



Homes &
Communities
Agency

Guidance on the effect of the Housing and Planning Act 2016 on Disposal Proceeds Fund Requirements



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Introduction

1. Various deregulatory measures for social housing regulation took effect from 6 April 2017. Some of those changes concern private registered providers (PRPs)' obligations in relation to 'disposal proceeds funds'.
2. After 6 April 2017 PRPs do not have to show new proceeds from relevant disposals in a disposals proceeds fund ('DPF'). But they will have to continue to comply with the regulator's DPF requirements in relation to DPF funds in place on 6 April 2017 during a wind-down period.
3. This guidance gives further information about the changes to the requirements around disposals proceeds funds. It should be read alongside the Regulator's Disposal Proceeds Fund Requirements (Requirements) and the associated Guidance, published in 2015, and sets out how those documents are impacted by these changes.

Legal background

4. PRPs' obligations about DPF are set out in the Housing and Regeneration Act 2008 sections 177-178, and in the regulator's Disposal Proceeds Fund Requirements 2015¹. Changes to these statutory provisions have been made by the Housing and Planning Act 2016 and associated regulations,² and came into force on 6 April 2017.
5. The main change to the legal requirements is to remove the obligation to account for proceeds of sale of a disposal which occurs after 6th April 2017³. The other DPF obligations – particularly the requirements for separate accounting, for constituting and showing the DPF in accounts, for adding interest to the DPF fund, and for following the regulator's requirements about use and allocation of DPF funds – continue to apply until at the latest, 6th April 2020⁴
6. On 6th April 2020, the provisions about DPF in the Housing and Regeneration Act 2008 sections 177-178 will no longer be effective⁵.

Disposal Proceeds Funds obligations after 6th April 2017

Continuation of DPF

7. Any PRP who has a DPF on 6th April 2017 must continue to operate its DPF. This includes continuing to comply with the regulator's Requirements. However, there is no longer an obligation to account for proceeds from any disposal which occurred after 6th April 2017 and therefore the section in the regulator's Requirements about net proceeds (section 2) does not have any effect after that date.
8. Any provider who had a DPF on 6th April 2017 must continue to operate the DPF and comply with the regulator's Requirements until the fund is exhausted - that is, that funds have been used or allocated in accordance with the Requirements (see section 6) - or until 6th April 2020, whichever is the earlier.

¹ <https://www.gov.uk/government/publications/temp-disposal-proceeds-fund>

² Section 92 (and Schedule 4 Part 3) of the Housing and Planning Act 2016 (HPA 2016), and the Housing and Planning Act 2016 (Commencement No. 4 and Transitional Provisions) Regulations 2017 (SI 2017 No 75).

³ SI 2017 No 75 paragraph 7(2)

⁴ SI 2017 No 75 paragraph 7(1)

⁵ SI 2017 No 75 paragraph 7(1)

9. During the period up to 6th April 2020 the requirements about when the regulator may require DPF funds to be repaid and the process the regulator will follow remain in force (see section 7). The regulator will use the information provided in the DPF annual return and DPF notification form to monitor DPF balances in the period to 6 April 2020 to ensure funds are used within the relevant time periods.

Net Proceeds

10. From 7th April 2017 no new net proceeds of disposals are required to be recognised in the DPF. Therefore sections 2 and 3 of the Regulator's Requirements are not applicable for any transactions occurring on or after 7th April 2017. However, note that:
- the element of the DPF Guidance which covers transfers between different providers' DPFs (Guidance paragraph 2.7) is still relevant regarding such transfers, see the comment below about transferring balances;
 - there is a continuing obligation to add interest to the DPF fund in accordance with the regulator's Requirements (see section 4); and
 - where errors or oversights have resulted in disposals made on or before 6 April 2017 not being shown in DPF by that date, these errors should be corrected by retrospectively showing the relevant sum in DPF.

Applicability of the Regulator's Requirements

11. During the period to 6th April 2020 or until DPF is exhausted (whichever is the sooner) providers must continue to operate DPF in line with the Regulator's Requirements relating to
- Interest to be added (section 4)
 - Constitution and presentation of DPF in accounts (section 5)
 - Use and Allocation of sums in DPF (section 6)
 - Time limits after which payment may be required (section 7).

DPF Reporting requirements

12. Until the DPF is exhausted, providers must also continue to report DPF balances and use of funds through the DPF annual return and where applicable, the DPF notification form (DPFN1) as described in the Guidance.

Transferring balances between registered providers

13. A provider can transfer all or part of its DPF to another provider. However, the transferee provider must use those funds in line with time limits which applied to the transferring provider; that is, counting from the date on which the net proceeds were first recognised in the DPF of the transferring provider. See paragraph 2.7 of the Regulator's DPF guidance for more information on transferring DPF sums.

Recycled Capital Grant Fund (RCGF) requirements

14. Providers should familiarise themselves with any consequential RCGF requirements as set out in the current RCGF determinations of either the HCA or GLA, as appropriate.