

7. GRANT RECOVERY - UNREGISTERED BODIES

This chapter sets out the grant recovery requirements for all Unregistered Bodies and includes Greater London Authority’s Recovery of Capital Grants from Unregistered Bodies (Greater London) General Determination 2017 (“URB Recovery Determination”).

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7.1. Grant Recovery – Unregistered Bodies

Purpose

- 7.1.1. In defined circumstances capital grant and, where appropriate, uplift amounts are subject to recovery by the GLA. This chapter sets out the grant recovery requirements for Unregistered Bodies (URBs) only. Registered Providers should refer to the Grant Recovery - Registered Providers chapter for their grant recovery requirements.
- 7.1.2. [The Recovery of Capital Grants from Unregistered Bodies \(Greater London\) General Determination 2017](#) (URB Recovery Determination) makes provision for the recovery of capital grant and uplift amounts from Unregistered Bodies, but does not allow for the recycling of grant by Unregistered Bodies.
- 7.1.3. Recovery from Unregistered Bodies falls outside of the scope of the GLAs existing registered recovery regime. Therefore, and in order to facilitate the recovery of Social Housing Assistance given to Unregistered Bodies, the GLA has made a separate determination for the recovery of grant given and uplift amounts where applicable. This determination supplements the contractual recovery provisions detailed in the Affordable Homes Programme 2016 to 2021 and 21-26 contracts for Unregistered Bodies.
- 7.1.4. The recovery requirements set out in this chapter of the Affordable Housing Capital Funding Guide only apply to Unregistered Bodies that have received capital grant from the GLA to develop homes in Greater London.
- 7.1.5. This chapter sets out:
- The legislative framework for grant recovery including The Recovery of Capital Grants from [Unregistered Bodies \(Greater London\) General Determination 2017](#).
 - The 'Relevant Events' that trigger recovery of grant plus uplift.
 - How to calculate the amount of recoverable grant and uplift amounts, including when property is sold.

Context

- 7.1.6. The GLA has the power under section 19 of the Housing and Regeneration Act 2008, to give financial assistance to 'any person with Secretary of State consent.' Similarly, under the powers of recovery as set out in section 32 of the Housing and Regeneration Act 2008 upon the occurrence of such events as it may determine, the GLA may exercise the powers [of recovery] conferred by subsections (2) and (4) in relation to 'a person who has received social housing assistance.' With specific reference to section 32 subsection (4) (b) and section 33 (1) subsection (b), this gives the GLA the power to direct the recipient of any Social Housing Assistance to repay any grant given, with uplift.

- 7.1.7. Drawing on these statutory powers the GLA has made a determination, with the consent of the Secretary of State for Levelling-Up, Housing & Communities, that enables it to recover grant given as Social Housing Assistance to Unregistered Bodies in pursuance of housing objectives under the Affordable Homes Programme (and any successor programmes) and a share of any uplift in value of properties funded under those programmes.
- 7.1.8. The GLA has a statutory obligation to ensure that landlords of grant-funded low-cost rental homes must be a Registered Provider of Social Housing (see Housing and Regeneration Act 2008 section 31 subsection (2) for details). This statutory obligation does not extend to landlords of grant-funded shared ownership homes.

Scope

- 7.1.9. The scope of this determination and the accompanying recovery requirements are effective from 6 September 2017.
- 7.1.10. This determination does not facilitate the transfer of grant liability from Registered Providers to Unregistered Bodies. The recovery requirements covering the disposal of grant-funded stock from a Registered Provider to an Unregistered Body remain in place. This is a relevant event for the recycling of grant on the part of the transferring Registered Provider.

7.2. Relevant events

General

- 7.2.1. This section sets out the procedures that must be followed by all Unregistered Bodies when a relevant event occurs in connection with grant-funded land or property. For the avoidance of doubt, property is defined in [The Recovery of Capital Grants from Unregistered Bodies \(Greater London\) General Determination 2017](#) as including dwellings, hostels (note that this is not intended to be permanent accommodation), supported housing, temporary social housing or traveller pitches funded by capital grant. Grant, plus uplift where applicable, is recoverable when a relevant event occurs. Typically, this is the outright sale of a shared ownership property, or a shared owner staircasing, but can also be the failure to complete the development of a scheme, a change in use of a completed scheme, the sale of undeveloped land or property and other specified situations.
- 7.2.2. When this guide uses the general term recoverable, or recovery it refers to the fact that an obligation arises on the Unregistered Body to repay the defined amount of grant plus uplift when the relevant event occurs.
- 7.2.3. The term relevant event comes from [The Recovery of Capital Grants from Unregistered Bodies \(Greater London\) General Determination 2017](#) and must be read in this section to mean relevant events as defined in that determination. The term does not refer to milestones, or other events described in other guidance or contract arrangements.

The relevant events

- 7.2.4. The relevant events are defined at paragraph (6) of The Recovery of Capital Grants from Unregistered Bodies (Greater London) General Determination 2017.

Relevant event notification procedure

- 7.2.5. Through provisions made in the recovery determination, the GLA requires that Unregistered Bodies notify it upon the occurrence of a relevant event or discovery that a relevant event will take place.
- 7.2.6. Relevant events 6a) to 6f) – Unregistered Bodies should notify the GLA not more than 14 days from the date which the relevant event occurred.
- 7.2.7. Relevant events 6g) to 7p) – Unregistered Bodies should notify the GLA in advance of the relevant event occurring. This should be not less than 14 days in advance of the anticipated occurrence of the relevant event.
- 7.2.8. Unregistered Bodies should notify the GLA using the GLA form of notice. Further information about the form and guidance on completing the form can be found on the [Grant Notifications Guidance](#) page on the GLA website.

7.2.9. Details of the grant recovery consequences of the occurrence of each relevant event are set out in section 7.4 below. Unregistered Bodies who are unsure of the grant recovery consequences of the occurrence of any relevant event should seek further advice from their GLA Area Manager or by emailing affordablehomes@london.gov.uk.

Repayment timetable

7.2.10. Following receipt of a notification of a relevant event that triggers grant repayment, the amount of grant and uplift to be repaid will be confirmed by the GLA. The GLA will then raise an invoice, stating the terms and schedule for payment. Unregistered Bodies should not forward a payment in advance of receiving an invoice.

7.2.11. Should the repayment of recoverable grant place Unregistered Bodies in financial difficulty they must advise the GLA of the reasons and resultant impact in full detail. The GLA may in exceptional circumstances decide to defer the repayment to a future date, accept payment by agreed instalments, or agree to the write off part, or all, of the repayment amount.

Interest chargeable on delayed notification or repayment

7.2.12. Where Unregistered Bodies are required to notify the GLA of a relevant event and that notification is not received by the appropriate deadline (as set out in paragraph 7.2.13), then interest will normally be added to the amount of capital grant plus any uplift to be recovered. Following a relevant event, repayment will be in accordance with the uplift principles and methodology set out in section 7.3 below. For any questions regarding the rate of interest or the interest calculation, Unregistered Bodies should contact GLA by emailing affordablehomes@london.gov.uk. Interest will accrue daily, with six monthly compounding from the start date for payment. Prior to the 21-26 Affordable Homes Programme, typically, the interest rate per annum will be equal to the base rate of the Royal Bank of Scotland plc plus two per cent. Under 21-26 Bank of England rates apply up to four per cent.

7.2.13. For the purposes of charging interest following delayed notification, the date of the relevant event will be determined by the GLA, on the basis of paragraph (6) of the URB Recovery Determination. For events (a), (d) and (e) this will normally be the date of the missed milestone, or the milestone on which delivery was non-compliant. For events (b), (c) and (f) this will normally be the date at which the Unregistered Body notifies the GLA of the relevant event.

7.2.14. Interest will not be charged if the GLA has been informed in writing of a likely delay and has agreed in writing that the circumstances do not justify the charging of interest for a particular period. Where supporting documentation is not available, Unregistered Bodies can avoid interest by paying the whole of the recovered grant, plus any uplift, to the GLA.

7.2.15. The GLA will charge additional interest if the invoice for repayment of grant plus uplift, or interest due to late notification, is not paid within the timescales specified in the invoice. Unregistered Bodies should contact the GLA by emailing affordablehomes@london.gov.uk who will be able to advise on the rate of interest that will apply and the interest that will accrue daily.

Payment of interest only

7.2.16. Unregistered Bodies are required to notify the GLA as soon as they become aware that a forecast payment milestone will not be achieved and reforecast the milestone as appropriate. Where a reforecast is not undertaken or discussed with the GLA and the payment milestone is not actually achieved, payment of interest only may be due.

7.2.17. Where grant is claimed and paid following a payment milestone, and the GLA later discovers that the payment milestone was not actually achieved or took place later than forecast, this is a relevant event for grant recovery purposes. However, depending on the circumstances, the GLA may decide it will not recover grant but will require payment of interest on the amount of that grant paid. Grant will be deemed as having been claimed in advance of the appropriate payment milestone being achieved.

7.2.18. In such cases, "interest only" will be due from the 15th day following the date of the Relevant Event (the original payment milestone) and continue to be charged until the payment milestone is achieved or a reforecast milestone is achieved.

7.2.19. The GLA will calculate the amount of "interest only" to be paid and invoice the Unregistered Body accordingly. Unregistered Bodies should not make a payment in advance of this invoice. Interest will be due from the 15th day following the date the original payment milestone was forecast until the day before the actual start on site milestone occurred.

Example 1

An Unregistered Body claimed grant at the forecast start on site milestone. For various reasons, it did not achieve start on site until a later date. The GLA became aware of the delay between the forecast start on site date and the actual start on site date during a contract review meeting.

Following discussions with the Unregistered Body, the GLA is satisfied with the reasons for the delay and does not require the Unregistered Body to repay grant. But since the Unregistered Body claimed grant in advance of achieving the payment milestone, the GLA does require the Unregistered Body to pay interest on the amount of grant already paid.

The GLA will calculate the amount of interest to be paid and invoice Unregistered Bodies accordingly. Unregistered Bodies should not make a payment in advance of receipt of the invoice.

7.3. Calculation of recoverable grant and uplift amounts

General

- 7.3.1. This section sets out the basis for Unregistered Bodies to calculate recoverable grant and uplift following one of the relevant events set out in the URB Recovery Determination. For details of how to apportion grant to a property in order to calculate the amount of grant that is recoverable, please see [section 7.5](#).
- 7.3.2. Where appropriate, Unregistered Bodies are required to calculate the net sales receipt from property sold and decide whether this is sufficient to cover the grant recovery liability including any uplift amount, taking into account the GLA's eligible deductions.
- 7.3.3. If the net receipt is greater than the recoverable grant plus uplift, then the Unregistered Body must repay the full amount of recoverable grant plus uplift as directed below.
- 7.3.4. If the net receipt is less than the recoverable grant plus uplift, then the Unregistered Body may need to defer recovery of the balance or, in circumstances described in the following paragraphs, Unregistered Bodies may write off the shortfall with the prior permission of the GLA.
- 7.3.5. Note that the requirement to seek prior permission from the GLA to write off grant does not apply to shared ownership properties where the mortgagee has taken possession action and, following a disposal, the resulting receipt is insufficient to repay any grant. Please see paragraph 7.4.12.21 for further information on mortgagee possession.
- 7.3.6. The GLA does not have the power to 'write off' amounts of recoverable grant or uplift for an Unregistered Body. While there are certain circumstances where the GLA may waive or not pursue recovery of grant plus uplift, it cannot write off these sums. Only organisations can write off assets that are shown in their accounts. Therefore, it is for individual Unregistered Bodies to write off any amounts that are agreed with the GLA, as described in this chapter. If Unregistered Bodies intend to write off grant plus uplift, they must make a business case to the GLA, including assessment of financial hardship resulting from being denied the writing off of grant plus uplift, before writing off any historical grant or uplift. Any questions about requesting permission to write off grant or uplift should be made to the GLA at affordablehomes@london.gov.uk
- 7.3.7. The relevant events detailed in paragraphs 6(a) to (f) of the URB Recovery Determination cover grant paid in error, or in excess of requirements and circumstances where an Unregistered Body does not act in accordance with its contract, the URB Recovery Determination, this guide or other published requirements. Following these relevant events, the GLA will require the recovery of grant or excess grant (calculated by comparison of the amount

advanced with the amount needed) in full, without deductions or allowances for the Unregistered Body's costs and, where appropriate, with interest.

7.3.8. The relevant events detailed in paragraphs 6(g) to (p) of the URB Recovery Determination cover disposals, change and cessation of use and other circumstances. Following these relevant events, the GLA will make certain allowances, in particular for:

- Costs, fees and expenses incurred by the Unregistered Body in direct relation to the relevant event
- The deferral or reduction of grant recovered where net sales receipts are less than the amount of grant that is, in theory, recoverable
- Deemed loan debt

7.3.9. Unregistered Bodies are required to keep a written record of grant recovery calculations, including the calculation of the uplift amount, for audit purposes. Supporting documentation should be kept together with the written record of the calculation.

Deemed loan debt

7.3.10. For a definition of deemed loan debt, please see the Glossary.

7.3.11. Deemed loan debt should be apportioned to individual units on a scheme using the same calculation as the attribution of grant (see section [7.5](#)).

Uplift

7.3.12. Unregistered Bodies are required to repay capital grant with uplift upon the occurrence of a relevant event.

7.3.13. The definition of 'uplift amount' set out in the Recovery Determination is as follows: 'Uplift amount' means an amount calculated by reference to any increase in market value of any housing or other land acquired, constructed, converted, improved or repaired as a result of capital grant.

7.3.14. The GLA has published a methodology for calculating Uplift Amounts (see [here](#)). Unregistered Bodies should contact their GLA Area Manager if they have questions about the methodology.

7.4. Relevant events requiring repayment

7.4.1. Relevant event (a)

When, during the progress of a project approved for capital grant, an instalment of capital grant was claimed or paid in anticipation of a milestone, and that milestone either does not take place or takes place later than anticipated

- 7.4.1.1. If a milestone is never achieved, GLA will normally require repayment of the entire grant paid without eligible deductions, plus any interest due. Repayment will normally be sought via a reclaim activated within OPS.
- 7.4.1.2. If a milestone is achieved later than anticipated, and the GLA's Area Manager has agreed to re-forecast the milestone, whilst grant may not be required to be repaid interest may be charged on any grant paid in advance of need.

7.4.2. Relevant event (b)

When, after an instalment of capital grant has been advanced upon a project approved for capital grant, the GLA cancels the approval, or approves the project on revised terms which involve a reduced entitlement to capital grant

- 7.4.2.1. Where an approval is cancelled, the GLA will normally require repayment of all grant paid for the scheme without eligible deductions, plus any interest due as per paragraphs 7.2.12 to 7.2.15.
- 7.4.2.2. Where an approval is revised, the GLA will normally require repayment of any grant paid out in excess of the revised amount, plus any interest due as per paragraphs 7.2.12 to 7.2.15.

7.4.3. Relevant event (c)

Discovery, upon an intermediate or final review of the costs of a project approved for capital grant, that an instalment or payment on account of capital grant had been greater than eventually required

- 7.4.3.1. Where an approval is revised, the GLA will normally require repayment of any excess grant paid that is the difference between the amount of grant paid and the revised approval plus any interest due as per paragraphs 7.2.12 to 7.2.15.

7.4.4. Relevant event (d)

Failure to use Capital Grant for the purpose for which it was paid

7.4.4.1. The GLA will normally require repayment of all grant without eligible deductions, plus any interest due as per paragraphs 7.2.12 to 7.2.15.

7.4.5. Relevant event (e)

Failure to comply with any condition attached to the making of capital grant, including failure to complete a project and, for the purposes of this subparagraph, “condition” includes (but is not limited to) the terms of any agreement pursuant to which capital grant is advanced by the GLA to an Unregistered Body.

7.4.5.1. The GLA will normally require repayment of all grant without eligible deductions, plus any interest due as per paragraphs 7.2.12 to 7.2.15.

7.4.6. Relevant event (f)

Discovery that the Secretary of State, the GLA or a local authority has received incorrect information or made an error in connection with the calculation of capital grant payable or recoverable.

7.4.6.1. Depending on the circumstances of individual cases, the GLA will normally require repayment of grant in whole or in part without eligible deductions, plus any interest due as per paragraphs 7.2.12 to 7.2.15.

7.4.6.2. If the GLA requires repayment of grant in part, the amount of grant to be repaid will be calculated according to the particular facts relating to the property or scheme in question.

7.4.7. Relevant event (g)

Disposal of capital grant funded land acquired for the development of social housing, or designated for a further phase or phases of social housing, when the development or further phase or phases was, or were, not completed at the time of disposal

7.4.7.1. Selling land that has been acquired with the aid of grant before the development has either begun or been completed requires grant to be repaid in full, plus any uplift amount.

7.4.7.2. The gross sales receipt for the land sold should not be less than the valuation provided to the Unregistered Body by an independent Royal Institution of Chartered Surveyors (RICS) accredited qualified valuer.

7.4.7.3. Eligible deductions can be made from the gross sale receipt as follows: reasonable valuation fees and expenses; reasonable legal fees and expenses; and reasonable marketing costs.

7.4.7.4. Grant paid plus the uplift amount should be recovered from the net sales receipts (i.e. the gross sales receipt less eligible deductions as above).

7.4.7.5. Where only part of the land or scheme is sold, grant and uplift should be apportioned.

7.4.7.6. Spare land

7.4.7.7. The sale of spare land whether sold prior to, or after, development is not treated as a disposal and not deemed a relevant event. Therefore, no grant or uplift is recoverable. Spare land includes:

- Part of a garden or general landscaping
- Plots of land for electricity sub-stations or similar utilities
- Land swaps to regularise boundaries
- Rights of way, access, or easements

7.4.7.8. Spare land excludes any area of land designated at project approval for any future phase or phases of development. If Unregistered Bodies are in any doubt about whether land can be classified as spare, they should approach the relevant Area Manager.

7.4.8. Relevant event (h)

A change of use of land or property to one which would not qualify in principle for Social Housing Assistance

7.4.8.1. A change of use is a relevant event when the Unregistered Body changes the use of the property to one which does not qualify for grant (at the time of change of use). The relevant event date will be the date from which the change of use commenced.

7.4.8.2. Recoverable grant and any uplift amount should be calculated as if the property had been sold outright on the basis of all of the grant attributed to the unit. See section 7.3.12 to 7.3.14 for details on uplift.

7.4.8.3. As Unregistered Bodies will not actually receive any sales receipts the calculation must be based on notional figures. In order to determine the notional gross sales receipt Unregistered Bodies are required to obtain a

valuation of the property from an independent RICS accredited qualified valuer on the assumptions of:

- Vacant possession
- Existing use

7.4.8.4. Eligible deductions are the same as for open sale i.e.

- The deemed loan debt
- Reasonable valuation fees and expenses
- Reasonable legal fees and expenses of the disposal

7.4.8.5. Unregistered Bodies may not deduct any administration allowance. Where there is any doubt about the future use of the property, Unregistered Bodies should consult their Area Manager for advice.

7.4.9. Temporary change of use with permission

In exceptional circumstances, the GLA may agree a temporary change of use, without recovery, to one not qualifying in principle for grant

7.4.9.1. Unregistered Bodies must discuss their proposals with their Area Manager who will consider individual cases on their own merit taking into account:

- The level of demand for the existing use of the land or property
- The likelihood that it could be returned to affordable housing within 12 months
- Factors which make it difficult or undesirable to dispose of the land or property
- Whether the temporary use offers a housing or regeneration function

7.4.9.2. The GLA's agreement to a temporary change of use to one which is non-grant eligible will last for 12 months. The agreement will be subject to review and only in truly exceptional circumstances renewed.

7.4.10. Relevant event (i)

Cessation of use of property or land funded by capital grant.

7.4.10.1. Where an Unregistered Body has ceased to use land or property for six months, the GLA's Area Manager must be notified immediately.

7.4.10.2. Following a notification, Unregistered Bodies will have one month to produce proposals for either bringing the property or land back into use, its demolition or disposal.

7.4.10.3. These proposals must be discussed with the GLA's Area Manager and a course of action agreed. If the Unregistered Body does not implement the agreed course of action within an agreed timetable, including any extension, the grant plus any uplift amount will be recovered in accordance with the procedures for the change of use to a non-grant eligible use at section 7.4.8 above.

7.4.10.4. Where Unregistered Bodies decide to cease using grant-funded property, grant plus uplift will be recovered in accordance with paragraphs 7.3.12 to 7.3.14.

7.4.11. Relevant event (j)

Demolition of property or other buildings funded by capital grant.

7.4.11.1. In some circumstances, such as where a property funded by grant has reached the end of its useful life, or where alternatives such as refurbishment are unviable and where the land is intended for future affordable housing development, the GLA can, on a case-by-case basis, consider deferring recovery until a subsequent relevant event occurs.

7.4.11.2. Where deferral of recovery is agreed the liability to repay grant plus uplift will arise at the next relevant event relating to the land on which the demolished property was located. The grant recovery policy and procedures in force at that time will apply.

7.4.11.3. In the meantime, grant is treated as remaining or resting in the land.

7.4.11.4. Where grant is resting in the land it will not be included in any value for money assessments undertaken by the GLA when deciding whether or not to provide additional grant to redevelop the site. In other words, it will not make any future redevelopment scheme look artificially expensive in terms of subsidy requirements. However, both the 'dormant' and 'new' grant will be subject to future relevant events. For an example see below.

<p>A property is demolished and the original £50,000 grant remains 'dormant' in the land. New property is built on the site with a total grant required of £20,000. Some years later the property is sold on the open market and £70,000 grant plus any uplift amount is recoverable as per paragraphs 7.3.12 to 7.3.14.</p>
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7.4.12. Relevant event (k)

Disposal of property or land funded by capital grant by an Unregistered Body, [except where exceptions below permit.]

7.4.12.1. Outright sale or disposal of land and or buildings developed with the benefit of capital grant.

Outright sale is taken to include:

- A sale on the open market
- A negotiated private sale

7.4.12.2. The gross sales receipt must not be below a valid valuation by an independent RICS accredited surveyor.

7.4.12.3. From the gross sales receipt Unregistered Bodies may deduct the following eligible deductions to arrive at the net sales receipt

- The deemed loan debt
- Reasonable valuation fees and expenses
- Reasonable legal fees and expenses relating to the disposal

7.4.12.4. Unregistered Bodies may not deduct:

- Any administration allowance; and
- The cost of demolition if the site is sold after demolition.

7.4.12.5. Sale under compulsory purchase orders

If a property owned by an Unregistered Body is sold under a compulsory purchase order (or where there is written evidence of the threat of a compulsory purchase order), the amount of recoverable grant will be calculated in the normal way, including uplift, except:

- The gross sales receipts will be the higher of either:
 - The receipt from the disposal plus any compensation received plus any interest received as part of the compulsory purchase order or
 - The amount obtained by a qualified valuer acting on behalf of the Unregistered Body in negotiation with the body exercising compulsory powers
- Eligible deductions will only include the Unregistered Body's reasonable valuation and legal fees & costs, and an administrative allowance if the body exercising the compulsory purchase order has not paid them as part of the compulsory purchase order process.

7.4.12.6. The amount of interest to be included in the calculation of the gross sales receipt will be the interest paid by the acquiring body, less any tax on that

interest that the Unregistered Body may have to pay plus any tax relief grant that it may have received to offset the tax paid.

7.4.12.7. Disposal of spare land in these circumstances is covered in paragraph 7.4.7.6.

7.4.12.8. The amount of grant plus uplift recovered will not normally be reduced in respect of any costs incurred by an Unregistered Body in opposing a compulsory purchase order.

7.4.12.9. Where a reduction in recoverable grant is sought, Unregistered Bodies must obtain the GLA's prior consent which will only be given in exceptional situations.

7.4.12.10. If the net sales receipt is insufficient to enable the recovery of all the grant plus any uplift attributed to the property or land, the amount of recoverable grant plus uplift may, at the GLA's discretion, be reduced by the shortfall. Unregistered Bodies must discuss such cases with the GLA's Area Manager through the grant notifications process (see section 7.2.5). However, if Unregistered Bodies make net surpluses upon the sale of other property or land within the same compulsory purchase order, those surpluses must be used to offset the shortfall in whole or in part.

7.4.12.11. If a shortfall still remains, the amount of the shortfall may be written off by the Unregistered Body, with the prior consent of the GLA. Where grant plus uplift is to be written off, a written calculation must be supported by documentary evidence confirming the figures.

7.4.12.12. Shared Ownership: Staircasing sales

The sale of the first share in property acquired or developed for sale on shared ownership terms is not a relevant event and grant recovery only arises when further shares are purchased (staircasing)

7.4.12.13. The gross sale receipt of the share purchased must not be below the applicable percentage of a valid valuation by an independent Royal Institution of Chartered Surveyors qualified valuer and as detailed in the shared ownership lease. Please see below for an example. The valuation must be paid for by the prospective purchaser.

Current property value	£200,000
Share to be purchased	10%
Value of share	£20,000

7.4.12.14. Unregistered Bodies may deduct the following eligible deductions from the gross sale receipt:

- The deemed loan debt attributable to the percentage of share being sold
- The staircasing allowance

7.4.12.15. The net sale receipt is used to recover the grant attributed to the share purchased plus uplift; for an example please see below.

Grant attributable to the property	£15,000
Initial Share Sold	40%
Grant of £15,000	Attributed to provider's 60% share
Additional share to be purchased	10% (= 17% of the original remaining 60% share)
Recoverable grant	17% of £15,000 grant in property (= £2,550) plus the uplift amount on the share purchased (see section 7.3)

7.4.12.16. If, having recovered the grant that is attributable to the share being purchased plus any uplift amount, there is still a balance of net sale receipt, then the Unregistered Body must initially use this balance to repay any previously deferred recoverable grant or uplift amount in this or other property within the same scheme.

7.4.12.17. If the net sales receipt is insufficient to enable the recovery of grant attributed to the share being sold, plus any uplift amount, Unregistered Bodies should recover grant in part and the shortfall should then be recovered when the sale of a further share of that dwelling, or the sale of shares of any other shared ownership property within the same scheme occurs.

7.4.12.18. Written calculations supported by documentary evidence of the figures used in relation to the calculations, deferment, tracking deferment and grant or uplift amounts written off must be retained by Unregistered Bodies. For further guidance on what to include in written calculations, please see below.

7.4.12.19. The following information should be included in the written calculation of the recovery of capital grant plus uplift. Please note this is not an exhaustive list and the Unregistered Body should add anything else it deems pertinent:

- Unregistered Body details
- Property/scheme details (e.g. address, OPS project ID number)
- Type of sale (e.g. conventional shared ownership, Protected Areas, Older Persons Shared Ownership etc.)
- Supporting documentation for any write-off of grant or uplift amount (e.g. invoices, valuation report, mortgagee's completion statement for repossessions)
- Sales proceeds (including valuation date, duration and value of whole property, sales completion date and actual sales receipt)
- Expenses (staircasing allowance as per Admin Allowances)
- Deemed loan debt (please see the Glossary for a definition)
- Net sales receipt

- Grant liability apportioned to the percentage share sold, including any uplift amount (see section 7.3)
- Grant deferred from previous sales in the same scheme
- Total grant liability
- Grant liability net of eligible deductions as per section 7.3.8 above; and
- Grant or uplift amount to be deferred to next sale or written off (if final sale in scheme), where appropriate

7.4.12.20. If, when the final property in a scheme is staircased to outright ownership (or the maximum percentage allowable for that scheme), the total net sales receipt is less than the recoverable grant and uplift amount (i.e. recoverable grant and uplift from that staircasing sale plus any previously deferred recoverable grant and uplift) the final shortfall may be written off by the Unregistered Body.

7.4.12.21. Shared ownership: Repossessions

For an overview of repossessions, see Mortgage Default at Shared Ownership Section 4 of the [Capital Funding Guide](#).

Repossession occurs where the leaseholder's mortgage company takes possession of the property, and then does one of three things:

- Sells the lease to another purchaser
- Staircases to a higher percentage (but not to 100% ownership) and sells the lease to another purchaser
- Staircases to 100% and then sells the property on the open market

The mortgage company then uses the sale receipt to pay themselves the loan outstanding from the defaulting leaseholder and (in the second and third scenarios) will pay a sum to the Unregistered Body as the staircasing premium. If there is any money left over after the loan has been paid off and the Unregistered Body has been paid, the mortgage company passes it to the leaseholder.

From the Unregistered Body's perspective, therefore, repossessions involving staircasing are theoretically the same as any other situation where someone staircases out, and the Unregistered Body gets a capital receipt. However, the Mortgagee Protection Clause means that the gross sale receipt that the Unregistered Body receives from the mortgage company is not necessarily the value of the property multiplied by the Unregistered Body's equity share. Where this is the case it is not a requirement that Unregistered Bodies must first seek our consent in order to write off grant and any uplift amount.

The Mortgagee Protection Clause in the shared ownership lease allows the leaseholder's mortgage lender to staircase at a lower price than that normally required. The amount to be paid for the outstanding share is the actual sale price of the property (not the equity percentage of a property valuation) less those sums due to the mortgage company, i.e. the sum of the mortgage company's reasonable and proper expenses incurred in:

- Exercising the right to purchase a new lease or the freehold
- Exercising its powers of sale
- The amount of principal due under the mortgage approved under Clause 34(15) (or equivalent) of the Lease
- Up to 18 months unpaid interest;
- Advances to the Unregistered Body to cover any sums such as rent and service charges due under the lease
- Reasonable legal fees
- Reasonable estate agent's fees
- Reasonable valuation fees
- Other costs incurred in connection with the protection of the security or sale of the property

- 7.4.12.22. Policy in respect of defaulting shared owners is contained in the [Joint Shared Ownership guidance](#).
- 7.4.12.23. The approach to calculating recoverable grant and uplift amount, including deferment and potential write off is the same as for any other shared ownership staircasing (see paragraph 7.4.12.12 above). However:
- Unregistered Bodies may accept (for recovery purposes) the valuation by the mortgage company's valuer instead of one by an independent Royal Institution of Chartered Surveyors qualified valuer; and
 - The gross sale receipt is the money received from the mortgage company, as stated in the mortgage company's statement of account.
- 7.4.12.24. Unregistered Bodies may deduct the following eligible deductions from the gross sale receipt:
- The deemed loan debt attributable to the percentage sold
 - The staircasing allowance
- 7.4.12.25. Any shortfall on staircasing receipts remains a debt due to the Unregistered Body by the defaulting leaseholder.
- 7.4.12.26. Where the leaseholder's mortgage company has used the Mortgagee Protection Clause in the shared ownership lease, and the Unregistered Body has suffered a shortfall on staircasing receipts, recoverable grant plus uplift may be written off by the Unregistered Body or deferred (without the prior consent of the GLA) if the Unregistered Body confirms in supporting documentation that they:
- Will provide a written calculation of the recoverable grant plus uplift
 - Are in the process of obtaining legal advice, or have already obtained legal advice on prospect of recovering the money due from the leaseholder
 - Will take all necessary steps to recover the money due
 - Undertake to pay all money received to the GLA within 14 days of receipt
- 7.4.12.27. In deciding what action is reasonable to pursue the debt, Unregistered Bodies should obtain written legal advice. A copy of the solicitor's advice must be kept with the written calculation of recoverable grant plus uplift for audit purposes.
- 7.4.12.28. If Unregistered Bodies take action as advised by their solicitor, and no receipts are generated, any expenses or abortive costs will not be allowed as eligible deductions unless the surpluses from shared

ownership staircasing sales completed in the previous twelve months are insufficient to cover the costs.

7.4.12.29. Where Unregistered Bodies incur such a loss, they can deduct the costs incurred from a future grant recovery on a shared ownership sale or staircasing in that scheme.

7.4.12.30. If the amount for which the defaulting leaseholder is liable under the Mortgagee Protection Clause would have left the Unregistered Body with a surplus after recovery of the full grant plus uplift amount then it is a matter for the Unregistered Body to decide whether to seek to recover this amount when taking action to recover other monies due.

7.4.12.31. Where recovery of grant plus uplift is to be reduced or deferred, the supporting documentation should include an appropriate certification signed by the Unregistered Body authorised signatory together with a copy of the completion statement provided by the leaseholder's mortgage company, and a copy of the mortgage company's explanation if the sale price is lower than the valuer's valuation.

7.4.12.32. Exceptions to the relevant event of disposal

7.4.12.33. Disposal of property or land funded by grant is considered to be a relevant event and triggers recovery of grant and uplift. Certain types of disposal are considered by the GLA to be exemptions from the obligation to repay capital grant plus uplift. The two exceptions covered in the URB Recovery Determination at paragraph k are covered below.

7.4.12.34. Disposal of property or land funded by grant to a Registered Provider

7.4.12.35. A disposal of grant-funded property (or land) by an Unregistered Body to a Registered Provider will not trigger repayment of grant. Under the Registered Provider recovery regime, grant liability can pass to Registered Providers. Therefore, where a disposal to a Registered Provider takes place, Unregistered Bodies are able to transfer the grant liability to the Registered Provider as if the Registered Provider had received the grant themselves. Grant could then potentially become recoverable from the Registered Provider should a future relevant occur with no recourse to the Unregistered Body.

7.4.12.36. Sale of a first tranche share on shared ownership terms

7.4.12.37. A disposal of a first tranche share under a grant-funded shared ownership is not a relevant event for recovery. Grant repayment only arises where further shares are purchased by the shared owner when they staircase or acquire further increments (see Staircasing sales at 7.4.12.12 above).

7.4.13. Relevant event (l)

A change in the status of an Unregistered Body from unincorporated status to incorporated status by whatever means

- 7.4.13.1. A change in the status of an Unregistered Body from unincorporated to incorporated is a relevant event. The effect of such activity is that there is a change in 'legal personality' from one unincorporated form to another incorporated form. The GLA has determined that where such activity is taking place this represents a relevant event for the repayment of grant, plus uplift where applicable.
- 7.4.13.2. On a case-by-case basis, the GLA will seek to put in place a deed of covenant, in which both the unincorporated body and the newly incorporated body acknowledge grant liability. Once a deed of covenant is in place, the GLA will waive recovery until a subsequent relevant event. Where an Unregistered Body does not agree to enter into a deed of covenant, the GLA will always seek to enforce recovery of grant and uplift.
- 7.4.13.3. Where Unregistered Bodies intend to incorporate as charitable incorporated organisations or other similar incorporated bodies, they should first discuss with the GLA the implications for repayment of capital grant and uplift.

7.4.14. Relevant event (m)

The commission by an Unregistered Body of a prohibited act

- 7.4.14.1. A prohibited act is taken to mean the commission of any of the following by an Unregistered Body:
- a) offering, giving or agreeing to give to any servant of the GLA any gift or consideration of any kind as an inducement or reward:
 - i. for doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance of any grant agreement or other agreement with the GLA or
 - ii. for showing or not showing favour or disfavour to any person in relation to any grant agreement or other agreement with the GLA
 - b) entering into any grant agreement or any other agreement with the GLA relative to such agreement in connection with which commission has been, or to its knowledge, unless before the relevant agreement is entered into particulars of any such commission and of the terms and conditions of any such agreement for the payment thereof have been disclosed in writing to the GLA
 - c) committing any offence:
 - i. under legislation creating offences in respect of fraudulent acts
 - ii. at common law in respect of fraudulent acts in relation to any grant agreement or any other agreement with the GLA or

- iii. under the Bribery Act 2010 (or any successor legislation)
- d) defrauding or attempting to defraud or conspiring to defraud the GLA
- e) failure to comply with any anti-bribery or anti-corruption requirements in any grant agreement or any other agreement with the GLA

7.4.14.2. The commission of any such act will always result in the GLA requiring the repayment of capital grant plus uplift amounts.

7.4.15. Relevant event (n)

The Unregistered Body becomes subject to an insolvency event

7.4.15.1. Insolvency event has the following meaning and includes the occurrence of any of the following where an Unregistered Body:

- a) is unable or admits an inability to pay its debts as they fall due, suspends making payments on any of its debts or, by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors with a view to rescheduling any of its indebtedness
- b) the value of its assets is less than its liabilities (taking into account contingent and prospective liabilities);
- c) any corporate action, legal proceedings or other procedure or step is taken in relation to:
 - i. the suspension of payments, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) other than a solvent liquidation or reorganisation on terms previously approved by the GLA (such approval not to be unreasonably withheld or delayed)
 - ii. a composition, compromise, assignment or arrangement with any of its creditors
 - iii. the appointment of a liquidator (other than in respect of a solvent liquidation on terms previously approved by the GLA, such approval not to be unreasonably withheld or delayed), receiver, administrative receiver, administrator, compulsory manager or other similar officer
 - iv. enforcement of any security over any of its assets
 - v. any analogous procedure or step is taken in any jurisdiction; other than any winding-up petition which is frivolous or vexatious and is discharged, stayed or dismissed within ten business days of commencement
- d) any expropriation, attachment, sequestration, distress or execution affects any of its assets

7.4.15.2. An insolvency event affecting an Unregistered Body will always result in the GLA requiring the repayment of capital grant plus uplift amounts.

7.4.16. Relevant event (o)

The Unregistered Body ceases to operate or trade

- 7.4.16.1. Cessation of operation or trading is deemed to occur where an Unregistered Body has for whatever reason ceased to operate or trade and includes any solvent winding-up.
- 7.4.16.2. A cessation of trading or operation affecting an Unregistered Body will always result in the GLA requiring the repayment of capital grant plus uplift amounts.

7.4.17. Relevant event (p)

The redemption or a disposal of property or land funded by capital grant giving rise to the redemption of an equity percentage loan secured by an equity mortgage

- 7.4.17.1. Equity loans are currently not a product included for funding by capital grant under the GLA's affordable housing programmes.

7.5. Grant Liability

Apportionment of grant

- 7.5.1. This section sets out the requirements for apportioning grant on a reasonable basis to individual properties where a relevant event does not affect the whole scheme.
- 7.5.2. For schemes funded with set grant rates only the amount of grant to be apportioned is typically the applicable grant rate for each home. For example, if the grant rate in the relevant GLA funding programme was £38,000 for a Shared Ownership home, £38,000 should be apportioned for each shared ownership home in the scheme that is affected by the relevant event. Where these schemes also received additional grant (for example, any of the amounts specified in paragraph 7.5.5 below), this additional grant should be apportioned to each home using one of the methods specified in paragraph 7.5.4.
- 7.5.3. Uplift amounts (see paragraphs 7.3.12 to 7.3.14) should be apportioned using the same methodology as with the grant on a scheme.
- 7.5.4. The following principles of apportioning grant where a relevant event has occurred within schemes applies regardless of the programme under which funding has been given. Acceptable methods of grant apportionment to individual properties are:
- Floor area
 - Equal division where properties are similar in size
 - Rateable value where this has been used in previous disposals in the scheme
 - Any other method approved by the GLA in advance.
- 7.5.5. The total amount of grant paid in respect of a scheme and to be apportioned must include:
- Funding (including new grant received on the initial development)
 - Grant paid to clear any loan on a scheme originally approved under section 41 of the Housing Associations Act 1985, and the works funded under later legislation
 - Grant paid for re-improvement, Major Repairs, and minor Miscellaneous Works
 - Grant paid on any previous scheme on the site, which has been demolished whose recovery has been deferred (i.e. previous grant less any grant already recovered)
 - Simple interest (i.e. interest arising for late payment of grant to the Unregistered Body)
- 7.5.6. For shared ownership schemes approved on or after 1 April 1993, grant should be apportioned according to the market values of the dwellings at practical completion of the scheme.

Shared ownership staircasing sales

7.5.7. A shared owner may 'staircase' by purchasing a further share, or shares, of their dwelling. The grant that is attributable to the staircased share will be the appropriate percentage of all of the grant attributed to the property, including any interest arising after the relevant date, plus uplift. It will also include any recoverable grant deferred from previous staircasing within the same scheme. For a worked example, please see below.

Shared ownership staircasing sales

A 25% share of a dwelling was initially purchased and the total grant attributable to the unsold equity (75%) in the property was £21,000.

The shared owner buys a further 25% of the property. This is one third of the equity owned by the Unregistered Body (25% out of 75%).

The grant that is attributable to that staircasing purchase is therefore one third of the grant paid (£21,000) i.e. £7,000, plus uplift (see section 3.3).

Recovery of £2,143 had been deferred from a previous staircasing of a different dwelling in the same scheme.

The total grant recoverable is therefore $£7,000 + £2,143 = £9,143$ plus uplift

If the net sale receipt of this current staircasing is £8,250 then £8,250 of grant is recovered and the balance of £893 ($£9,143 - £8,250$) plus uplift is deferred to the next staircasing within this scheme.

Apportioning grant on land

7.5.8. When an Unregistered Body sells the land or buildings that make up an entire scheme no apportionment of grant is necessary, as the recoverable grant will be the entirety of the grant paid plus uplift.

7.5.9. However, Unregistered Bodies may sell land that is a part of a grant-funded scheme under the following scenarios:

- Scenario 1: Spare land that is part of a completed development
- Scenario 2: Land swap or sale, using land from a completed development, to enable site assembly undertaken either by the Unregistered Body or another body
- Scenario 3: Land and / or part-completed properties sold or swapped prior to completion of the development

It is necessary to apportion grant to cater for these scenarios.

Spare land – scenario 1:

Grant will not be recovered when an Unregistered Body disposes of spare land associated with a scheme. Spare land includes:

- Part of a garden or general landscaping
- Plots of land for electricity sub-stations or similar utilities
- Land swaps to regularise boundaries
- Rights of way, access, or easements

7.5.10. Spare land excludes any area of land designated at scheme approval for any future phase or phases. If an Unregistered Body is in doubt about whether land should be classed as spare, they should consult the relevant contract manager.

Land swaps and sales (completed developments) – scenario 2:

Where a scheme has been completed the grant should have already been apportioned between the properties. There will, therefore, be no grant apportioned to the parts of the scheme that are landscaping, roads etc. The disposal by sale or barter of this land is a relevant event, but there is no attributed grant or uplift to be recovered.

Land swaps and sales (partially completed developments or before building work starts) - scenario 3:

If, after disposing of part of the site or some of the partially completed dwellings, the Unregistered Body is still able to deliver the same number of units that house the agreed number of people, and comply with all other contractual conditions of their allocation, then all of the grant and any future uplift can be apportioned to the properties rather than being apportioned between land and properties. There will therefore be no grant attributed to land (as opposed to properties) and although a relevant event will have occurred, there is no grant or uplift to be recovered.

7.5.11. If, after disposing of part of the site or some of the partially completed dwellings, the Unregistered Body is unable to deliver the required number of units etc., they must seek confirmation from the relevant Contract Manager as to whether or not it is willing to continue to fund the scheme. The GLA may be willing to allow a (reduced) scheme to proceed at lower level of grant and will consider whether the provider may be able to deliver the balance of units elsewhere.

- 7.5.12. If the grant payable for the new scheme is less than had already been paid for the cancelled scheme, the difference will be recoverable.
- 7.5.13. Where the GLA cannot agree proposed changes to the development as per the above paragraph the scheme may be cancelled. This would be a relevant event, triggering recovery (by immediate repayment) of all grant paid on the scheme plus uplift.

7.6. Grant recovery in the Affordable Homes Programme 2021 to 2026

- 7.6.1. It is anticipated that the grant recovery guidance in this chapter will apply to the Affordable Homes Programme 2021 to 2026 except for homes delivered through the new Shared Ownership model and the Right to Shared Ownership.
- 7.6.2. Homes England is working through the operational and technical parameters of the new fund in connection with the new Shared Ownership model and the Right to Shared Ownership and further details will be provided once these have been confirmed. You can sign up for email updates from Homes England [here](#).