**De-registration Toolkit**

**Model Letter to Homes England**

|  |
| --- |
| Note for Almshouse Association members – please delete this boxed text before sending. It is fine to send this letter by email only.The decision on repayment of your charity’s grant will be made by the Homes England Investment Agency’s Regional Manager for your area, who is likely to be based outside London. The addresses below are for the Homes England office in London, but they have confirmed to us that they will forward your communication about repayment of grant to the relevant Regional Manager. You can find postal addresses of the Regional Offices here: <https://www.gov.uk/government/organisations/homes-england/about/access-and-opening>However, if you propose to use the Regional Office postal address instead of the London one, we recommend you phone the Homes England switchboard first on 0300 1234 500 to check which Regional Office is responsible for Investment Agency decisions about your charity. |

**Letter to Homes England**

To: enquiries@homesengland.gov.uk [NB if using the email address to send this letter, put the following in the subject bar with your Regulator of Social Housing registration number to help it get to the right team member: *FAO Homes England: almshouse de-registration*]

To: Homes England
Fry Building
2 Marsham Street
London
SW1P 4DF

Dear Sir/Madam

**Hospital of Jesus, Nos. 1 – 10 Almshouses Lane, Blankton, Blankshire X23 1BP, registered charity no. 123456, Regulator of Social Housing Registered Provider no. A1112131415**

The Hospital of Jesus is an almshouse charity, and I am *[a trustee/the Clerk*]. It is also a Registered Provider of social housing. The trustees intend to apply to the Regulator of Social Housing to request de-registration from being a Registered Provider.

A requirement of a de-registration application is that the applicant must first have discussed the issue of repayment of social housing grant with Homes England.

Accordingly, I am contacting you on behalf of the charity to ask the Investment Agency to confirm that, due to the financial hardship which would be caused, the Investment Agency will not treat de-registration as an event requiring the charity to repay grant, nor will it ask the charity to create a charge over its assets in favour of Homes England. The remainder of this letter sets out the background.

General Background to the charity

The charity is an unincorporated almshouse charity. It has only 10 units of accommodation and 10 residents. The beneficiary class is restricted by law to ‘poor people resident at the time of appointment within the town of Blankton’. Almshouse charities are only allowed to offer accommodation to people who not only fit the beneficiary class but are also capable of independent living. Almshouses are intended to be homes for life, hence residents usually live there until they die and vacancies arise rarely. *[For example, in the last five years we have had only one vacancy.]*

Despite the name ‘Hospital of Jesus’, the applicant is not a hospital in the modern sense of the word and does not have any medical facilities or medical staff. It is called ‘Hospital’ purely because that was a generic word to describe almshouses several centuries ago when the applicant was founded as a charity.

The applicant is a member of The Almshouse Association, the national support charity which advises almshouse charity trustees on best practice and which works in partnership with the Charity Commission. The Association is in regular contact with Homes England and the Regulator of Social Housing about almshouse-related matters.

Social housing grant received by the charity

The following numbers of dwellings, which the charity still owns, have been provided or re-modelled with social housing grant to the value of £ 75,000 from the Housing Corporation:

*5 dwellings re-modelled with a Housing Corporation grant in 2003.*

Restriction on title at the Land Registry

When the charity received social housing grant in 2003, the trustees arranged for a restriction on title in favour of the Housing Corporation to be entered onto the register of title for the charity’s land at the Land Registry. The restriction remains in place and is in the usual form, providing that the Land Registry is not allowed to register a disposal of the land without the Housing Corporation’s consent. We understand that where the Land Registry establishes that a statutory body has been replaced with another (e.g. the Housing Corporation being replaced with the Homes England), it will apply this restriction to mean the Homes England’s consent is required.

The Regulator of Social Housing policy on almshouse charities and repayment of grant

The Regulator of Social Housing Registrar has confirmed to the Almshouse Association that Homes England will consider not requiring de-registering almshouse charities either to repay any social housing grant or to grant a charge over their assets, if the charity has made the case to the Agency that repayment of the grant would cause the charity financial hardship. The relevant communication from the Registrar to the Association was by email dated 16 October 2015, the relevant part of which is set out below, and we understand that the Agency was consulted by the Registrar when she drafted the email:

*“..the purpose of this email is to consider the mechanism which – were the regulator to be minded to agree deregistration of a registered almshouse……might be used in those cases where the Agency as funder (‘the Agency’) was willing to defer repayment of grant.*

*As [the Association] note[s] in its email, there are cases where the Agency is able to defer recovery of grant to a subsequent relevant event – that is, one which occurred after a deregistration, on a case by case basis, provided that a financial hardship case is evidenced should the Agency oblige recovery. Where such a case has been made, I understand that the Agency would subsequently expect the registered provider to enter into a deed of covenant.  In such cases, this would commit the deregistered almshouse to repay grant in the event of a future relevant event.  It would also ensure that matters were clear, both about the position on past payment of grant and about the events which would trigger repayment in the future.  Accordingly, the Agency would not require a legal charge unless there were some particular reasons for that – or indeed for some other variation from this usual approach.  This is along very similar lines to those in [the Association’s] email to me.*

*Clearly, the decision on whether repayment of grant is required or not or whether a Deed would be required is a matter between the almshouse and the Agency and is not a decision for the regulator.  However, as you know it is an essential part of obtaining consent from the regulator that the registered provider has shown that the Agency (or in the case of almshouses based in Greater London, the GLA) is content with arrangements regarding grant.  The regulator would therefore require assurance that an almshouse registered provider seeking deregistration had discussed the matter with the Agency (or GLA) and had (if so required by the Agency or GLA) entered into a Deed of Covenant with the Agency before the regulator was willing to deregister (again, in relation to those it was otherwise willing to deregister).”*

Why repayment of grant upon de-registration would cause financial hardship

I enclose a copy of the charity’s most recent annual accounts, from which you will see that the charity cannot afford to repay the grant upon de-registration.

*[Go into detail of specific figures here about your charity’s finances. For example we recommend you explain as a minimum:*

* *Why you cannot simply afford to repay the social housing grant out of reserves, if necessary selling investments which the charity owns*
* *Why the charity could not afford to borrow money from a bank in order to repay the grant now, and then gradually repay off the bank loan over a period of years. This will require you to go into some detail about the legal reasons why you cannot simply raise your WMC to a level to enable you not only to run the almshouses, including putting aside money into the ERF, CMF and for routine maintenance, but also to make repayments on a commercial loan. In turn, to make a compelling case about this you may need to submit a completed Specimen Outline Budget for 2016, and to explain both that you are legally obliged not to cause financial hardship to residents, and that once de-registered you could not justify raising WMC higher than the Equivalent Fair Rent since that is the maximum residents could recoup by way of housing benefit. You need to be prepared for the Agency to ask you for further evidence, eg a letter from the Valuation Office Agency confirming the Equivalent Fair Rent for your dwellings, and a communication from a bank either quoting you the terms on which it would be prepared to lend to your charity to enable you to repay social housing grant on de-registration, or (perhaps more likely) refusing to lend to the charity for these purposes. You may wish to consider obtaining these documents in advance so that you can submit them with this letter to pre-empt any such questions.]*
* *[Only use this bullet point if it is true of your charity. It is true of the vast majority of almshouse charities but check your Scheme if you are in any doubt. For example, if the Scheme uses wording like ‘the land in the schedule is appropriated for almshouse accommodation”, the Charity Commission would regard the land as Functional Permanent Endowment] [The grant was used on re-modelling the dwellings for which it was sought. The dwellings constitute Functional Permanent Endowment under charity law (otherwise known as ‘specie land’ or ‘designated land’, meaning that the original donor specified the land could only be used for provision of almshouses). This would make it illegal to sell the dwellings without the Charity Commission’s consent, except to use the proceeds of sale to provide new almshouse accommodation. Hence unlike other providers, the charity would not be able to sell the land in order to pay back the grant.]*

Why grant of a charge instead of repayment would damage the charity

The trustees would request, in line with the Registrar’s email quoted above, that the Agency does not ask the charity to grant a charge in favour of Homes England over the land. The trustees’ reasons are as follows:

* It is legally unnecessary. The restriction on the register mentioned above, combined with the Deed of Covenant contemplated by the Registrar’s email quoted above, would be enough to eliminate the risk of the land being sold without the Homes England’s consent.
* It would be damaging to the charity’s longer term financial viability. Having such a charge on the register of title would make it very difficult for the charity to raise loan finance in future, since banks would find it unattractive to lend where the charity’s only significant asset was subject to a prior charge.
* It would risk forcing the charity trustees into a breach of their duty to act in the charity’s best interests, since granting the charge would cause the longer term financial difficulty described above.

Deed of Covenant

The trustees would of course be happy to enter into a suitable Deed of Covenant about circumstances in which the Agency would require repayment of grant in future if it defers repayment on this occasion, as contemplated in the email from the Registrar quoted above. The trustees look forward to receiving a Deed of Covenant from you for signature.

Please do not hesitate to contact me if you require further information. My contact details for these purposes are:

Email:

Telephone:

Postal address:

I look forward to hearing from you as soon as possible.

Yours sincerely,