



Building the right home: NHS capital guidance

Guidance for clinical commissioning groups, integrated care systems, local authorities, support, care and housing providers on NHS capital grants and legal charges for properties for people with a learning disability and autistic people.

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Introduction

[Building the right home](#)¹ 2016 is the national NHS guidance on housing for people with a learning disability and autistic people, and who need specialist accommodation with support or care to support them out of hospital or to prevent them needing admission. Its aim is that more people live in their own home while getting the support they need to live healthy, safe and rewarding lives.

NHS England made £100 million available in capital grants between 2016 and 2021 to support the development of short-term and settled (long-term) accommodation for people with a learning disability and autistic people. The [NHS Long Term Plan](#) sets further commitments for 2023/24 to support the ambitions of [Building the right support](#).² These two policies are linked as they describe the types of services and accommodation needed to support people to live in the community, in settings that will support their needs and help prevent further admissions to secure hospital placements.

From April 2021, NHS capital funding for supporting people with a learning disability and autistic people's housing will be managed by regions working in partnership with integrated care systems (ICSs) to prioritise spend in line with local, regional and national priorities aligned with the aims of the [NHS Long Term Plan](#). This builds on NHS organisations' commitment to provide accommodation in the community for people with a learning disability and autistic people.

The aim is to improve access to specialist and supported housing options, working with colleagues across housing, health and social care. NHS England capital for the learning disability and autism programme can be granted to develop accommodation in accordance with Section 256 and Section 257 of the NHS Act 2006³.

This guidance will help systems to access capital grant funding to develop housing which will play a key role in enabling them to meet their Building the right support targets as set out in the NHS Long-Term Plan.

This document sets out the process for:

applications for new grant of capital funds for the purchase, development or redevelopment of land or a property

¹ NHS England 2016 www.england.nhs.uk/learning-disabilities/care/housing/

² NHS England 2015 www.england.nhs.uk/learning-disabilities/natplan/

³ <https://www.legislation.gov.uk/ukpga/2006/41/section/256>

making changes to an existing legal charge/capital grant agreement (CGA).

Any queries from grant applicants, recipients, clinical commissioning groups (CCGs) / integrated care systems (ICSs) and local authorities should be directed to the senior NHS learning disability and autism housing manager / housing lead for your NHS region. Further information is available via [regionally-based senior housing manager / housing lead contacts](#).

1. The legal framework

NHS England is empowered to make capital grants under the NHS Act 2006 (as amended) ('the Act'). For the purposes of grants under [Building the right home](#), the relevant sections of the Act are:

1. Section 256 – Power to make payments towards expenditure on community services

These are grant payments which can be made to local authorities, housing authorities, registered social landlords or registered providers of social housing.⁴

2. Section 257 – Payments in respect of voluntary organisations

These are grant payments which can be made to voluntary organisations. "Voluntary organisation" means a body which carries out activities which are not for profit, not including any public or local authority.⁵

The National Health Service (Conditions Relating to Payments in connection with Property by NHS England Bodies to Local Authorities and other bodies) Directions 2016 ('the 2016 Directions') state that in making the grant, we must be satisfied that:

the grant **provides better value than would an equivalent investment** in directly commissioned services

the **amount of the grant is determined before the project begins**

the **recipient intends to meet all other costs** of the project itself.

We then need to prepare appropriate legal written documentation, including a statement about the purposes for which the payment is made; enter the payment details and project on a central register of loans and charges, and ensure the recipient uses the payment to secure the most efficient and effective use of the funds paid.

⁴ A full description of the bodies to which a grant can be made can be found at www.legislation.gov.uk/ukpga/2006/41/section/256

⁵ For more details, please go to www.legislation.gov.uk/ukpga/2006/41/section/257

1.1 Our standard legal agreement

The 2016 Directions state that before a paying authority (in this case NHS England) makes a payment under Section 256 or 257 towards the cost of acquiring, and/or of executing works to land or other property, the recipient must complete a written agreement. This is done by way of a standard legal agreement we have prepared. This enables the grant to be released, or the transaction processed, to either a registered social landlord, voluntary organisation/charities providing care services or local authorities. The capital grant agreement (CGA) and legal charge are standard documents that will only be changed in exceptional circumstances.

1.2 Gaining approval for a potential scheme/investment

Initial conditional approval to progress a scheme is provided following review of the project initiation document (PID) and supporting documents by the national expert review group (ERG). This group reviews the business case for funding and will recommend projects for approval to the regional decision-makers. All PIDs need to be signed by the relevant CCG/ICS, local authority, recipient organisation and regional director of finance for the ICS area. They also need to demonstrate support from the local learning disability and autism partnership board.

For projects with a capital value up to £3 million, PID approval is required. For projects with a value of more than £3 million, a PID and business justification template (BJT) need to be completed and approved.

The regional senior housing manager / housing lead will check that the conditions of initial recommendation from ERG have been met and will advise the applicant through the internal approval process to achieve final approval. All signed approval papers will then be sent to our legal team, who will begin to prepare the legal agreements via NHSE's panel solicitors.

Our legal team instruct these solicitors to agree the CGA and the creation of a new charge (if the recipient is a voluntary organisation) or a restriction on the title of the property (if the recipient is a local authority).

A grant made direct to a local authority to support the acquisition or alteration of a property owned by the local authority cannot be secured by a legal charge as this is ultra vires for the local authority. Consequently, Direction 4 (5) (b) of the 2016 Directions states that for grants of this nature, a restriction should be placed on the local authority's registered title in favour of NHS England.

Very exceptionally, we will agree to the charge in our favour being postponed until after that of a commercial lender if the grant recipient is using commercial borrowing to assist with the purchase or adaptation of the property. We will need to be satisfied that this would enable the recipient to use the payment in the most efficient and effective way. The security arrangements will require that the amount of such commercial borrowing is fixed and that there is enough equity in the charged premises for us to be confident that repayment in full of our grant is adequately secured. If a grant recipient believes the NHS grant should be postponed, this point should be discussed with their senior housing manager at an early stage of the scheme. The standard agreements and the legal charge document can be found by contacting your [senior housing manager / housing lead](#).

1.3 What can an NHS capital grant be used for?

The grant is available for projects that meet the strategic aims of [Building the right support](#) and [Building the right home](#). The grant is for settled (long-term) and short-term accommodation options for children, young people and adults with a learning disability and autistic children, young people and adults or have mental health issues who display behaviour that can challenge. It is important that people have access to a variety of housing options to be able to access the accommodation with care that is right for them.

1.4 What types of projects can be funded with an NHS England grant?

The capital funding can be used to **purchase land, build new accommodation or carry out refurbishment/adaptations** to an existing building to make it suitable for the occupant's settled accommodation. Projects can include both settled and short-term residential or supported housing accommodation models, where they are part of a pathway out of an inpatient setting or part of a clear service model to prevent inpatient admissions. It cannot be used for accommodation to support long-term residential care services.

Our capital can be used to support the **purchase of a property (or properties) on the open market** for an identified individual or small group of individuals. The process for requesting capital for an open market purchase is the same. In most circumstances, for an open market purchase PID to be approved, it is necessary to identify a named property and schedule of works costs. However, in some circumstances, where the local property market moves very quickly and/or where there is an urgent need to house an individual, an alternative approach is to provide cost comparisons of similar properties with a likely works schedule linked to an environmental specification for an

individual or individuals. This enables a reliable estimate to be made of the total capital grant required. Providing robust estimates can enable conditional approval to be given so that a property can be found and bought without delay to prevent the property purchase being held up and the purchase falling through. Any money for adaptations will only be released on a full costed work schedule.

For open market purchases, where no specific property has yet been identified, the PID type 9⁶ should be used (available from senior housing manager / housing lead contacts). This can enable conditional approval based on the type of property being sought, a specified tightly prescribed geographical location, maximum purchase price and an estimate of adaptation costs. Final approval conditions must be met when a suitable property is found that meets the cost parameters, location and specification in relation to needs and adaptations. Where a property has been identified, PID type 4⁷ is used.

In exceptional circumstances, after all other capital funding options are fully explored and exhausted and there are no other options available, there can be consideration of a bid for NHS England capital to support **shared ownership for people with a learning disability (HOLD)**. The recipient would need to set out all the routes for funding which have already been explored, in a full options appraisal. Advice on the approach to completing the PID and supporting documents can be sought from the regional senior housing manager / housing lead, as with all other bids.

1.5 Which types of organisation can access our capital?

The capital can be paid to a local authority, registered housing association, care provider organisation with charitable status or private registered provider of social housing. It cannot be paid to a private individual or private organisation.

⁶ PID type 9 should be used in this circumstance, at the time of writing; however this could be subject to change. In this instance, the regional senior housing manager / housing lead will provide any updated forms.

⁷ See above.

2. Requesting a new grant

Each region invites expressions of interest (EOI) detailing requests for capital linked to accommodation needs, enabling the identification of local priorities and determination of the viability of initial requests for capital. There is a submission process throughout the year, at least annually within each region - although submissions can also be considered throughout the year. Do ask your regional senior housing manager / housing lead for more information. (See below for recipient process for new grant applications.)

2.1 Process for applicants and partners progressing bids for NHS England learning disability capital

See Figure 1 below for a schematic summary.

Actions to develop an EOI proposal

1. Share ideas with partners/NHS England regional senior housing manager / housing lead, to help assess early options which can be funded, e.g. whether the proposal is compliant with [Building the right support](#) and [Building the right home](#).
2. Consider if it fits with best practice regarding design principles by reviewing proposal against our NHS England learning disability and autism design guide (available on request).
3. If a scheme demonstrates a good strategic fit, you will be advised to send this to the regional EOI panel for review.
4. Following the review, the EOI panel will advise on the ICS's next steps in relation to support for the development of the bid. Partners/providers may still need to be identified and bid completion and approval will still be needed.
5. Ensure other viable accommodation/service options have been identified and investigated.
6. Provide your legal team with our capital grant agreement (available on request). Ensure their full agreement with the conditions of the grant at this stage.
7. Provide a high-level estimate of the capital needed, timescales for delivery that align with spending in-year or across two years, and a description of the service offer, size, who it is for and how it will deliver benefits.

8. Ensure you have developed the proposal in partnership/agreement, e.g. with a registered housing provider, provider charity, CCG/ICS or local authority.
9. If possible, get in principle agreement from your ICS or other relevant board in advance of the proposal.

NB: If your area(s) misses the EOI process and moves straight to developing a PID, make sure that this is included in the local ICS capital plans for the year the capital is needed.

Actions to develop a PID

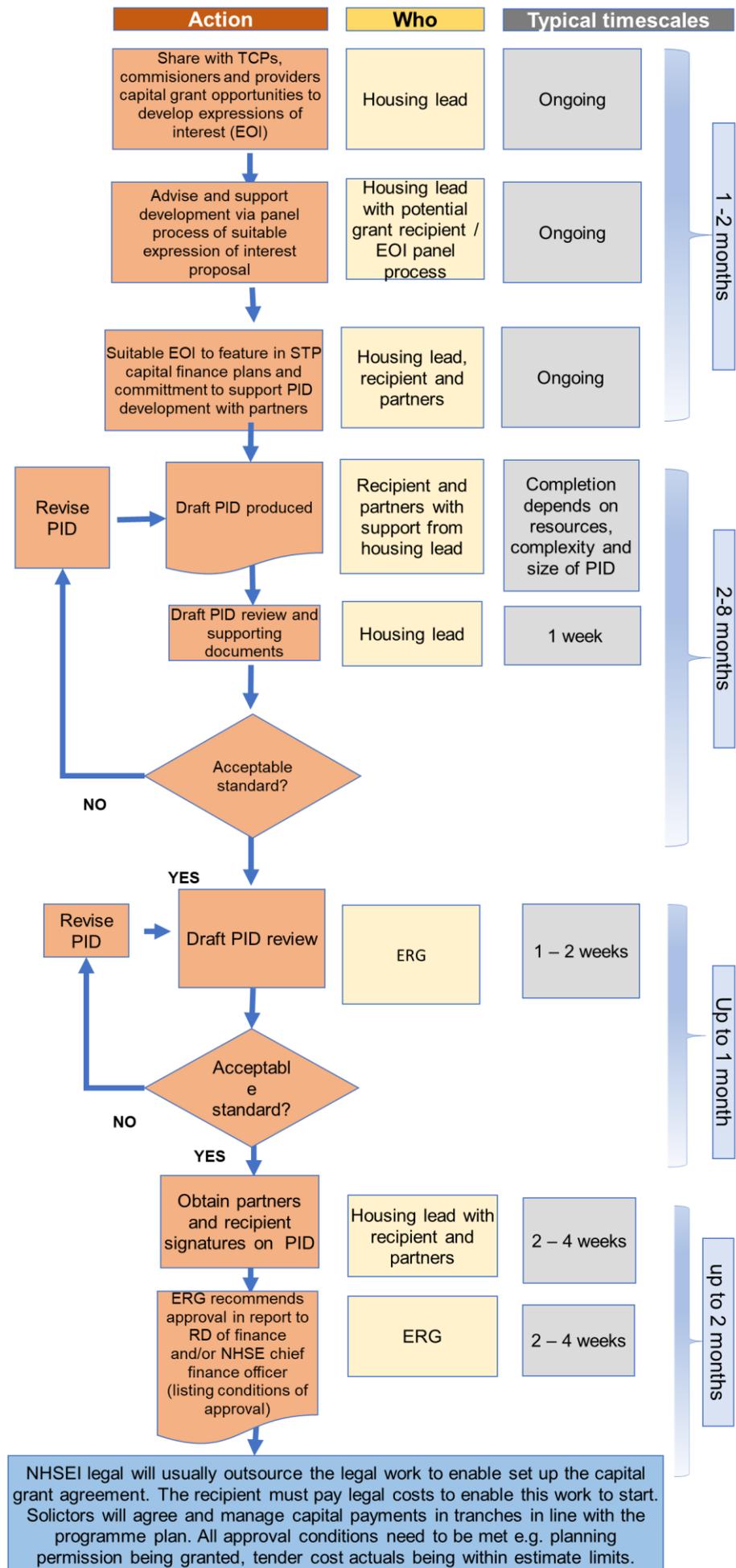
1. Provide written agreement to the acceptance of a CGA from your legal team if within a local authority or part of a charity or registered housing provider organisation.
2. Complete the options appraisal for the chosen proposal, using the template provided.
3. Complete the revenue and capital appraisal template provided.
4. Ensure that within the PID and supporting documents you state any assumptions, evidence of outcomes and other benefits
5. Obtain land title as applicable, eg if land is owned by the recipient.
6. Develop a programme plan detailing key timelines linked to design plans, tender process, planning permissions, start on site, build phase(s), completion, etc.
7. Prepare estimated costs, provide breakdown of detail to cover professional fees, site preparation, internals and externals.
8. Complete the PID to reflect the supporting documents/information above.
9. Place all the supporting documents in a zip file with the completed PID document.
10. Send to the regional senior housing manager / housing lead for review, who will return their comments.
11. Amend and resubmit to the regional senior housing manager / housing lead; two to three iterations may be needed to finalise the draft version.

Actions for ERG review and approval stage

1. The regional housing lead will submit the PID to the ERG once all documents are completed to the required standard and are ready for review. The group meet to review the quality of PIDs. Any issues raised by the ERG need prompt responses.

2. Amendments may be required to address issues raised by the ERG.
3. Once the final PID and supporting documents are available, the senior housing manager / housing lead will then co-ordinate final signatures and send on to the ERG for final approval.
4. Following review, the ERG will make recommendations to the regional director of finance (RDOF) and chief finance officer (CFO) to request approval. At the same time the PID/business case will go through the regional capital steering group for comment/review.
5. The ERG will recommend conditions of initial approval. These will need to be met before capital is released but enable the project to progress. These are likely to be:
 - a. achieve planning permission
 - b. provide works cost actuals following tender within initial approval limits
 - c. project timelines remain in line with initial programme plan, so there is no slippage or delay that requires more funds, etc.
6. Once the approved PID has the RDOF and / or NHS England CFO signature added, the legal process for creating the CGA can begin. The senior housing manager / housing lead will send the final PID and supporting documents to legal for this work to start.
7. The recipient needs to pay the legal fees to our solicitors to enable them to start work on the CGA.
8. Once all the conditions of approval are met, the CGA is dated following signing.
9. The capital funds will be released in pre-agreed phases in line with the programme plan. This typically sets out when the design, purchase, tender, development, sale and/or refurbishment will start and finish. All this information, including costs, will be available after the tender for works is complete.
10. **We will carry out a post-project review once the service has been operational for 6 to 12 months, to help improve management of future projects.** This learning will be fed back to the ERG.

Figure 1: Process for applicants and partners progressing bids for NHS England learning disabilities capital



Key

EOI	Expression of interest – initial proposal from either housing provider, local authority or charity for capital funds from NHS England
TCP	Transforming care partnerships – representation across health, voluntary and other government supporting improved outcomes for people with a learning disability and/or people who are autistic.
ICS	Integrated Care System – bringing the NHS together locally to improve population health and care.
ERG	Expert Reviewers Group is internal to NHS England, providing input from finance, housing and experts by experience to give consistent approach nationally on assurance of bids/PIDs for capital projects for recommendation for approval to regional teams.
CFO	Chief Finance Officer – internal to NHS England, signature required to approve PIDs for bids for capital over £1m.
PID	Project initiation document – contains the bid information that the recipient needs to submit. Supporting documents must accompany the PID in a zip file.

Draft PIDs can be considered throughout the year. However, initial drafts of PIDs are ideally expected with the necessary supporting documents late in Q4 or early in Q1/Q2 to allow enough time to develop them to gain approval and enable completion of the capital grant agreement in time to spend the capital within year. Any PIDs after this time risk not being able to get them approved and spent within the same financial year. Regions can, however, profile spending over two years, although the allocated spending for that year will need to be spent in-year.

The EOIs are prioritised and agreed with the relevant local area and with our senior housing manager / housing lead and regional team responsible for learning disability and autism. Any funding requests must align to the priorities of the service transformation programme in their areas.

The senior housing managers / housing leads initially assure all PIDs for capital investment and will advise when the PID and supporting documents are ready to take for approval to ERG. For bids up to £1 million the PID can be approved by the RDOF; bids over this value need to be approved by our chief financial officer unless financial authority is devolved.

2.2 Approval stages for capital schemes

All projects require a PID to be completed with supporting documents. The rationale to support the case for investment is articulated via the PID, with evidence in provided in

the supporting documents. A proportionate approach is taken to review, so more detail and justification are needed for larger and more complex projects requiring more capital investment.

For projects over £1 million, additional information is required for ERG recommendation. Usually the ERG identifies what additional information is needed after their initial review and recommendation of the PID. This enables the recipient to have some initial assurance of funding recommendation as the project progresses and as they develop the business case to meet the second stage of recommendation by ERG. Investment at this level will also need sign-off from our chief financial officer. In summary:

under £1 million: PID and supporting documents

£1 million to £3 million: PID and additional detail on the supporting documents required

more than £3 million: a BJT is also needed to set out a more detailed business case.

Stages of recommendation from ERG

One stage only – for schemes under £3 million: recommendation with conditions attached provided via the ERG pending signatures from the region and all relevant partners. This one-stage conditional approval enables partners to progress as they gain some early support from the ERG to the initial plans for larger and more complex projects as they progress.

Two stages – for schemes over £3 million: a two-stage approval process is needed, where a BJT is reviewed at Stage 2 and our chief financial officer's approval is also required. More evidence is needed to justify investment over £3 million.

The senior housing manager / housing lead will work with the partners to prepare and review the case for investment. They can provide templates and examples to help applicants prepare their bids. The initial submission of the PID to the ERG must be supported by these documents as a minimum:

options appraisal (setting out all viable options considered)

scaled design plans, typically internal, external and elevations

completed design guide checklist

service statement (setting out the service to be delivered and why it is needed)

value for money analysis/cost-versus-benefits case

estimated works costs

programme plan

procurement approach (how value for money will be achieved for development works)

property/land title (as available)

schemes over £3 million will require an additional BJT (detailed business case).

Every grant approval will include the standard approval conditions to be met. Usually this involves providing evidence of:

planning notice full approval (as applicable)

final tender prices within initial approval amounts.

Other conditions may be recommended by the ERG or RDOF, and these will be discussed at the time with the bidder if applicable.

Once the RDOF has approved the PID, our legal team will instruct their nominated solicitors. They will start work once their legal fees/undertakings have been paid by the recipient. They will set up the CGA and legal charge ready for signing. Once signed, the capital can be transferred via the solicitors to the recipient as agreed. The payments will be in pre-agreed tranches in line with the completion of the development programme.

2.3 What can be paid for using our capital?

Any adaptations to premises relating to the building's fabric (eg replacement windows) or its integrated building services (eg boilers, wiring, pipework) will fall into this category, as will items integrated into the building that are not moveable or readily removable without damaging the building (eg bathroom fittings, kitchen units, etc. To clarify white goods are not included).

Where an adaptation is for moveable or removable equipment (eg a bed hoist), the CCG/ICS will need to access funding for this using alternative funding mechanisms for equipment to support care services generally. This could include using council / CCG / ICS community equipment budgets, or other areas of joint funding covering capital purchases that support people to stay in their own homes. Independent charities such as the Disabled Living Foundation can advise, as can occupational therapists, who can provide an assessment in the home to support how options will be funded. The CCG / ICS should state clearly in its PID how it intends to fund this moveable/removable equipment that is not eligible for our capital grant. For example, assistive technology integrated into the development can be funded via our capital grant, but other technical equipment would likely be funded through health and social care community equipment, assistive technology or Better Care Fund budgets.

2.4 What is an acceptable standard of housing for new-build properties?

We expect that new-build properties meet the technical standards set out in our design guide checklist for new schemes. This is available from your [senior housing manager / housing lead](#). This guidance is based on the adaptable homes standards set out in Building Regulations: Approved Document M: access to and use of buildings, Volume 1: dwellings that exceed recommended national space standards for dwellings.⁸

Our view is that specialist and supported housing for people with a learning disability and autistic people should be bigger than standard to enable access, safety and the provision of support and care. Also, it should:

meet technical housing standards – nationally described space standard⁹

be consistent with best practice in design, accessibility and flexibility in relation to supported and specialist housing.

- Be future proofed
- Be sensory suitable environment

For all requests for capital for new builds (as well as refurbishments and open market purchase), we would expect the design to fit the environmental requirements of the people living in the accommodation and using the new service. Considerations would be around flexibility, space, location, accessibility, use of materials and cost. Similarly, as far as possible the design should demonstrate good practice in the design of supported housing and short-term residential placements. Specific advice can be sought from senior housing managers and their estates colleagues.

2.5 Care Quality Commission registration requirements

Capital approvals must be consistent with the Care Quality Commission's (CQC) registration requirements for care or health services and the principles in its policy Right Support, Right Culture.¹⁰

The scheme sponsor must:

⁸ www.gov.uk/government/publications/access-to-and-use-of-buildings-approved-document-m

⁹ www.gov.uk/government/publications/technical-housing-standards-nationally-described-space-standard

¹⁰ www.cqc.org.uk/sites/default/files/20170612_registering_the_right_support_final.pdf

- determine the registration requirements, seeking CQC's advice as necessary
- confirm there will be no requirement to register as a care or nursing home or as a healthcare facility
- quantify in the PID/risk assessment the extent of known risk in relation to gaining CQC registration as a home or healthcare facility in the future. This should include evidence on CQC's opinion before PID approval.

3. Process for making changes to an existing grant agreement

A variation to an existing capital grant agreement (CGA) can be arranged if the grant recipient is:

- seeking to change the use of a property
- wanting to invest their own capital in the property (which will potentially change the proportionate shares NHS England and the grant recipient hold in the property)
- reconfiguring, eg corporate restructuring
- transferring ownership of the property to another local authority, housing association or charity.

Usually this will involve discharging the existing CGA and legal charge (or restriction in the case of Local Authority) and/or replacing them with new CGA and legal charge or restriction as appropriate. Any requests for changes to current grants, or where there is a request for more funding, will need to be discussed with the senior housing managers (see below for topping up a grant). Any variations or new grants will be subject to an undertaking to pay our legal costs for the work done.

3.1 Topping up a capital grant

Recipients can ask to top up an existing capital grant in a property to pay for refurbishment or additional adaptations to the property.

Topping up the grant will require a new PID setting out the case for additional funding. The process is the same as for new funding requests: that is, the development of a new PID and supporting documents. The process is the same as for new grants. Top-up grants are usually only considered on historical legal charges, and recipients are discouraged from making multiple bids on the same property in close succession.

3.2 Discharge or redemption of a grant

There are various reasons why a grant may need to be redeemed:

- The recipient may want to sell the site or use it for a purpose not consistent with the grant agreement.
- The recipient may want to transfer the property to another housing association to manage.
- NHS England may want to redeem the grant if they are informed, or a review finds, that the property is no longer being used for the intended purpose of providing accommodation for people with complex needs. The process for making changes to existing grants, such as a redemption/discharge of a grant, is set out below.

3.3 Process for recipient organisations seeking changes to a capital grant agreement

See Figure 2 for a schematic summary.

Seeking changes to an existing NHS England CGA

1. Discuss with the NHS England housing adviser what type of change is required to the current CGA held with NHS England. This could include:
 - A **variation** to an existing grant e.g. request more capital, or a business name change, land boundary change, service model change.
 - A **discharge** of the current grant which will require the property to be valued then sold, or a **discharge** linked to a request to **'top up' investment** to support another new project. This will require a discharge of the current grant and a new PID/business case for the new investment request. Recipients will need to follow the process relating to a **new grant request for investment** which, if approved, will mean a new CGA.
 - **Consent** from NHS England is **required for some proposed dealing**. This could include consent to **bank borrowing including a deferment in the charge, creation of a lease with a provider, change of name or care provider**.

2. Where there is a need for a **variation, discharge or consent to change elements of the grant**, NHS England legal and their panel solicitor will need to review relevant documents relating to the change and will request specific information where appropriate. This could include the need for a valuation report, including details of the recipient's investment in the upkeep of the property to maintain it and any other investment they have made relating to the property.

Variation of a CGA or NHS England consent to a change

1. If a variation of the CGA is needed, eg change in an organisation or company name, or in the intended purpose for the building, or where the recipient wishes to invest their own capital and change the contribution of investment within the CGA, all details of the proposed change need to be evidenced and shared with NHS England via the housing adviser. This will include providing all current paperwork relating to the existing CGA.
2. The housing adviser will check whether the recipient and service still qualifies for grant, and if the terms of the original grant are still being met. Once they are clear on the status of the grant and the type of change required, they will progress with the recipient to provide the necessary information to NHS England legal, who will pass this to their panel solicitors to action.
3. NHS England legal record all grants that need to be maintained. They also instruct their external solicitors to review and prepare the legal documents required for a variation, consent or/and a new CGA.
4. In the case of NHS England providing consent, this could be given where the recipient wants to lease the property or if there is a change in organisational name or use of the accommodation. In these cases, NHS England legal with their panel Solicitors will review and provide advice on the change proposed.
5. NHS England legal will assess whether the consent can be given under the existing CGA, or if a variation or new CGA is needed. A new CGA will be needed if the current documents are very old, or they refer to a former NHS organisation such as a Primary Care Trust or Health Authority; or if the CGA refers to the Secretary of State for Health.
6. If there is a need for a new CGA, this may require a valuation carried out on behalf of NHS England and the recipient. This provides independent assessment of the value and condition of asset.

7. Following signing of the new documents (consent, variation or new CGA) copies will be held by NHS England legal on their central register and by the recipient or their solicitor. Please note that the CGA is a standard agreement and cannot be renegotiated or changed and that the costs of the NHS England's panel solicitors will need to be paid by the grant recipient making the request.

Discharge (ending) of a CGA

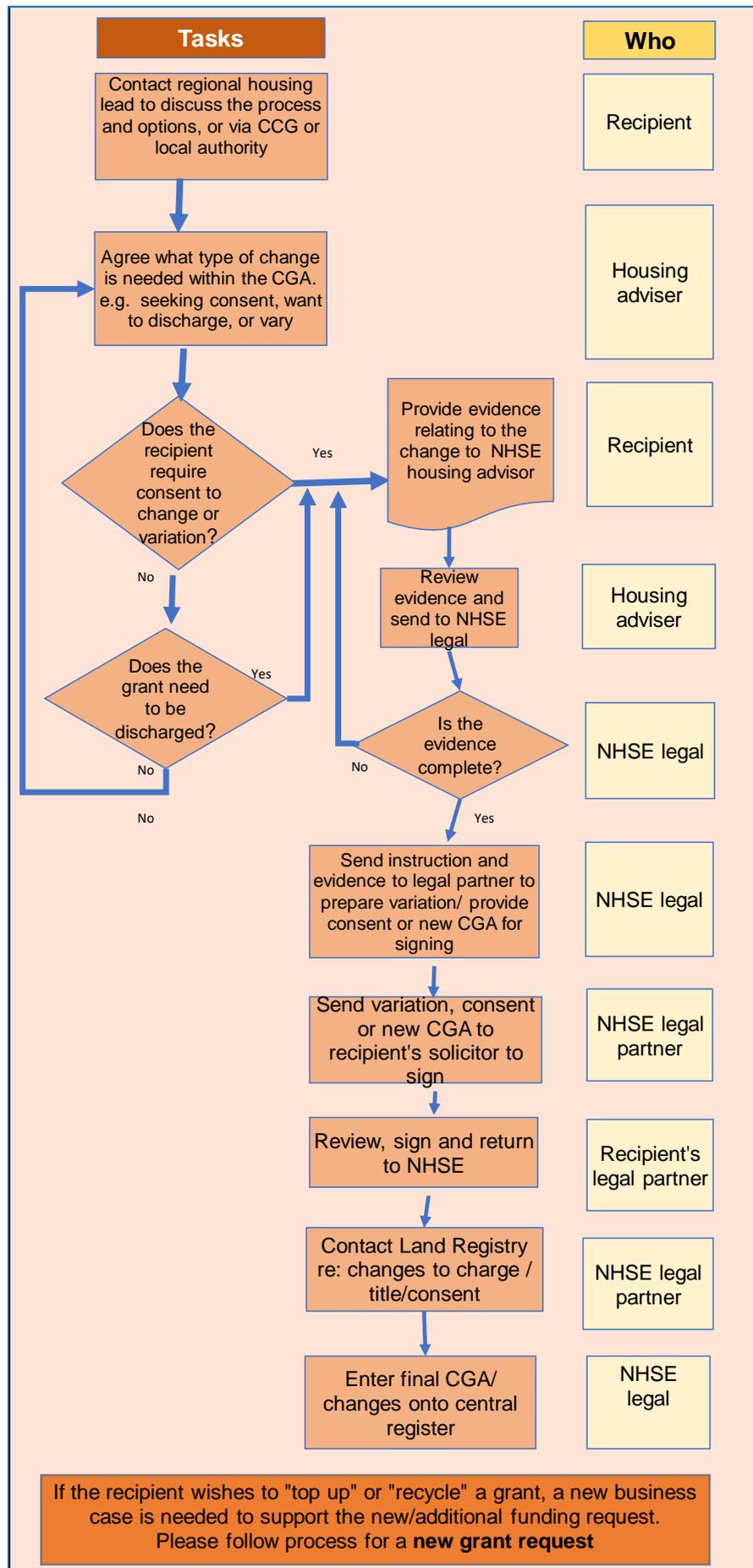
1. Where a CGA needs to be ended, this is called 'discharge' of the grant. This can happen for a variety of reasons. It requires the building to be revalued and may involve a sale, so that the contribution of capital can come back to the NHS to be invested elsewhere.
2. Before this can progress, the regional senior housing manager / housing lead must first check with local commissioners as to whether they have a potential alternative use for the property/land and whether there is an option for it to be used to meet some of their local commissioning intentions. If there is no use for the property / land, then the housing provider can proceed with progressing the discharge.
3. To enable solicitors on both sides to progress, the regional senior housing manager / housing lead will ask the recipient to gather:
 - Current CGA documents and a valuation report via (ideally) a RICS equivalent surveyor, addressed to both the recipient and NHS England.
 - Details of the condition of the property and any NHS England approved investment/changes the recipient has made over and above normal investment in the upkeep of the property during the period for which they have held the CGA. If validated, this enables it to be taken account of on sale.
 - Details of any reasonable disposal costs (e.g. legal fees) due to be incurred in the sale of the property need to be evidenced if under the terms of the CGA they can be deducted from the sale proceeds. NHS England will at its sole discretion determine whether these costs are reasonable.
4. Once these details are provided to the regional senior housing manager / housing lead, they will work with NHS England legal and the recipient to proceed to disposal and discharge of the grant.

Table 1: Stages in making changes to an existing grant

Stage	Action
<p>1. Request discharge/ Redemption</p>	<p>Recipient requests permission to sell, stating the reason.</p> <p>Housing senior managers / leads will inform the grant recipient of the documentary requirements to progress.</p> <p>Housing senior manager / lead seeks confirmation from both the CCG/ICS and local authority that they have no further need to commission learning disability or mental health services from this property.</p>
<p>2. Legal process</p>	<p>Recipient engages their lawyer and provides necessary documents to our legal team.</p> <p>If there is evidence available, the recipient can take account of past additional investment in the property (over and above general upkeep) which was approved by NHS England, so they can be deducted from the sales proceeds.</p> <p>The reasonable (as determined by NHS England) costs of sales may also be deducted from the proceeds to be returned to us. This only includes costs that are payable to a third party such as an Estate Agent and related to sale.</p>
<p>3. Valuation</p>	<p>Grant recipient must provide a current market valuation to demonstrate that the property is in good repair and to be sold at open market value or what the value would have been if it had been maintained properly. Normally this would take the form of a report from the district valuer, but an independent RICS valuation is acceptable for open market sales in most circumstances. The valuation must be in the joint names, i.e. on behalf of the grant recipient and NHS England.</p> <p>Standard clauses in the grant require the property to have been maintained and in a good state of repair. In some cases, if this has not been done, we may be entitled to refuse to authorise a sale unless the grant recipient completes the works or contributes to the cost of necessary works or pays the difference in the value.</p>

4. Sale or other discharge	Our legal team will prepare and execute form of release. The grant is repaid following the sale or other discharge of the legal charge of property and the release document is provided to the Recipient's Solicitor to release the property from the registered legal charge or title restriction.
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Figure 2: Process for recipient organisations seeking changes to a capital grant agreement



3.4 Consent to vary under existing grant terms

We can consent to grant a lease or permit the creation of a legal charge in priority to the NHS England one and consent to other minor changes to an existing CGA: eg change in the number of residents, deregistration of nursing home, appointment of new care provider.

If you are not sure whether a change requires NHS England's consent under the terms of the CGA, please seek advice from our legal team via the senior housing manager / housing lead. To gain consent, similar stages are needed:

recipient requests consent to change something relating to the agreement

prepare for our legal team the necessary documentation relating to the request

either our legal team or one of NHS England's panel solicitors (where our legal costs must be met, and undertakings/fees paid before work is started) will prepare the consent requirements and revised documents; these may need to be signed and sealed.

Our legal team will work with the panel solicitors and recipient's lawyers to process the transaction and any post-completion steps.

3.5 Use of standard legal documents

After receiving a letter from a grant recipient asking to carry out one of the transactions described above (e.g. variation, discharge, consent), the senior housing manager / housing lead will respond, setting out what we need to complete the transaction.

We have standard legal documents to support recipients. All grant recipients will be expected to agree to the use of these documents for a grant to be released or transaction processed. Standard legal documents are available from senior housing managers / housing leads for each region; these are:

- (i) letter to District Valuer (DV)/ Royal Institute Chartered Surveyors (RICS) valuer from Registered Social Landlord (RSL) or local authority requesting valuation of a property in relation to a new grant
- (ii) letter to DV/RICS valuer from grant recipient requesting valuation to support a redemption event
- (iii) capital grant agreement for registered social landlords

- (iv) capital grant agreement for local authorities
- (v) standard legal charge document.

Letters (i) and (ii) are suggested letters that the grant recipient sends to the DV/RICS valuer. If the grant recipient wishes, they can of course use their own letters, but they need to make clear that we require a joint duty of care and that the valuation report must be addressed to both parties.

Documents (iii) to (v) are the new standard capital grant agreement and charge documents. These should be accepted by a grant recipient as written and are not open to negotiation except in exceptional circumstances at the advice of the NHS England legal team.

3.6 What form of security is required for a grant?

Under the current 2016 Directions the recipient (except in the case of a local authority) must accept a first charge in favour of NHS England being secured on a property.

The recipient's legal team must sign the PID documentation to agree to the proposal. This includes providing supporting evidence that they have reviewed and agreed to the standard legal charge documents. When the project is ready for the grant to be completed, the finalised documents will be executed by the recipient and NHS England will sign and seal them. The 2016 Directions state:

Section 4: Before a paying authority makes a payment under section 256 or 257 towards the cost of acquiring, or of executing works to (or both), land or other property the recipient must:

- (a) enter such documentation prepared by the paying authority under direction 3(a) as the paying authority reasonably requires;
- (b) if the recipient is a local authority which owns or has any other proprietary interest in that land or other property, enter a restriction on its registered title in favour of the paying authority; and
- (c) subject to paragraph (6), if the recipient is not a local authority, enter into a fixed charge in favour of the paying authority which must be registered with the Land Registry **(b)** and must have priority over all other charges registered in respect of that land or other property. Paragraph (6) modifies the requirement for a first charge.

NHS England (the paying authority) may prior to making the payment, at the paying authority's discretion, agree with the recipient that the charge referred to in paragraph (5)(c) can be granted with lesser priority (postponed) if the paying authority is satisfied that this would allow the recipient to use the payment in such a way as to secure the most efficient and effective use of the amount paid, and the paying authority may impose such conditions on the granting of the charge with lesser priority as it considers appropriate. Please see above for these conditions.

4. Further information

- A full contact list for local housing advisers and capital grants frequently asked questions is available on the [NHS England website](#).
- Regional senior housing managers / housing leads can provide the following key documents:
 - NHS England standard legal agreements
 - standard legal letters
 - project initiation documents (PIDs) type 4 and type 9
 - letter for new application and redemption of existing grant
 - NHS England learning disability and autism design guide
 - design guide checklist.
- Case studies and resources relating to people with a learning disability and/or who are autistic are available from [The Housing Learning and Improvement Network \(LIN\)](#) and local housing leads.

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This publication can be made available in a number of other formats on request.

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