. With the discretionary housing assistance, it is the income/resources of the property owner that is means tested, including the income/resources of any joint owners of the property who are not resident at the property.

##### **How the level of DFG/contribution is calculated**

- 2.4 The applicant's contribution (the amount they have to pay towards the grant work) is called the 'notional loan'. This is the amount that the applicant could raise in a loan over a ten-year period for an owner-occupier, or five years for a tenant, using their disposable income. The grant is calculated by taking away the applicant's contribution from the estimated cost of the work as follows:

$$\text{Grant} = \text{Cost of Work} - \text{Contribution}$$

Once the contribution has been determined in the Approval Notice, it will remain the same even if the cost of the work goes up or down.

### Calculation of disposable income

- 2.5 Disposable income is assumed to be the difference between the applicant's weekly income and expenditure:

$$\text{Disposable Income} = \text{Income} - \text{Expenditure}$$

- 2.6 Actual income and savings are taken into account but, instead of actual expenditure, a reasonable cost of living is calculated from a series of 'allowances' and 'premiums' defined in legislation. The allowances and premiums applied in the test are revised, generally at least annually and it is not intended, therefore, to itemise them here. A list of the allowances and premiums currently in operation can be made available on request.
- 2.7 The income is the applicant's total weekly income from all sources with the exception of some benefits which are ignored in full, such as Income Support and Attendance Allowance, and some of which part is ignored, such as War Disablement Pension.
- 2.8 The first £6,000 of the applicant's total savings is ignored and the remainder converted into weekly income (known as 'Tariff Income') at a rate of £1 per week for every £250 for people under 60 and at a rate of £1 per week for every £500 for people of 60 and over.

### 2.9 Calculation of the Applicant's Financial Contribution

Weekly Disposable Income (see above)	£
The first £47.95 is multiplied by:	18.85
The next £47.95 is multiplied by:	37.69
The next £95.90 is multiplied by:	150.77
All remaining income is multiplied by:	376.93

(NB Figures correct at March 2012)

The results are added together and the total is the applicant's contribution.

## APPENDIX 4

### THE HOUSING HEALTH AND SAFETY AND RATING SYSTEM

#### 1.0 Introduction

1.1 Part 1 of the Housing Act 2004 replaced the former Housing Fitness Standard with an evidence-based risk assessment process, carried out using the Housing Health and Safety Rating System (HHSRS). Local authorities now base enforcement decisions in respect of all residential premises on the basis of assessments under HHSRS. This allows local authorities to address more effectively the hazards to health and safety found in dwellings.

1.2 Action by authorities is based on a three-stage consideration:

- a) the hazard rating determined under HHSRS;
- b) whether the authority has a duty or power to act, determined by the presence of a hazard above or below a threshold prescribed by Regulations (Category 1 and Category 2 hazards); and
- c) the authority's judgement as to the most appropriate course of action to deal with the hazard.

1.3 The Act contains a range of enforcement options which are available to local authorities. The choice of the most appropriate course of action is for the authority to decide, having regard to statutory enforcement guidance.

#### 2.0 The Assessment System

2.1 The purpose of the HHSRS assessment is not to set a standard but to generate objective information in order to determine and inform enforcement decisions. Technical guidance is given by DCLG in the February 2006 document "Housing Health and Safety Rating System: Operating Guidance.

2.2 HHSRS assesses twenty nine categories of housing hazard, including many factors which were not covered or covered inadequately by the housing fitness standard. It provides a rating for each hazard. It does *not* provide a single rating for the dwelling as a whole or, in the case of multiply occupied dwellings, for the building as a whole.

2.3 The HHSRS scoring system combines the probability that a harmful occurrence (e.g. an accident or illness) will occur as a consequence of a deficiency (ie a fault in a dwelling (whether due to disrepair or a design fault). If a harmful occurrence is very likely to occur and the outcome is likely to be extreme or severe (e.g. death or a major injury) then the score will be very high.

2.4 The hazard rating is expressed through a numerical score which falls within one of ten bands. Scores in Bands A to C (score 1,000 or above) are Category 1 hazards. Scores in Bands D to J (score below 1,000) are Category 2 hazards. The 29 hazard types are as follows:

##### A. Physiological Requirements

- Damp and mould growth etc
- Excessive cold
- Excessive heat
- Asbestos (and MMF)
- Biocides

- CO & Fuel combustion products
- Lead
- Radiation
- Uncombusted fuel gas
- Volatile organic compounds

#### B. Psychological Requirements

- Crowding and space
- Entry by intruders
- Lighting
- Noise

#### C. Protection Against Infection

- Domestic hygiene, pests & refuse
- Food safety
- Personal hygiene sanitation & drainage
- Water supply

#### D. Protection Against Accidents

- Falls associated with baths etc
- Falls on the level
- Falls associated with stairs and steps
- Falls between levels (e.g. from windows),
- Electrical hazards
- Fire
- Hot surfaces and materials
- Collision and entrapment
- Explosions
- Poor ergonomics
- Structural collapse and falling elements

2.4 The HHSRS assessment is based on the risk to the *potential occupant who is most vulnerable to that hazard*. For example, stairs constitute a greater risk to the elderly, so for assessing hazards relating to stairs persons aged 60 years or over are the most vulnerable group. In contrast, the most vulnerable group for falling between levels are children under 5 years. The very young as well as the elderly are susceptible to low temperatures. A dwelling that is safe for those most vulnerable to a particular hazard is safe for all.

### **3.0 The Enforcement Framework**

3.1 Local authorities have a duty to act when Category 1 type hazards are found. They have a discretionary power to act in respect of a Category 2 hazard. The courses of action available to authorities where they have either a duty or a power to act are to:

- Serve an improvement notice requiring remedial works;
- Make a prohibition order, which closes the whole or part of a dwelling or restricts the number or class of permitted occupants;
- Suspend the above
- Serve a Hazard Awareness Notice
- Take Emergency Remedial Action\*
- Serve an Emergency Prohibition Order\*
- Make a demolition order\*
- Declare a clearance area\*

\* Only in respect of Category 1 hazards

3.2 While the HHSRS hazard rating is based on the most vulnerable potential occupant, authorities will be able to take account of the circumstances of the actual occupant in deciding the most appropriate course of action. Where an authority takes action and the property owner does not comply, the Act retains the powers available to authorities to act in default (ie carry out the work themselves and recover the cost from the owner of the property) and/or to prosecute. It also enables them to charge and recover charges for enforcement action.

#### **4.0 Use of Discretionary Power: Decision Rules**

4.1 *The Housing Health and Safety Rating System: Enforcement Guidance*, statutory guidance made under section 9 of the Housing Act 2004 gives advice on how local housing authorities should use their discretionary powers.

4.2 An authority must take appropriate action in respect of a Category 1 hazard and may do so in respect of a Category 2 hazard. In deciding what is the most appropriate course of action, the statutory guidance states that they should have regard to a number of factors. It is important to note that in both cases an authority is obliged to give a formal statement of reasons for the action it intends to take.

4.3 It is also important to stress that for the purposes of assessing the hazard, it is assumed that the dwelling is occupied by the most vulnerable household (irrespective of what household is actually in occupation or indeed if it is empty). However, for the purposes of deciding the most appropriate course of action, regard is had to the actual household in occupation.

4.4 An authority has to take account of factors such as:

- Extent, severity and location of hazard
- Proportionality – cost and practicability of remedial works
- Multiple hazards
- The extent of control an occupier has over works to the dwelling
- Vulnerability of current occupiers
- Likelihood of occupancy changing
- Social exclusion
- The views of the current occupiers

4.5 Having regard to the statutory guidance and to the provisions of the Enforcement Concordat which Epping Forest District Council has adopted, in addition to the Council's duty to take action where a Category 1 hazard exists, the Council will generally exercise its discretion to take the most appropriate course of action where a Category 2 hazard exists in the following situations:

#### **Level To Which Hazards Are To Be Improved**

The Housing Act 2004 requires only that the works specified when taking the most appropriate course reduce a Category 1 hazard to Category 2 hazard. For example Band C and Band A hazards need only be reduced to Band D. The Council will generally seek to specify works which, whilst not necessarily achieving the ideal, which achieve a significant reduction in the hazard level and in particular will be to a standard that should ensure that no further intervention should be required for a minimum period of twelve months.

#### **Tenure**

In considering the most appropriate course of action, the Council will have regard to the extent of control that an occupier has over works required to the dwelling. In normal circumstances,

this will mean taking the most appropriate course of action against a private landlord (including a Housing Associations) and in most cases this will involve requiring works to be carried out. With owner occupiers, in most cases they will not be required to carry out works to their own home and the requirement to take the most appropriate course of action will be satisfied by the service of an Hazard Awareness Notice.

However, the Council may in certain circumstances require works to be carried out, or to use Emergency Remedial Action or serve an Emergency Prohibition Order, in respect of an owner occupied dwelling. This is likely to be where there is an imminent risk of serious harm to the occupiers themselves or to others outside the household, or where the condition of the dwelling is such that it may adversely affect the health and safety of others outside the household. This may be because of a serious, dangerous deficiency at the property. Another example is a requirement to carry out fire precaution works to a flat on a long leasehold in a block in multiple occupation.

### **Enforcement Concordat**

The Council has adopted the Enforcement Concordat and observes its principles.

With specific regard to Part 1 of the Housing Act 2004, the principles of the Enforcement Concordat mean that the Council will take an informal approach to the Act. However, this will not be appropriate where:

- A. There is a risk to health and safety from a hazard of a nature which requires prompt formal action; or,
- B. There is evidence of previous non compliance with statutory provisions made under the Housing Acts or other housing related legislation.

### **Charging for Notices**

In accordance with Sections 49 and 50 of the Housing Act 2004, the Council reserves the right to charge and recover the reasonable costs incurred in taking the most appropriate course of action.

The Council is likely to charge only where:

- A. A formal notice is required to remove a serious threat to health and safety unless the threat arose because of circumstances outside the control of the person receiving the notice, order or action; and/or,
- B. There is evidence of previous non compliance with statutory provisions made under the Housing Acts or other housing related legislation, and/or,
- C. No adequate action has been taken in response to informal requests from the Council to take action or do works.

## APPENDIX 5

### DCLG GUIDANCE ON DECENT HOMES STANDARD

#### 1.0 INTRODUCTION

- 1.1 The Government has introduced the “Decent Homes Standard” in order to link increased funding for housing with clear improvements in standards. The first guidance on the Decent Homes Standard was issued in July 2001, with revised guidance in February 2004.
- 1.2 The Decent Homes Standard was originally applied only to homes owned by local authorities and registered social landlords. However, the standard has now been applied by the Government to vulnerable households in the private sector by Target 7 of the Public Services Agreement.
- 1.3 “Vulnerable” groups are considered by the Government to be those who may suffer health problems as a result of living in poor housing conditions which they do not have the resources to remedy themselves. Examples include those over 60, people with long term illness or disability or families with young children. In addition they are on low income or in receipt of disability related benefits.
- 1.4 Measurement of progress against the target is achieved through the annual English House Condition Survey (EHCS). The EHCS measures both property condition and the social circumstances of the household. To measure progress against the decent homes target in the private sector, the Government target refers to analysis of EHCS results in two consecutive years (to give robust figures).
- 1.5 The target applicable to private sector homes is:-
  - To secure a year on year increase in the proportion of vulnerable households in decent homes;
  - Proportion of vulnerable households in decent homes to be more than 65% in 2006-07;
  - Proportion of vulnerable households in decent homes to be more than 70% in 2010-11;
  - Proportion of vulnerable households in decent homes to be more than 75% in 2020-21

#### 2.0 WHAT IS THE DECENT HOMES STANDARD?

- 2.1 The most recent definition of the Decent Homes Standard was given in guidance from the Office of the Deputy Prime Minister in February 2004. The guidance is based on four main principles:-
  - a) It meets the current minimum standard for housing;
  - b) It is in a reasonable state of repair;
  - c) It has reasonably modern facilities and services;
  - d) It provides a reasonable degree of thermal comfort.
- 2.2 The standard is a *minimum* standard. The Government expects both social landlords and local authorities responsible for securing standards in the private sector to aim for the best standards attainable. The meaning of the individual criteria are explained in more detail below:
  - A. It meets the current statutory minimum standard for housing**
- 2.3 Previously the minimum standard for housing was the “fitness standard” set by the Housing Act 1985. The Act listed nine factors to take into account when a local Council is

deciding whether a home is “reasonably suitable for occupation” and so “fit for human habitation”. (The factors included freedom from damp, structural stability, lighting, ventilation and amenities.)

- 2.4 The standard, which dates back 80 years and was last revised in 1989.
- 2.5 The fitness standard has now been replaced by the Housing Health and Safety Rating System, prescribed method of assessment which applied risk assessments to hazards to health and safety found in the home. The system is described in detail at Appendix 4.

#### **B. It is in a reasonable state of repair**

- 2.6 A home is in a reasonable state of repair unless:
- One or more key building components are old **and** because of their condition need replacing or major repair; **or**
  - Two or more other building components are old **and** because of their condition need replacing or major repair.

#### **2.7 What are “key” and “other” building components?**

Building components are the:

- Structural parts of a dwelling (e.g. wall structure, roof structure);
- Other external elements (e.g. roof covering, chimneys) and
- Internal services and amenities (e.g. kitchens, heating systems).

- 2.8 **Key building components** are those which, if in poor condition, could have an immediate impact on building integrity and cause further deterioration in other components. They are the external components plus internal components that have potential safety implications and include external walls, roof structure and covering, chimneys, windows/doors, chimneys, fixed heating appliances and electrics.

- 2.9 If any of these components are old and because of their condition need replacing, or require immediate major repair, then the dwelling is not in a reasonable state of repair and remedial action is required.

- 2.10 **Other building components** are those that have a less immediate impact on the integrity of the dwelling. The standard takes into account their combined effect - a dwelling is not in a reasonable state of repair if 2 or more are old and need replacing or require immediate major repair.

#### **2.11 What is old and in poor condition?**

A building component is treated as 'old' if it is older than its expected or standard life. The Government lists the lifetimes that may typically be expected for individual building components e.g. 50 years for a roof structure.

- 2.12 Components are in poor condition if they need major work, either full replacement or major repair. Again the Government sets out definitions for different components. For example, with a wall structure this would mean replacing 10% or more or repairing 30% or more, and with a wall finish replacing or re-pointing more than 50%.

- 2.13 One or more key components, or two or more other components, must be both old and in poor condition to render the dwelling non-decent on grounds of disrepair. Components that are old but in good condition or in poor condition but not old would not, in themselves, cause the dwelling to fail the standard e.g. a roof structure that was less than 50 years old but which had failed because of a fault.

#### **C. It has reasonably modern facilities and services**

- 2.14 A dwelling is considered non decent under this heading if it lacks three or more of the following facilities:

- A kitchen which is 20 years old or less;



- A kitchen with adequate space and layout;
- A bathroom which is 30 years old or less;
- A bathroom and WC located in an appropriate place;
- Adequate noise insulation;
- Adequate size and layout of common entrance areas for blocks of flats.

2.15 These standards have been measured in the English House Condition Survey (EHCS) for many years. Examples in practice would be: -

- A kitchen with adequate space and layout would be too small to contain all the required items (sink, cupboards cooker space, worktops etc) appropriate to the size of the dwelling;
- A main bathroom or WC located in a bedroom or accessed through a bedroom (unless the bedroom is not used or the dwelling is for a single person);
- A dwelling would also fail if the main WC is outside or located on a different floor to the nearest wash hand basin - or if a WC without a wash hand basin opens onto the food preparation area.

**D. It provides a reasonable degree of thermal comfort**

2.16 The revised definition requires a dwelling to have both **efficient heating** and **effective insulation**.

2.17 Efficient heating is defined as any gas or oil programmable central heating or electric storage heaters or programmable LPG/solid fuel central heating. Heating sources which provide less energy efficient options fail the Decent Homes Standard.

2.18 Because of the differences in efficiency between gas/oil heating systems and the other types of system, the level of insulation considered appropriate also differs:

- For dwellings with **gas / oil programmable heating**, at least 50mm loft insulation (if there is loft space) and cavity wall insulation (if there are cavity walls that can be insulated effectively).
- For dwellings with the less efficient **electric storage heaters / LPG / programmable solid fuel central heating**, at least 200mm of loft insulation (if there is a loft) and cavity wall insulation (if there are cavity walls that can be insulated effectively). Loft insulation thickness of 50mm is an absolute minimum which will trigger action.