Coventry City Council

Council Meeting

20 March 2007

Booklet 2

Recommendations

INDEX TO MINUTES

Page Nos.

Cabinet

20th February, 2007..…….. 1

6th March, 2007……14

CABINET

20th February, 2007

Cabinet Members Present:-	Councillor Arrowsmith Councillor Blundell Councillor Foster Councillor Mrs Johnson Councillor H Noonan Councillor O'Neill Councillor Ridley Councillor Taylor (Chair)
Non-Voting Opposition Representatives present:-	Councillor Duggins Councillor Mutton Councillor Nellist
Chair of Scrutiny Co-ordination Committee present:-	Councillor Sawdon (for the consideration of the matter dealt with in Minute 203 below)
Other Councillors present:-	Councillor Gazey
Employees Present:-	A. Bennett (City Services Directorate) J. Bolton (Director of Community Services) R. Brankowski (Legal and Democratic Services Directorate) N. Chamberlain (Finance and ICT Directorate) F. Collingham (Communications and Media Relations Manager) A. Davey (Head of Culture, Leisure and Libraries) C. Green (Director Children. Learning and Young People) C, Hinde (Director of Legal and Democratic Services) R. Keble (Children. Learning and Young People Directorate) S. Manzie (Chief Executive) J. Russell (Head of Planning and Transportation) C. Steele (Chief Executive's Directorate) R. Ward (City Development Directorate) C. West (Acting Director of Finance and ICT)
Apologies:-	Councillor Benefield Councillor Matchet

RECOMMENDATION

201. **Adoption of Combined Skin Piercing Byelaws**

The Cabinet considered a report of the Head of Public Protection seeking approval for the adoption of a combined set of byelaws to require the registration of cosmetic skin piercing and semi-permanent skin colouring activities. Existing byelaws for the practices of ear piercing, tattooing, acupuncture and electrolysis that already require registration would therefore need to be revoked.

The City Council is required to register certain activities that require the puncturing of the skin for cosmetic purposes or acupuncture (this does not include treatment by a qualified medical practitioner). The purpose of registration is to ensure that satisfactory standards of hygienic practice and business management are met to minimise risk to the client and the operator.

When a needle, razor or similar instrument breaks a person's skin, blood, serum or small fragments of tissue will adhere to the needle or instrument used. These can then be directly transferred to the blood-stream of another person, or could contaminate materials or other pieces of equipment. In this way, infection could be transmitted. Viral infections that could be transferred through unhygienic skin piercing include Hepatitis B and C and HIV (Human Immunodeficiency Virus). It is therefore imperative that adequate controls are in place.

Currently, under the Local Government (Miscellaneous Provisions) Act 1982, a person who carries on the practice of acupuncture or the business of tattooing, ear-piercing or electrolysis must register the premises where the skin piercing business operates with the Council for the area.

Skin piercers must also comply with any associated byelaws that may be made by the local authority and all relevant health and safety legislation, such as the Health and Safety at Work etc. Act 1974.

The City Council already has registration controls through byelaws that set hygienic standards in place for ear piercing, tattooing, acupuncture and electrolysis. Made at various times between 1983 and 1987, however, these byelaws do not cover the practices of body piercing or semi-permanent skin colouring.

An amendment made in 2003 allows local authorities to adopt byelaws to require the registration of cosmetic skin piercing and semi-permanent skin colouring, which had been omitted from the existing legislation. It therefore closed the 'loophole' that prevented the registration of persons not carrying out ear piercing but carrying out body piercing only.

The process of piercing parts of the body other than the ear carries an increased risk of bleeding and therefore infection. A number of cases nationally have resulted in fatal consequences where unhygienic practices have caused infections. Therefore strict

hygiene controls are essential.

The process of adopting the byelaws requires approval from the Cabinet, a resolution from the City Council (with the common seal affixed) giving authority for the necessary procedure of application to the Secretary of State to be carried out, and confirmation by the Secretary of State for Health. At least one calendar month before applying to the Secretary of State, the notice of intention to apply for confirmation must be given in at least one local newspaper, and a copy of the byelaws must be open to public inspection at the Council's offices without charge at all reasonable times.

Standard template documents are available from the Department of Health to assist in the model byelaws and council resolution (Appendices 1 and 2 to the report submitted refer).

The report indicated that the authority is entitled to charge a reasonable fee (currently £83.30) to cover the administration of the registration process but the level of income generated will not be material.

In legal terms, adoption of the byelaws would allow registration controls of businesses operating potentially outside the licence scheme. There may be future legal action against businesses that fail to register or continue to operate in contravention of the registration conditions.

RESOLVED that the City Council be recommended:

(1) To approve the adoption of the byelaws set out in Appendix 1 to the report submitted.

(2) To instruct the Head of Public Protection to undertake the necessary publicity required prior to the making of an application to the Secretary of State for Health for confirmation of the byelaws,

Coventry City Council

6

Public report

Report to
Cabinet 20 February 2007
Council 20 March 2007

Report of
Head of Public Protection

Title
Adoption of Combined Skin Piercing Byelaws

1 Purpose of the Report

1.1 The purpose of the report is to seek approval for the adoption of a combined set of byelaws to require the registration of cosmetic skin piercing and semi-permanent skin colouring activities. Existing byelaws for the practices of ear piercing, tattooing, acupuncture and electrolysis that already require registration would therefore need to be revoked.

2 Recommendations

2.1 The Cabinet is requested to recommended the City Council:

2.2 To approve the adoption of the byelaws attached in Appendix 1.

2.3 To instruct the Head of Public Protection to undertake the necessary publicity required prior to the making of an application to the Secretary of State for Health for confirmation of the byelaws,

3 Information / Background

3.1 The City Council is required to register certain activities that require the puncturing of the skin for cosmetic purposes or acupuncture (this does not include the treatment by a qualified medical practitioner). The purpose of registration is to ensure satisfactory standards of hygienic practice and business management are met to minimise risk to the client and the operator.

3.2 When a needle, razor or similar instrument breaks a person's skin, blood, serum or small fragments of tissue will adhere to the needle or instrument used. These can then be directly transferred to the blood stream of another person, or could contaminate materials or other pieces of equipment. In this way infection could be transmitted. Viral infections that could be transferred through unhygienic skin piercing include Hepatitis B and C and HIV (Human Immunodeficiency Virus). It is therefore imperative that adequate controls are in place.

3.3 Currently, under the Local Government (Miscellaneous Provisions) Act 1982, a

person who carries on the practice of acupuncture or the business of tattooing, ear-piercing or electrolysis must register the premises where the skin piercing business operates with the Council for the area.

3.4 Skin piercers must also comply with any associated byelaws that may be made by the local authority and all relevant health and safety legislation such as the Health and Safety at Work etc. Act 1974.

3.5 The City Council already has registration controls through byelaws that set hygienic standards in place for ear piercing, tattooing, acupuncture and electrolysis. Made at various times between 1983 and 1987, however, these byelaws do not cover the practices of body piercing or semi-permanent skin colouring.

3.6 An amendment made in 2003 allows local authorities to adopt byelaws to require the registration of cosmetic skin piercing and semi-permanent skin colouring, which had been omitted from the existing legislation. It therefore closed the 'loophole' that prevented the registration of persons not carrying out ear piercing but carrying out body piercing only.

3.7 The process of piercing parts of the body other than the ear carries an increased risk of bleeding and therefore infection. A number of cases nationally have resulted in fatal consequences where unhygienic practices have caused infections. Therefore strict hygiene controls are essential.

3.8 The process of adopting the byelaws requires approval from Cabinet, a resolution from full council to affix the common seal and to authorise the clerk to carry out the necessary procedure of application to the Secretary of State, and confirmation by the Secretary of State for Health. At least one calendar month before applying to the Secretary of State, the notice of intention to apply for confirmation must be given in at least one local newspaper, and a copy of the byelaws must be open to public inspection at the Council's offices without charge at all reasonable times. Standard template documents are available from the Department of Health to assist in the model byelaws and council resolution. (Appendices 1 & 2)

4 Other specific implications

	Implications (See below)	No Implications
Best Value		✓
Children and Young people		✓
Comparable Benchmark Data		✓
Corporate Parenting		✓
Coventry Community Plan		✓
Crime and Disorder		✓
Equal Opportunities		✓
Finance	✓	
Health and Safety		✓
Human Resources		✓
Human Rights Act		✓
Impact on Partner Organisations		✓

	Implications (See below)	No Implications
Information and Communications Technology		✓
Legal Implications	✓	
Neighbourhood Management		✓
Property Implications		✓
Race equality scheme		✓
Risk Management		✓
Sustainable Development		✓
Trades Union Consultation		✓
Voluntary Sector – The Coventry Compact		✓

5 Financial Implications

5.1 The authority is entitled to charge a reasonable fee (currently £83.30) to cover the administration of the registration process but the level of income generated will not be material.

6 Legal Implications

6.1 Adoption of the byelaws would allow registration controls of businesses operating potentially outside the licence scheme. There may be future legal action against businesses that fail to register or continue to operate in contravention of the registration conditions.

	Yes	**No**
Key Decision		✓
Scrutiny Consideration *(if yes, which Scrutiny meeting and date)*		✓
Council Consideration *(if yes, date of Council meeting)*	✓ 20th March 2007	

List of background papers

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Papers open to Public Inspection

Description of paper	**Location**
Enforcement Policy	Public Protection, Broadgate House

Appendix 1

Acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis

Byelaws for the purposes of securing the cleanliness of premises registered under sections 14(2) or 15(2) or both of the Local Government (Miscellaneous Provisions) Act 1982 and fittings in such premises and of persons registered under sections 14(1) or 15(1) or both of the Act and persons assisting them and of securing the cleansing and, so far as appropriate, sterilization of instruments, materials and equipment used in connection with the practice of acupuncture or the business of tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis, or any two or more of such practice and businesses made by Coventry City Council in pursuance of sections 14(7) or 15(7) or both of the Act.

Interpretation

1.—(1) In these byelaws, unless the context otherwise requires—

"The Act" means the Local Government (Miscellaneous Provisions) Act 1982;

"client" means any person undergoing treatment;

"hygienic piercing instrument" means an instrument such that any part of the instrument that touches a client is made for use in respect of a single client, is sterile, disposable and is fitted with piercing jewellery supplied in packaging that indicates the part of the body for which it is intended, and that is designed to pierce either—

(a) the lobe or upper flat cartilage of the ear, or

(b) either side of the nose in the mid-crease area above the nostril;

"operator" means any person giving treatment, including a proprietor;

"premises" means any premises registered under sections 14(2) or 15(2) of the Act;

"proprietor" means any person registered under sections 14(1) or 15(1) of the Act;

"treatment" means any operation in effecting acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis;

"the treatment area" means any part of premises where treatment is given to clients.

(2) The Interpretation Act 1978 shall apply for the interpretation of these byelaws as it applies for the interpretation of an Act of Parliament.

2.—(1) For the purpose of securing the cleanliness of premises and fittings in such premises a proprietor shall ensure that—

(a) any internal wall, door, window, partition, floor, floor covering or ceiling is kept clean and in such good repair as to enable it to be cleaned effectively;

(b) any waste material, or other litter arising from treatment is handled and disposed of in accordance with relevant legislation and guidance as advised by the local authority;

(c) any needle used in treatment is single-use and disposable, as far as is practicable, or otherwise is sterilized for each treatment, is suitably stored after treatment and is disposed of in accordance with relevant legislation and guidance as advised by the local authority;

(d) any furniture or fitting in premises is kept clean and in such good repair as to enable it to be cleaned effectively;

(e) any table, couch or seat used by a client in the treatment area which may become contaminated with blood or other body fluids, and any surface on which a needle, instrument or equipment is placed immediately prior to treatment has a smooth impervious surface which is disinfected—

(i) immediately after use; and

(ii) at the end of each working day.

(f) any table, couch, or other item of furniture used in treatment is covered by a disposable paper sheet which is changed for each client;

(g) no eating, drinking, or smoking is permitted in the treatment area and a notice or notices reading "No Smoking", and "No Eating or Drinking" is prominently displayed there.

(2)(a) Subject to sub-paragraph (b), where premises are registered under section 14(2) (acupuncture) or 15(2) (tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis) of the 1982 Act, a proprietor shall ensure that treatment is given in a treatment area used solely for giving treatment;

(b) Sub-paragraph (a) shall not apply if the only treatment to be given in such premises is ear-piercing or nose-piercing using a hygienic piercing instrument.

(3)(a) Subject to sub-paragraph (b), where premises are registered under section 15(2) (tattooing, semi-permanent skin-colouring and cosmetic piercing) of the 1982 Act, a proprietor shall ensure that the floor of the treatment area is provided with a smooth impervious surface;

(b) Sub-paragraph (a) shall not apply if the only treatment to be given in such premises is ear-piercing or nose-piercing using a hygienic piercing instrument.

3.—(1) For the purpose of securing the cleansing and so far as is appropriate, the sterilization of needles, instruments, jewellery, materials and equipment used in connection with treatment—

(a) an operator shall ensure that—

(i) any gown, wrap or other protective clothing, paper or other covering, towel, cloth or other such article used in treatment—

(aa) is clean and in good repair and, so far as is appropriate, is sterile;

(bb) has not previously been used in connection with another client unless it consists of a material which can be and has been adequately cleansed and, so far as is appropriate, sterilized.

(ii) any needle, metal instrument, or other instrument or equipment used in treatment or for handling such needle, instrument or equipment and any part of a hygienic piercing instrument that touches a client is sterile;

(iii) any jewellery used for cosmetic piercing by means of a hygienic piercing instrument is sterile;

(iv) any dye used for tattooing or semi-permanent skin-colouring is sterile and inert;

(v) any container used to hold dye for tattooing or semi-permanent skin-colouring is either disposed of at the end of each treatment or is cleaned and sterilized before re-use.

(b) a proprietor shall provide—

(i) adequate facilities and equipment for—

(aa) cleansing; and

(bb) sterilization, unless only pre-sterilized items are used.

(ii) sufficient and safe gas points and electrical socket outlets;

(iii) an adequate and constant supply of clean hot and cold water on the premises;

(iv) clean and suitable storage which enables contamination of the articles, needles, instruments and equipment mentioned in paragraphs 3(1)(a)(i), (ii), (iii), (iv) and (v) to be avoided as far as possible.

4.—(1) For the purpose of securing the cleanliness of operators, a proprietor—

(a) shall ensure that an operator—

(i) keeps his hands and nails clean and his nails short;

(ii) keeps any open lesion on an exposed part of the body effectively covered by an impermeable dressing;

(iii) wears disposable examination gloves that have not previously been used with another client, unless giving acupuncture otherwise than in the circumstances described in paragraph 4(3);

(iv) wears a gown, wrap or protective clothing that is clean and washable, or alternatively a disposable covering that has not previously been used in connection with another client;

(v) does not smoke or consume food or drink in the treatment area; and

(b) shall provide—

(i) suitable and sufficient washing facilities appropriately located for the sole use of operators, including an adequate and constant supply of clean hot and cold water, soap or detergent; and

(ii) suitable and sufficient sanitary accommodation for operators.

(2) Where an operator carries out treatment using only a hygienic piercing instrument and a proprietor provides either a hand hygienic gel or liquid cleaner, the washing facilities the proprietor provides need not be for the sole use of the operator.

(3) Where an operator gives acupuncture a proprietor shall ensure that the operator wears disposable examination gloves that have not previously been used with another client if—

(a) the client is bleeding or has an open lesion on an exposed part of his body; or

(b) the client is know to be infected with a blood-borne virus; or

(c) the operator has an open lesion on his hand; or

(d) the operator is handling items that may be contaminated with blood or other body fluids.

5. A person registered in accordance with sections 14 (acupuncture) or 15 (tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis) of the Act who visits people at their request to give them treatment should observe the requirements relating to an operator in paragraphs 3(1)(a) and 4(1)(a).

6. The byelaws relating to tattooing that were made by AH Pitts on the 14th December 1983 and were confirmed by the Secretary of State for Social Services on 6 April 1984 are revoked.

The byelaws relating to ear piercing that were made by AH Pitts on the 14th December 1983 and were confirmed by the Secretary of State for Social Services on 6 April 1984 are revoked.

The byelaws relating to acupuncture that were made by AH Pitts on the 14th December 1983 and were confirmed by the Secretary of State for Social Services on 6 April 1984 are revoked.

The byelaws relating to electrolysis that were made by AH Pitts on the 10th March 1987 and were confirmed by the Secretary of State for Social Services on 4 June 1987 are revoked.

COUNCIL'S SIGNATURE COUNCIL'S SEAL

The foregoing byelaws are hereby confirmed by the Secretary of State for Health
on and shall come into operation on

Member of the Senior Civil Service

Department of Health

NOTE – THE FOLLOWING DOES NOT FORM PART OF THE BYELAWS

Proprietors shall take all reasonable steps to ensure compliance with these byelaws by persons working on premises. Section 16(9) of the Local Government (Miscellaneous Provisions) Act 1982 provides that a registered person shall cause to be prominently displayed on the premises a copy of these byelaws and a copy of any certificate of registration issued to him under Part VIII of the Act. A person who contravenes section 16(9) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale (see section 16(10)).

Section 16 of the Local Government (Miscellaneous Provisions) Act 1982 also provides that any person who contravenes these byelaws shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale. If a person registered under Part VIII of the Act is found guilty of contravening these byelaws the Court may, instead of or in addition to imposing a fine, order the suspension or cancellation of the person's registration. A court which orders the suspension of or cancellation of a person's registration may also order the suspension or cancellation of the registration of the premises in which the offence was committed if such premises are occupied by the person found guilty of the offence. It shall be a defence for the person charged under the relevant sub-sections of section 16 to prove that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence.

Nothing in these byelaws extends to the practice of acupuncture, or the business of tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis by or under the supervision of a person who is registered as a medical practitioner, or to premises in which the practice of acupuncture, or business of tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis is carried out by or under the supervision of such a person.

Nothing in these byelaws extends to the practice of acupuncture by or under the supervision of a person who is registered as a dentist, or to premises in which the practice of acupuncture is carried out by or under the supervision of such a person.

The legislative provisions relevant to acupuncture are those in section 14. The provisions relevant to treatment other than acupuncture are in section 15.

The key differences in the application of requirements in respect of the various treatments are as follows:

The references in the introductory text to provisions of section 14 (acupuncture) of the Local Government (Miscellaneous Provisions) Act 1982 **only apply to acupuncture.**

The references in the introductory text to provisions of section 15 (tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis) of the Local Government (Miscellaneous Provisions) Act 1982 **do not apply to acupuncture.**

The references in paragraph 1(1) in the definition of "premises" to provisions of section 14 (acupuncture) **only apply to acupuncture.**

The references in paragraph 1(1) in the definition of "premises" to provisions of section 15 (tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis) **do not apply to acupuncture.**

The requirement in paragraph 2(2) that treatment is given in a treatment area used solely for giving treatment **applies to acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis but not to ear-piercing or nose-piercing using a hygienic piercing instrument**.

The requirement in paragraph 2(3) that the floor of the treatment area be provided with a smooth impervious surface **applies to tattooing, semi-permanent skin-colouring and cosmetic piercing but not to acupuncture or electrolysis or ear-piercing or nose-piercing using a hygienic piercing instrument**.

The requirements relating to dye or a container used to hold dye used for treatment in paragraphs 3(1) (a) (iv) and (v) **apply to tattooing and semi-permanent skin-colouring**.

The requirement in paragraph 4(1)(a)(iii) that an operator wears disposable examination gloves that have not previously been used with another client **does not apply to acupuncture otherwise than in the circumstances described in paragraph 4(3)**.

The provisions of paragraph 4(2) in relation to washing facilities **apply to cosmetic piercing using only a hygienic piercing instrument**.

The exception whereby the byelaws do not apply to treatment carried out by or under the supervision of a **dentist** *applies only to* **acupuncture (see section 14(8) of the Act)**.

Appendix 2

Model notice of council resolution

1. Coventry City Council resolved on 20th March 2007 that the following provisions of the Local Government (Miscellaneous Provisions) Act 1982 shall apply to the area of this council:

Section 15 – Tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis
Section 16 – Provisions supplementary to sections 14 and 15
Section 17 – Power to enter premises (acupuncture etc.)

2. The date on which these provisions will come into force will be: 1st June 2007

3. The general effect of this resolution is, subject to the exceptions detailed below, that a person who carries on the business of tattooing; semi-permanent skin-colouring; cosmetic piercing; or electrolysis must be registered with this Council, and they can only carry on their business in premises which have also been registered. The certificate of registration must be prominently displayed at the place where the business is carried on. The council is empowered to charge fees for registration. Applications for registration must be accompanied by the following information [to be specified by the local authority – see section 15(4) of the 1982 Act*], in particular, details of the premises concerned and particulars of any conviction of the applicant under section 16 of the 1982 Act.
A person who contravenes section 15 will be guilty of an offence, and liable, on conviction, to a fine not exceeding £1000, or suspension or cancellation of registration or both. An authorised officer of the Council may apply to a Justice of the Peace for a warrant to enter premises on suspicion that an offence under Section 16 is being committed there.

4. The Council will be applying in the near future for confirmation of byelaws under this Act with regard to the cleanliness of premises, fittings, persons, instruments, materials and equipment connected with the businesses of tattooing, semi-permanent skin colouring, cosmetic piercing, electrolysis in the area of the Council.

5. Exceptions:
i These provisions of the Act do not extend to the carrying on of the business of [tattooing], [semi-permanent skin-colouring], [cosmetic piercing] or [electrolysis]* by or under the supervision of a registered medical practitioner (i.e. means a fully registered person within the meaning of the Medical Act 1983 who holds a licence to practise under that Act).

ii A person who is registered under the provision of the Act specified in paragraph 1 above will not be committing an offence by engaging in the activity otherwise than at registered premises merely because he sometimes visits people at their request to provide his services.

NOTES – not to form part of the model notice
1. Passages marked [ ]* to be modified by the Council according to the scope of Council's resolution.
2. The local authority should publish this notice in two consecutive weeks in a local newspaper circulating in their area.
3. The Council should specify the date or dates in paragraph 2. These can be the same for all sections listed in paragraph 1, or different, but
a. One month must pass between the day the resolution was passed and the first date of coming into force; and
b. First publication of the notice must not be later than 28 days before the coming into force of the provisions.

CABINET

6th March, 2007

Cabinet Members Present:-	Councillor Arrowsmith Councillor Blundell Councillor Foster Councillor Mrs Johnson Councillor Matchet Councillor H Noonan Councillor O'Neill (Chair)
Non-Voting Opposition Representatives present:-	Councillor Benefield Councillor Duggins Councillor Mutton Councillor Windsor (substitute for Councillor Nellist)
Employees Present:-	P. Beesley (City Development Directorate) J. Bolton (Director of Community Services) M. Bonathan (Children. Learning and Young People Directorate) S. Brake (Head of Policy and Business) R. Brankowski (Legal and Democratic Services Directorate) L. Bull (Head of Adults & Older People's Social Care Group) F. Collingham (Communications and Media Relations Manager) S. Giles (Children. Learning and Young People Directorate) C. Green (Director of Children. Learning and Young People) M. Green (Head of Public Protection) S. Iannantuoni (Chief Executive's Directorate) S. Manzie (Chief Executive) J. McGuigan (Director of City Development) K. Rice (Head of Legal Services) S. Rudge (Head of Housing Policy and Services) C. West (Acting Director of Finance and ICT)
Apologies:-	Councillor Nellist Councillor Ridley Councillor Taylor C. Hinde (Director of Legal and Democratic Services)

RECOMMENDATIONS

209. **Response to Government Consultation Document "Allocation of Accommodation: Choice-based Lettings - Code of Guidance for Local Housing Authorities"**

The Cabinet considered a report of the Director of Community Services, already considered by Scrutiny Board 4 at their meeting on the 19th February, 2007 (their Minute 59/06 refers), seeking their views on the draft response to the Government consultation on the Code of Guidance for the operation of Choice-based Lettings schemes. The proposed

response was attached as Appendix 1 to the report submitted.

The development of a system to allocate social housing (housing association tenancies) using a Choice-based Lettings arrangement was well advanced in the city, the Cabinet having given approval to the development last year. The Cabinet Member (Community Services) had approved the operational arrangements on the 6th February, 2007, and Scrutiny Board 4 had considered and endorsed the arrangements at their meeting on the 17th January, 2007 (their Minute 45/06 refers).

On the same day that the Scrutiny Board had considered the arrangements, the Government published for consultation a long-awaited Code of Guidance for the operation of Choice-based Lettings schemes. Responses to the document were invited by the 10th April, 2007.

The proposed Coventry Choice-based Lettings scheme ("Coventry HomeFinder") was the product of a long development process involving the City Council and all partner housing associations operating in the city. It had been developed following investigation of best practice elsewhere in the country and according to the law as it currently stands.

Most of the Coventry scheme was in line with the ideas in the consultative code. There were some differences, however, and those were identified to the Cabinet Member when she considered the proposals. In approving the document, however, she had noted that arrangements would be made so that a formal response to the Consultation Document would be made by the City Council and she had decided to await the substantive document before any changes to the proposed arrangements are made. A further report would be brought when the substantive document was published later in the year, if the Coventry scheme still differed from the arrangements described in the Code of Guidance.

The Cabinet noted that Scrutiny Board 4 had endorsed the draft response at their above-mentioned meeting on the 19th February, 2007.

The Cabinet also decided to endorse the draft response.

RESOLVED that the City Council be recommended to approve the draft response appended to the report submitted.

210. Response to a Government Consultation Document entitled "Disabled Facilities Grant Programme: The Government's Proposals to Improve Programme Delivery"

Against the background of the review that has been in progress for over three years within Government relating to the operation of the Disabled Facilities Grant programme, the Cabinet considered a report of the Director of Community Services, already considered by the Scrutiny Co-ordination Committee at their meeting on the 21st February, 2007, proposing a suggested response to a consultation paper published by the Government in January, inviting responses by the 13th April, 2007.

Disabled Facilities Grants (DFGs) are means-tested, mandatory grants, awarded to people with disabilities who need adaptations to their homes to make them more suitable for their occupation.

The operation of the scheme is proving difficult for Coventry and many other local authorities, because demand exceeds available resources. A 'Waiting List' of people wanting to make an application has therefore built up, and outside inspection agencies have been critical of the situation in the city.

Last October, a series of initiatives was instigated to try and improve the situation and they are being reported on to the Scrutiny Co-ordination Committee and to the Cabinet Member (Community Services).

The DFG programme has a complex funding arrangement. Government funding for housing capital work is provided to local authorities through the Housing Investment Programme and the programme is now made up of two allocations. One allocation has to be used entirely to finance DFG work and, in 2006/07, has amounted to £1.008m. The second allocation can be used on other elements of housing capital work also and, in 2006/07, amounted to £2.575m. In order to access the DFG allocation, 40% of the grant value has to be match-funded from the second allocation. Thus, at-least £0.403m of the second allocation has to be allocated to DFG work to access the first.

Next year, although the DFG allocation has increased to £1.089m, the second allocation has reduced to £1.934. Thus, to access the DFG allocation, £0.436m of the second allocation must be spent on DFGs.

Because of the demand for DFGs in Coventry, however, virtually all of the two allocations together are now expended on DFG work.

As well as commenting on matters of detail, there are a number of fundamental principles that the report proposed for consideration by members when giving directions about a possible response.

Firstly, the consultation does not acknowledge that the majority of DFGs are now given to older people experiencing mobility problems, rather than younger families containing a person with disabilities. This has meant that demand has increased hugely but the funding regimes do not reflect that change. Many of the people to whom DFGs are awarded live in property with considerable equity in it. Again however, this is not reflected in the current 'means test' that is applied.

Given the unsatisfactory nature of the financing arrangements which see the Council committing a disproportionate amount of capital resources to DFG work and still not achieving the targets set by the inspection bodies, it is suggested that a fundamental criticism of the consultation should be that it does nothing to address that problem. At times, its proposals worsen it. Thus, for instance, to anticipate increasing the maximum level of grant from £25,000 to £30,000 immediately, and £50,000 in longer-term stages, is unhelpful when authorities are struggling to meet the existing financial commitment.

In other areas of home improvement policy, Government policy has moved away from grants altogether and the expectation is that people use the equity in their homes to

finance improvements. The Council is part of a West Midlands scheme known as 'Kick-start' that is piloting equity release loans. The thinking behind such schemes is that, if an owner-occupier has owned property for just a few years, generally speaking house-prices have increased at such a rate that providing ways can be found to 'release' it, people can use the equity in their homes to finance essential home improvement. It is suggested, therefore, that the response should also point out that equity release should be used to fund adaptations for people with disabilities.

Part of the difficulty of the present arrangements is that they are mandatory and very prescriptive. It is suggested, therefore, that the response should say that the mandatory and prescriptive framework of the legislation should be removed, enabling authorities to develop appropriate local solutions commensurate with what is feasible in the locality. That would enable authorities that are rich in capital to develop grant schemes if they so wish, and for others to develop alternative schemes that they can finance.

The consultative document explores whether a 'charge' should be levied on the property, so that, when it is eventually disposed of, some repayment is made of the grant. It is suggested that the response should say that this should be a fundamental principle of any future grant scheme, if one is to be maintained. It will be important, however, if such an arrangement is introduced, to ensure that the implications are thoroughly understood prior to implementation, to avoid creating further delays in the system.

At present, there is not complete legislative unity between the DFG process for determining whether a grant should be made and the 'Fair Access to Care ' arrangements for determining whether social care should be provided to an individual. It is suggested that the Council's response should argue that the eligibility criteria for DFGs should be brought completely in-line with the 'Fair Access to Care' arrangements. The advantages of such an alignment would also lead to DFGs being seen in the context of a whole system of care.

In the longer term, the need for adaptations would be greatly reduced if all new housing is constructed to 'Life-time Homes' standard, facilitating easier movement around the property for those less mobile. There has been discussion relating to whether the Building Regulations should be changed to require that. Instead, the Government has built the idea into a voluntary code for developers, entitled the 'Code for Sustainable Building'. The Code covers the various elements that contribute to the sustainability of a new building. There are nine categories and 'Life-time Homes' is one of four elements within Category 7 – 'Health and Well-being'. It is suggested that the response to the DFG Consultation Paper ought to argue that there should be a mandatory requirement placed on all developers to build to that standard.

As regards matters of detail to consider in response to the consultation document, the report suggested that, if the overall framework of a grant scheme is to be retained, the following aspects should be particularly supported:

- The proposals to simplify the funding arrangements to councils so that there is one allocation, rather than two as at the moment

- The recommendation to let all social housing that is adapted through a Choice-based Lettings routes, so that people can see what is available and bid for it if they need purpose built, or adapted, property.

- The recognition that grants ought to be available to help people to move to more appropriate accommodation, rather than just to provide adaptations to the existing home.

- The suggestion that the adaptations that are undertaken should include giving access to the garden and other outside areas beyond the living accommodation, within the framework of 'Fair Access to Care, and reflective of individual aspirations and agreed outcomes.

- The suggestion that the legal framework should be altered, so that work does not have to be procured scheme by scheme. This would allow better procurement. Larger contractors might be interested and equipment might also be better procured.

- The recognition that the existing mandatory Application Form requires simplification as it is far too complex.

- The freedom to use Individual budgets to deliver adaptations. However, it should be recognised that, in order to do this in a meaningful way, the process would have to be re-designed to allow for involvement of expertise early in the system in establishing a grant allocation.

It is suggested that the following aspects suggested in the Consultation Paper should not be supported:

- The suggestion that Home Improvement Agencies (HIAs) should be the basic delivery agent for DFGs. It is believed that HIAs have a very important part to play and work in close partnership with its local agency, but the Council do not consider that the problems of the existing legislative framework will be resolved if HIAs take over the full housing adaptations service from the local authority.

- The suggestion that, as in Wales, a completely separate 'rapid response' agency to deal with urgent hospital-discharge cases should be created. If required, the local priority system for dealing with DFGs can deal with that element.

- The suggestion that independent occupational therapists should be employed and their cost charged to the grant. It would be impossible to achieve consistency of approach if such an arrangement were introduced.

Generally, the report concluded that the consultation document does not go far enough in recognising that there are some fundamental system barriers within the mandatory DFG framework. If some of the changes suggested in the document are introduced, however, detailed work will be required to understand the impact and to ensure that they do not cause further delay.

A summary of responses to the consultation will be published by the 6th July, 2007.

The Cabinet noted that the Scrutiny Co-ordination Committee, at their above-

mentioned meeting on the 21st February, 2007, had considered the draft response and had endorsed it, with a request for the addition of one further point. The proposed response argued that the existing grant system ought to be changed completely. The Scrutiny Co-ordination Committee asked that the response should include the view that, if the Government decided, however, to continue with the existing arrangements, the concept of a "maximum grant" was inappropriate. If an assessment showed that a more expensive scheme was required, it should be eligible for grant assistance.

The Cabinet also decided to endorse the draft response, with the addition of the further point advocated by the Scrutiny Co-ordination Committee as summarised above.

RESOLVED that the City Council be recommended to approve the draft response appended to the report submitted, with the addition of the further point advocated by the Scrutiny Co-ordination Committee as summarised above.

Coventry City Council

5

Public report

Report to

Cabinet	6th March 2007
Scrutiny Board 4	19th February 2007
Council	20th March 2007

Report of
Director of Community Services

Title
Response to a Government Consultation Document entitled "Allocation of Accommodation: Choice-based Lettings. Code of Guidance for Local Housing Authorities. Consultation."

1 Purpose of the Report

1.1 Cabinet will be aware that the development of a system to allocate social housing (Housing Association tenancies) using a Choice-based Lettings arrangement is well advanced in the city. Cabinet gave approval to the development last year and the Cabinet Member Community Services has approved the operational arrangements on 6th February. Scrutiny Board 4 looked at the arrangements on 17th January and endorsed them.

1.2 On the same day that Scrutiny Board 4 considered the arrangements, the Government published for consultation a long-awaited Code of Guidance for the operation of Choice-based Lettings schemes.

1.3 Responses to the document are invited by 10th April. The purpose of this document is to ask you to consider a formal response.

2 Recommendations

2.1. Scrutiny Board 4 is asked to consider the draft response appended to this report and to forward its views to the Cabinet for consideration

2.2. The Cabinet are asked to consider the draft response, together with any comments from Scrutiny Board 4 and to make recommendations to the Council

2.3. The Council are asked to take account of the recommendations from the Cabinet and to approve the draft response appended to this report, amended as necessary in the light of those recommendations.

3 Information/Background

3.1 The proposed Coventry Choice-based Lettings scheme ('Coventry HomeFinder') is the product of a long development process involving the City Council and all partner Housing Associations operating in the city. It has been developed following investigation of best practice elsewhere in the country and according to the law as it currently stands.

3.2 A consultative Code of Guidance has been promised by the Government for 18 months, and was published on 17th January.

3.3 It is pleasing to report that most of the Coventry scheme is in-line with the ideas in the consultative code. There are some differences, however, and those were identified to the Cabinet Member when she considered the proposals. In approving the document, however, she noted that arrangements would be made so that a formal response to the Consultation Document would be made by the City Council and decided to await the substantive document before any changes to the proposed arrangements are made. A further report will be brought to her when the substantive document is published later in the year, if the Coventry scheme still differs from the arrangements described in the Code of Guidance.

3.4 The proposed response is attached as Appendix 1. Copies of the full document (in both paper and electronic format) can be obtained from the Head of Housing Policy and Services, on extension 1923.

4 Other specific implications

4.1

	Implications (See below)	No Implications
Neighbourhood Management		√
Best Value		√
Children and Young People		√
Comparable Benchmark Data		√
Corporate Parenting		√
Coventry Community Plan		√
Crime and Disorder		√
Equal Opportunities		√
Finance		√
Health and Safety		√
Human Resources		√
Human Rights Act		√
Impact on Partner Organisations		√
Information and Communications Technology		√
Legal Implications		√
Property Implications		√
Race Equality Scheme		√
Risk Management		√
Sustainable Development		√
Trade Union Consultation		√

	Implications (See below)	No Implications
Voluntary Sector – The Coventry Compact		√

The introduction of the Choice-based Lettings scheme has implications for many of these elements and they were described in full in the report considered by Scrutiny Board 4 and the Cabinet Member.

5 Monitoring and Timescale

5.1 Responses to the Consultation Document have to be made to the Government by 10th April 2007. It will then consider them and produce the substantive Code of Guidance. If the substantive document differs from scheme adopted in Coventry, a report will be taken to the Cabinet Member identifying the differences and presenting possible changes for consideration.

	Yes	No
Key Decision		
Scrutiny Consideration (if yes, which Scrutiny meeting and date)	√ **Scrutiny Board 4. 19th February 2007.**	
Council Consideration (if yes, date of Council meeting)	√ **20th March 2007**	

List of background papers

Proper officer: John Bolton, Director of Community Services

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Chris Hinde, Legal and Democratic Services

Papers open to Public Inspection

Description of paper	**Location**
Choice based Lettings Code of Guidance. Consultation	SH6

Appendix 1

Coventry City Council is a stock transfer authority and has been working for some time to develop a Choice-based Lettings scheme with all local housing associations, including the stock-transfer Association. We see such a scheme as providing the advantages of the Choice-based route, but also creating a 'Common Housing Register' so that people seeking housing in the city have only to use the one system.

We are well advanced with such work.

Our response to the consultative Code of Guidance relating to Choice- based Lettings is, therefore, based on the considerable amount of work we have done in developing the scheme and takes account of the debate and thinking we have had with our partner Associations thus far.

Our comments are numbered according to the paragraphs in the consultative document.

Para 3.1
The property that is to be advertised in a Choice-based Lettings Scheme
We believe that the Code of Guidance should refer to accommodation becoming available "for general letting" rather than to "all available accommodation".
There are instances where landlords need to use property to deal with circumstances where a choice-based lettings arrangement is inappropriate. Examples are where there is a need to find alternate accommodation for a family following a serious fire which means that they have to be re-housed immediately; and where legal processes are being followed (such as Compulsory Purchase) where a specific property has to be offered to an individual to satisfy the legal requirement.
Such property, although available, is not available for "general letting" and should therefore, not be allocated through the Choice-based Lettings Scheme.

Para 3.9
People who are ineligible for the allocation of accommodation
Our experience of a conventional allocation scheme with checks made on applicants to ensure that they are eligible for the allocation of accommodation at the point at-which they apply, shows that a considerable amount of abortive checking is undertaken. As an example, the Council's operation of a traditional waiting list has meant that every year it has processed and checked some 7,000 new applications. There have, however, only been some 2,500 vacancies in a year and of-course, only a minority of those dwellings have been allocated to people who have just joined the List. There has, therefore, been a considerable amount of unproductive work.

With the Choice-based system being 'on-line', we see more people joining the scheme. Thus if checking continues to be done at the point of registration, the amount of abortive checking that will be done will increase. In addition, our experience echoes the point made in the Consultative Code that applications checked at the point of registration, need to be re-checked at the time a person is allocated a property because so much can have happened in the intervening time.
We believe that such a considerable amount of abortive work does not constitute Value for Money.

We believe, therefore, that the checking that is done should be done at the time when the person is a potential successful bidder and such a practice should be recommended in the Code of Guidance.

We do consider however, that within a Choice-based Lettings scheme people should be clearly told about the eligibility rules at the time they register and that it should be stressed to them that their eligibility will be checked when and if, they are a potential successful bidder. They should

thus be encouraged to be pro-active in the process ensuring, for instance, that if they have had a previous Housing Association tenancy, there are not matters outstanding that would make them ineligible for accommodation. Such pro-active involvement is, of-course, a feature of the whole Choice-based arrangements.

Para 3.12
Limitation of the number of bids that people can make.
The Consultative Code proposes that there should be no restrictions placed upon applicants as to how many bids they can make in any week.

We believe that the essence of a Choice-based lettings scheme is that people are selecting the particular properties that they want. It seems inappropriate, therefore, for people to be able to make an unlimited number of bids in any one week.

We would suggest that three bids per week is a reasonable number to allow people to make in any one week and the Code of Guidance should say that.

Such an arrangement also facilitates the smooth administration of the scheme and achieves speedier re-letting. If people make multi-bids and are potentially the 'top case' in many properties, the process of determining which property they really want and moving on to the second choice cases in the properties they decline is likely to delay the letting process.

Para 4.14
Prioritising Applicants
Although we fully recognise the need to differentiate between people having one element of housing need and those with two or more, we believe that can be accommodated within a three-band system. The scheme would recognise multi-need by promoting cases from the middle band into the top band.

People in the 'top band' are already ahead of everyone else, so that seems appropriate priority.

We would not, therefore, like to see the Code of Guidance be so prescriptive and to say that there should be four bands in the banding system.

Para 4.36
Widening the housing opportunities for those who are not in greatest housing need
We recognise fully that schemes need to be able to give opportunity for those who are not in the greatest housing need to obtain housing.

The Consultation paper is very clear however, that schemes should be clear and transparent for users.

The setting of targets on the basis described in paragraph 4.38 is very complex and would not be transparent. We believe much more that a simple target should be set – perhaps 1:4 of the properties advertised should go to people not in the greatest housing need. A more sophisticated arrangement might be that a proportion of the different size and types of property in the different areas of the city should be allocated to people not in the greatest housing need. Such an arrangement however, immediately begins to become less transparent.

We believe that transparency and relative simplicity ought to be the over-riding factors and arrangements that diminish that transparency, should as far as possible, be avoided. Such a principle ought to be embodied in the Code of Guidance.

Para 4.41

Recognising the local connection a person has with the Local Authority area

We appreciate the desire of the Government to facilitate movement between Local Authority areas and agree that confining applications only to those who live in the area of the Local Authority is unacceptable.

We believe, however, that it is incumbent upon the local scheme to attempt to deal with the housing need amongst those who live in the Local Authority area before those from outside.

We would prefer, therefore, for the Code of Guidance to envisage open entry into schemes from anywhere, but for the priority bandings to be reserved for those who live in the area. People moving into the area would, therefore be able to access accommodation through the routes discussed above (Para 4.36).

Para 4.58

Meeting the needs of people with disability

We absolutely recognise the need to advertise property that is particularly suited for use by people with mobility needs accordingly, and for the property to be allocated to people who have that need.

We are concerned, however, that the thinking in paragraph 4.58 envisages people with such needs being ably to apply for property that is not suitable, and for the Local Authority to have to adapt the property so that it is suitable for their needs.

Considerable expenditure could be incurred in adapting property because the person had chosen to bid for it rather than for purpose-built, or already adapted, property that becomes available. With most Authorities already struggling to meet their obligations under the Disabled Facility Grant arrangements within a reasonable time because of financial difficulties, we do not believe that such an arrangement provides best Value for Money.

We fully recognise that it is completely appropriate for an existing tenant who experiences a diminution of mobility to receive help so that their existing home is made more suitable to their needs. We consider that to be very different, however, to the position described in the consultative document that envisages a person moving into a dwelling by choice which is completely inappropriate to their needs and for the Local Authority to then have to adapt the property (assuming it is "reasonable and practical" so to do).

We do not consider that the Code of Guidance should promote a system where-by people should be encouraged to apply for property that is unsuitable for their needs and for the property to then have to be adapted to meet their needs.

With respect to the remainder of the document, we are in broad agreement with the ideas proposed.

Coventry City Council

5

Public report

Report to

Cabinet	6th March 2007
Scrutiny Co-ordination committee	21st February 2007
Council	20th March 2007

Report of
Director of Community Services

Title
Response to a Government Consultation Document entitled "Disabled Facilities Grant Programme: The Government's proposals to improve programme delivery. Consultation."

1 Purpose of the Report

1.1 For over three years there has been a review in progress within Government relating to the operation of the Disabled Facilities Grant programme.

1.2 The Government published a Consultation paper in January and invited responses by 13th April.

1.3 The purpose of this report is to suggest a possible response.

2 Recommendations

2.1. Scrutiny Co-ordination Committee is asked to consider the draft response in Appendix 2 and to forward its views to the Cabinet for consideration

2.2. The Cabinet are asked to consider the draft response, together with any comments from the Scrutiny Co-ordination Committee and to make recommendations to the Council

2.3. The Council are asked to take account of the recommendations from the Cabinet and to approve the draft response, amended as necessary in the light of those recommendations

3 Information/Background

3.1 Disabled Facilities Grants (DFG's) are means-tested, mandatory grants, awarded to people with disabilities who need adaptations to their homes to make them more suitable for their occupation.

3.2 The operation of the scheme is proving difficult for Coventry and many other Local Authorities, because demand exceeds available resources. A 'Waiting List' of people wanting to make an application has therefore built up and outside inspection agencies have been critical of the situation in the city.

3.3 Last October, a series of initiatives was instigated to try and improve the situation and they are being reported on to both Scrutiny Co-ordination Committee and the Cabinet Member – Community Services.

3.4 The DFG programme has a complex funding arrangement. Government funding for housing capital work is provided to Local Authorities through the Housing Investment Programme and the programme is now made up of two allocations. One allocation has to be used entirely to finance DFG work and in 2006/07 has amounted to £1.008m. The second allocation can be used on other elements of housing capital work as well and in 2006/07 amounted to £2.575m. In order to access the DFG allocation, however, 40% of the grant value has to be matched funded from the second allocation. Thus at least £0.403m of the second allocation has to be allocated to DFG work to access the first.

3.5 Next year, although the DFG allocation has increased to £1.089m, the second allocation has reduced to £1.934. Thus to access the DFG allocation, £0.436m of the second allocation must be spent on DFG's.

3.6 Because of the demand for DFG's in Coventry, however, virtually all of the two allocations together are now expended on DFG work.

3.7 A full copy of the consultation paper can be obtained from the Head of Housing Policy and Services. The document does, however, contain a summary of recommendations and these are attached at Appendix 1.

4 Matters of principle to consider in response to the Consultation Document

4.1 As well as commenting on matters of detail, there are a number of fundamental principles that you are asked to consider when giving directions about a possible response.

4.2 The consultation does not acknowledge that the majority of DFG's are now given to older people experiencing mobility problems, rather than younger families containing a person with disabilities. This has meant that demand has increased hugely, but the funding regimes do not reflect that change. Many of the people to whom DFG's are awarded live in property with considerable equity in it. Again however, this is not reflected in the current 'means test' that is applied.

4.3 Given the unsatisfactory nature of the financing arrangements which see the Council committing a disproportionate amount of capital resources to DFG work and still not achieving the targets set by the inspection bodies, it is suggested that a fundamental criticism of the consultation should be that it does nothing to address that problem. At - times, its proposals worsen it. Thus, for instance, to anticipate increasing the maximum level of grant from £25,000 to £30,000 immediately, and £50,000 in longer-term stages is unhelpful when Authorities are struggling to meet the existing financial commitment.

4.4 In other areas of home improvement policy, Government policy has moved away from grants altogether and the expectation is that people use the equity in their homes to finance improvements. The Council is part of a West Midlands scheme known as 'Kick-start' that is piloting equity release loans. The thinking behind such schemes is that if an owner-occupier has owned property for just a few years, generally speaking house-prices have increased at such a rate that providing ways can be found to 'release' it, people can use the equity in their homes to finance essential home improvement. It is suggested therefore, that the response should also point out that equity release should be used to fund adaptations for people with disabilities.

4.5 Part of the difficulty of the present arrangements is that they are mandatory and very prescriptive. It is suggested therefore, that the response should say that the mandatory and prescriptive framework of the legislation should be removed, enabling Authorities to develop appropriate local solutions commensurate with what is feasible in the locality. That would enable Authorities that are rich in capital to develop grant schemes if they so wish, and for others to develop alternatives schemes that they can finance.

4.6 The consultative document explores whether a 'charge' should be levied on the property, so that when eventually disposed of, some repayment is made of the grant. It is suggested that the response should say that this should be a fundamental principle of any future grant scheme, if one is to be maintained. It will be important, however, if such an arrangement is introduced to ensure that the implications are thoroughly understood prior to implementation, to avoid creating further delays in the system.

4.7 At present there is not complete legislative unity between the DFG process for determining whether a grant should be made and the 'Fair Access to Care ' arrangements for determining whether social care should be provided to an individual. It is suggested that our response should argue that the eligibility criteria for DFG's should be brought completely in-line with the 'Fair Access to Care' arrangements. The advantages of such an alignment would also lead to DFG's been seen in the context of a whole system of care.

4.8 In the longer term, the need for adaptations would be greatly reduced if all new housing is constructed to 'Life-time Homes' standard, facilitating easier movement around the property for those less mobile. There has been discussion relating to whether the Building Regulations should be changed to require that. Instead the government has built the idea into a voluntary code for developers, entitled the 'Code for Sustainable Building'. The Code covers the various elements that contribute to the sustainability of a new building. There are nine categories and 'Life-time Homes' is one of four elements within Category 7 – 'Health and Well-being'. It is suggested that the response to the DFG Consultation Paper ought to argue that there should be a mandatory requirement placed on all developers to build to that standard.

5 Matters of detail to consider in response to the Consultation Document

5.1 It is suggested that if the overall framework of a grant scheme is to be retained, the following aspects should be particularly supported:

- The proposals to simplify the funding arrangements to Councils so that there is one allocation, rather than two as at the moment
- The recommendation to let all social housing that is adapted through a Choice-based Lettings routes, so that people can see what is available and bid for it if they need purpose built, or adapted property.
- The recognition that grants ought to be available to help people to move to more appropriate accommodation, rather than just to provide adaptations to the existing home.
- The suggestion that the adaptations that are undertaken should include giving access to the garden and other outside areas beyond the living accommodation, within the framework of 'Fair Access to Care, and reflective of individual aspirations and agreed outcomes.
- The suggestion that the legal framework should be altered, so that work does not have to be procured scheme by scheme. This would allow better procurement. Larger contractors might be interested and equipment might also be better procured.

- The recognition that the existing mandatory Application Form requires simplification as it is far too complex.
- The freedom to use Individual Budgets to deliver adaptations. However, it should be recognised that in order to do this in a meaningful way the process would have to be re-designed to allow for involvement of expertise early in the system in establishing a grant allocation.

5.2 It is suggested that the following aspects suggested in the Consultation Paper should not be supported:

- The suggestion that Home Improvement Agencies (HIA's) should be the basic delivery agent for DFG's. We believe that HIA's have a very important part to play and work in close partnership with our local agency, but we do not consider that the problems of the existing legislative framework will be resolved if HIA's take over the full housing adaptations service from the Local Authority.
- The suggestion that, as in Wales, a completely separate 'rapid response' agency to deal with urgent hospital-discharge cases, should be created. If required, the local priority system for dealing with DFG's s can deal with that element.
- The suggestion that independent Occupational Therapists should be employed and their cost charged to the grant. It would be impossible to achieve consistency of approach if such an arrangement was introduced.

6 Conclusion in response to the consultation document

6.1 Generally it is felt that the document does not go far enough in recognising that there are some fundamental system barriers within the mandatory DFG framework. If some of the changes suggested in the document are introduced, however, detailed work will be required to understand the impact and to ensure that they do not cause further delay.

7 Other specific implications

7.1

	Implications (See below)	No Implications
Neighbourhood Management		√
Best Value		√
Children and Young People		√
Comparable Benchmark Data		√
Corporate Parenting		√
Coventry Community Plan		√
Crime and Disorder		√
Equal Opportunities		√
Finance		√
Health and Safety		√
Human Resources		√
Human Rights Act		√

	Implications (See below)	No Implications
Impact on Partner Organisations		√
Information and Communications Technology		√
Legal Implications		√
Property Implications		√
Race Equality Scheme		√
Risk Management		√
Sustainable Development		√
Trade Union Consultation		√
Voluntary Sector – The Coventry Compact		√

7.2 As a Consultation paper, the response to it does not have implications for the areas listed. If the DFG scheme is amended there will be implications for many of those areas and a report will be brought forward at the time.

8 Timescale and expected outcomes

8.1 The closing date for consultation is 13th April 2007

8.2 A summary of responses to the consultation will be published by the 6th July.

	Yes	No
Key Decision		
Scrutiny Consideration (if yes, which Scrutiny meeting and date)	√ **Scrutiny Co-ordination Committee. 21/2/07**	
Council Consideration (if yes, date of Council meeting)	√ **20/3/07**	

List of background papers

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Papers open to Public Inspection

Description of paper	**Location**
File: DFG Consultation	SH6

APPENDIX 1

Extract from "Disabled Facilities Grant Programme: The Government's proposals to improve programme delivery. Consultation."

Summary of Recommendations

A. Proposals which can be developed quickly:

It is of primary importance that there should be no change to the mandatory nature of the grant available.

Extending the scope: Meeting more needs

a) Maximum limit of £25,000 to be increased immediately to £30,000. This will be subsequently reviewed with the aim of increasing to £50,000 in stages if the evidence shows that local authorities are realising sufficient offsetting savings through using the powers described in b) below.

b) b) General Consent to be issued under secondary legislative powers to allow local authorities to reclaim DFG in certain cases when adapted property in owner occupation is sold, subject to safeguards and limits. A range of options on how this might work is suggested in the paper but in all cases there would be a minimum award of grant of at least £5,000 for which no repayment conditions could be attached.

c) New Statutory Instrument to be made which would clarify that DFG is available as a mandatory entitlement to ensure disabled persons have access to the garden and other outside spaces included within the boundary of the dwelling.

Ensuring clearer priorities and strategy

d) Issue new guidance to Regional Assemblies (RAs) to ensure that Regional Housing Strategies have a more explicit policy on adaptations as well as a more strategic and coherent approach to accessible housing. Disabled Facilities Grant would be rebadged and called Accessible Homes Grant to reflect this wider ambit. The mandatory entitlement of disabled people to support would be unaffected.

e) This will be linked to new guidance to housing associations emphasizing the need for them to contribute towards the regional strategy on accessible housing and to reach local agreements with local authorities in relation to major housing adaptations with a view to sharing the cost.

f) Provide additional flexibility for the use of the Communities and Local Government ring-fenced grant for DFG so that it can be used for associated purposes such as a grant which will enable clients to move home, if that is the best option, or for fast track systems to provide minor adaptations. Two options are proposed with resources being paid to local authorities using section 31 of the Local Government Act 2003. The options would be either to widen the scope of the existing ring-fenced grant so it could be used for additional purposes other than mandatory DFG, or to abolish the ring-fence and replace it with a targeted grant to support housing accessibility. The widening of the scope of the ring fence will be piloted first in the Individual Budget areas for 2007-08.

Faster delivery and simpler access:

g) Encourage local authorities to build on best practice and use their new financial flexibilities and freedoms to develop fast track delivery systems to deliver urgent and small-scale adaptations. Further guidance on model delivery systems will be issued.

h) Introduce a simplified application process for DFG through changes to secondary legislation.

i) Promote new methods for procurement of adaptations equipment to reduce costs, eg through regional development centres.

j) Pilot the increased use of Home Improvement Agencies (HIAs) in delivery of housing adaptations. Firstly, to provide a rapid response for the prevention of accidents and promote early release from hospital, (based on the system used in Wales). Secondly, to provide a full agency service for housing adaptations in county areas. Possibly as part of extended Link-Age Plus pilots.

Working towards integrated services

k) Communities and Local Government will continue to work with DfES to consider how DFG could better meet the needs of disabled children and their families.

l) The Government recognises the potential benefits of the re-designation of stair lifts as items of equipment to be provided by the Community Equipment Service rather than through DFGs. Communities and Local Government to work with DH to examine the financial and other implications of this change, taking account of the views expressed by local authorities and other stakeholders.

m) Communities and Local Government will work with HMT/DWP/ etc to consider the scope for improved targeting of the DFG means test given available resources.

B. Proposals for longer-term rationalisation of legislation and social care programmes:

n) Disabled Facilities Grant to be an important part of the Individual Budgets Pilot programme with a Government commitment to explore how it can be more closely integrated into a new system for social care for older and disabled people, incorporating a more streamlined assessment of need, a transparent allocation of resources and greater flexibility and choice for those being supported.

o) Review of legislation for providing housing adaptations and of organizational structures for delivery to await evaluation of the Individual Budget Pilots.

p) The Government accepts there will be a need to consolidate the DFG and Care Services means tests – subject to successful evaluation of Individual Budget Pilots; a decision to rollout Individual Budgets (IBs) nationally; and available resources.

Appendix 2
Suggested Response to Department of Communities and Local Government

The Government's proposals to improve programme delivery of DFG's are, in our view, misguided and insufficient. They fail to fully recognize the fundamental issues that exist within the system, and instead are making peripheral changes that will not resolve the long-standing issues, and in some cases may actually worsen them.

The consultation does not seem to recognise that the majority of DFG's are now given to older people experiencing mobility problems, rather than younger families containing a person with disabilities. This has meant that demand has increased hugely, but the funding regimes do not reflect that change. Many of the people to whom DFG's are awarded live in property with considerable equity in it. Again however, this is not reflected in the current 'means test' that is applied.

The guidance currently is extremely prescriptive, and does not allow for local flexibility. We would like to see the mandatory and prescriptive framework of the legislation removed thus enabling local authorities to develop local sustainable systems. That was the route followed with regard to general private sector home improvement through the Regulatory Reform Order and should be paralleled with work to help people with disability who own their own homes.

Currently, there is no legislative unity between the DFG process for establishing eligibility and Fair Access to Care. This is considered a significant weakness of the system, and must be addressed in any future changes to the DFG system. To bring these into line would have the additional benefit of adaptations being seen as part of a whole systems approach to facilitating independence and enablement.

The response below addresses the consultation sections in turn, commenting where appropriate.

Extending the scope: Meeting more needs
Increasing the limit of funding available for DFG's will do nothing to solve the problem of the long waiting lists currently being experienced, and is unsustainable within current resources.

The suggestion of raising a charge on adapted properties should be a fundamental precept of any grant scheme that remains. We would much prefer amore general equity release scheme, but can see advantage in being able to put a 'charge' on the property. We do not, however, believe that the charge scheme should be so complicated and with so many safe-guards that to reclaim the charge is the 'exception rather than the rule'.

We support the notion of allowing people to access outside areas of their property, however, this must be in line with Fair Access to Care, and reflective of individual aspirations and agreed outcomes. This therefore, would need to be established on a case by case basis.

Ensuring clearer priorities and strategy
The proposal to simplify the funding arrangements to Councils are welcomed. We also support the notion of extra flexibility of the grant, facilitating developing local approaches commensurate with what is achievable in a locality and furthering our goal of achieving enablement and independence. This includes the flexibility to use the grant to enable people to move accommodation, rather than just providing adaptations.

Generally it is felt that there are unrealistic expectations of what the Individual Budgets pilot will be able to achieve in relation to DFG's. It should be recognised that in order to use Individual Budgets for DFG's front loading of the system would be required, to enable appropriate

allocations to be determined at an early stage in the process. Furthermore, we would ask Government to recognise that it is not the goal of the Individual Budgets pilot to deliver savings.

Faster delivery and simpler access
We do not support the suggestion that Housing Improvement Agencies should be the primary delivery agent for DFG's. We do not feel that the problems within the system would not be resolved by such an approach.

We support the suggestion that the legal framework should be altered to enable block procurement, which may realise efficiencies.

It is felt that the existing application from is too complex, and would benefit from simplification.

Working towards integrated services
We cannot see a benefit in re-designating stair lifts as an item of equipment. This would not realise any benefits.

We do not support the suggestion of a separate rapid response team. We believe that if there is a local problem where-by the completion of adaptations is delaying hospital discharge, a local priority arrangement can be developed to address it. It does not need a national solution.

We feel that the utilisation of private occupational therapists from the grant would be detrimental. To do so would not enable a consistency of approach.

Conclusion
In the longer term it is felt that the need for adaptations would be significantly reduced if the 'Llife-times Homes' element of the 'Code for Sustainable Building' were to become a mandatory standard within the Building Regulations.

At the root of the problems with the existing system, is the shortage of finance. We like many Authorities, are attempting to manage demand to match available resources and are inputting a considerable amount of cash over-and-above the DFG allocation from Government. Until that is resolved (in our view by moving away from a mandatory grant based system) the present arrangements will not operate effectively.