

	REPORT TO CABINET TO BE HELD ON 8 MARCH 2016				
	<table style="width: 100%; border: none;"> <tr> <td style="width: 60%;">Key Decision</td> <td style="text-align: right;">YES</td> </tr> <tr> <td>Forward Plan Ref No</td> <td style="text-align: right;">ID 1372/1215</td> </tr> </table>	Key Decision	YES	Forward Plan Ref No	ID 1372/1215
Key Decision	YES				
Forward Plan Ref No	ID 1372/1215				
Strategic Theme: Caring for our People	<table style="width: 100%; border: none;"> <tr> <td style="width: 60%;">Portfolio</td> <td style="text-align: right;">Regeneration & Economic Growth</td> </tr> </table>	Portfolio	Regeneration & Economic Growth		
	Portfolio	Regeneration & Economic Growth			
<table style="width: 100%; border: none;"> <tr> <td style="width: 60%;">Relevant Overview and Scrutiny Committee(s)</td> <td style="text-align: right;">Regeneration & Economic Growth</td> </tr> </table>	Relevant Overview and Scrutiny Committee(s)	Regeneration & Economic Growth			
Relevant Overview and Scrutiny Committee(s)	Regeneration & Economic Growth				

REPORT OF: Corporate Director, Regeneration and Economic Growth

WARDS AFFECTED: All

- 1. SUBJECT: MORTGAGE BREATHING SPACE LOAN SCHEME**
- 2. PURPOSE OF REPORT**
 - 2.1 To advise Cabinet on the financial issues facing some older residents who have an interest only mortgages. To outline a proposal through the established Mortgage Breathing Space scheme to help reduce the risk of them losing their home
- 3. RECOMMENDATIONS**
 - 3.1 That approval is given:
 - a) to introduce an extension to the current Mortgage Breathing Space scheme
 - b) to extend the advice sought through Independent Financial Advisors as part of the Mortgage Breathing Space loan application to allow residents to look at their longer term options.
- 4. WHAT DOES THIS MEAN FOR THE DISTRICT?**

THIS REPORT AND BACKGROUND INFORMATION ARE OPEN TO INSPECTION BY MEMBERS OF THE PUBLIC.

- 4.1 There are a number of older residents in the district who have interest only mortgages which are due to end and who do not have the means to pay back some or all of the amount they originally borrowed. This may put them at risk of losing their home and unfortunately they do not currently qualify for help through the existing Mortgage Breathing Space scheme. This means that little help exists to protect them from potential eviction.

Extending the Mortgage Breathing Space policy will allow more residents to access help to prevent homelessness and give them greater stability, security and peace of mind. Advice through an Independent Financial Advisor forms part of the loan process but an extension of this may also provide these people with additional options by releasing the equity they have built up in their home, using it to meet future living and property expenses and allowing them to remain in their own homes for longer or indefinitely.

5. BACKGROUND INFORMATION

- 5.1 The current Mortgage Breathing Space scheme gives an interest and repayment free secured loan to clear arrears on mortgages and secured loans, as well as giving up to 12 months' forward payments when needed. The founding principle of the scheme is to help owner occupiers who suddenly find themselves in financial difficulties to stay in their own home and where this is not possible to help them through a controlled move where they can keep more of their property equity. This is not only a better solution for the client but is more cost effective for the Council than dealing with the effects of homelessness.

- 5.2 All clients who are offered help through the existing scheme **must** receive independent financial advice (IFA) before progressing to a loan. Currently they find and choose their own independent financial advisor from the IFA website, which the Council signposts them to. All IFAs on this site are Financial Conduct Authority (FCA) accredited.

5.3 Problems faced by some older home owners

- 5.3.1 It is estimated that nationally over 1 million home owners face a shortfall on their endowment policies. Lenders have written to these home owners over the years highlighting shortfalls and advising them to seek help to resolve problems. However, it is anecdotally reported that about 10% may not have solutions.

- 5.3.2 New lending rules from April 2014 mean it is now far more difficult for older owners to access credit which will limit their options if they have a mortgage shortfall and in addition, older residents may find it more difficult to find employment, following redundancy or loss of job.

6. THE PROPOSAL

6.1 Under the current Breathing Space Scheme policy, applicants can access a loan only where the cause of the financial difficulties they are find themselves in, is due to a recent and significant change e.g. illness or unemployment. Under the current scheme therefore residents in a shortfall position due to their interest free mortgage ending do not qualify for help, because their change in circumstances has occurred over a number of years and is not recent.

The proposal seeks to run an extension scheme alongside the current loan product, which will extend the current eligibility criteria to help homeowners aged 55 or over with an endowment shortfall on their mortgage.

6.2 The extension scheme will still offer secured loans of between £2,000 to a maximum of £15,000. The loan limit was initially set during the pilot project in 2008 to minimise risk on the project budget and was endorsed when the regional project was launched in 2009.

A detailed explanation of how the proposal will operate is shown at Appendix 1 but in summary applications will be dealt with in the following ways:

1. Loans to fully redeem any mortgage shortfalls that are £15,000 or less will be considered. The client will either repay on monthly terms, or repay in full as a result of releasing equity or from the proceeds of a property sale.
2. Loans to provide a lump sum payment to lenders in return for an agreement to suspend any legal action for a period of 12 months will be considered where mortgage shortfalls are higher than £15,000. The client will either repay their loan in full as a result of releasing equity or from the proceeds of a property sale.

6.3 The repayment options protect the project budget and ensure that it can be recycled to help new applicants, further extending the life of the project. It should be noted that there may be some applicants for whom none of these repayment options is viable and whom the scheme will not be able to help e.g. where the client does not have any equity.

A copy of the proposed policy for the adjusted scheme is attached at Appendix 2 and illustrations of how the pilot might work are at Appendix 3.

6.4 Currently, all clients receiving a Breathing Space loan help are referred for independent financial advice (IFA). This is because the Council is not a lender and giving advice would otherwise require registration with the Financial Conduct Authority (FCA). The role of IFA is crucial to ensure that the client does not have other options that would better suit their situation. Under the proposal, clients will receive IFA on any loan proposal but may also seek advice on wider financial products such as

equity release or pension release.

- 6.5 Where financial advice results in financial products being bought by a client, IFAs' charges are based on a flat rate fee or on a percentage of the financial services the client takes. It is important to provide a formal separation between the Council and the Equity Release (ER) process (or indeed any other financial products sold) and to remove any link that the Council might have either directly or indirectly endorsed the IFA or the advice received.

Such a perception could potentially result in reputational risk, if clients returned to the Council for further support services in the future and previous financial decisions were challenged.

The proposal will not endorse or recommend particular IFAs and clients will be signposted to accredited sites where they can source their own Advisor. This is the procedure that is currently in place.

Any payments made by the scheme to the IFA will be restricted only to advice given on any loan that the Mortgage Breathing Space extension scheme gives. It is envisaged that this approach will clearly sever any perceived link and mitigate this risk.

- 6.6 The client group who will become eligible for the extended scheme are considered to be much less vulnerable than the other Breathing Space clients as they may have substantial equity that they will be releasing either through equity release or sale, or income levels that will allow them to repay their loan on monthly terms. These clients are struggling because they have an absence of financial product alternatives and are facing action because they cannot get finance elsewhere due to their age/retired status etc.

It is appropriate therefore to recoup some of the costs incurred in the loan process from them, which will replenish the funding available and allow the Council to deliver help for a longer period. Additional information on which costs will be recouped are outlined within appendix 1.

- 6.7 There are potential wider, very positive opportunities arising from utilising equity release for older homeowners, for example to fund repairs and adaptations to their properties and meeting other living and wellbeing expenses moving forward. Testing the opportunities created by equity release in a controlled way through the operation of the extended Breathing Space scheme will allow the scheme managers to identify any benefits and issues that might arise from this and allow for further work to be undertaken.

7. OPTIONS APPRAISAL

7.1 Option 1

Do nothing

Benefits

- There are no benefits to this option

Risks

- older homeowners coming to the end of an interest only mortgage and facing a shortfall will not be eligible for any help.
- this may result in increased homelessness following repossession action from lenders. Some of these clients may have an obligation for re-housing through the Council. There will be a cost implication for those supported.
- the costs associated with re-housing older people have the potential to be higher in the longer term due to increased risks around mental health and subsequent potential need for care.

7.2

Option 2 - the preferred option

Implement the extension proposal

Benefits

- help can be offered to homeowners who do not currently qualify under the eligibility criteria
- staving off potential repossessions will support the reduction of homelessness within our District
- there will be an opportunity to test the equity release market as a possible means for homeowners to resolve mortgage difficulties and potentially plan for a financially independent future.
- this approach may allow residents to stay living independently in their own homes for longer or even indefinitely. .

Risks

- early equity release products were unregulated and, although these products are now regulated by the Financial Conduct Authority, there are still some residual concerns that could result in a potential reputational risk to the Council, if a complaint were levied. These are outlined at 10.1, including details on how it is proposed to manage this risk.

7.3

Option 3

Relax the current scheme policy to allow the proposed client group to access loans without introducing a new extension project

Benefits

- help can be offered to homeowners who do not currently qualify under the current eligibility criteria
- staving off potential repossession will support the reduction of homelessness within our District

Risks

- help will be restricted to those homeowners with a shortfall of £15,000 or less and only where redemption of the outstanding mortgage exists.
- any residents with shortfalls higher than £15,000 will not be eligible for help.
- there will be no opportunity for clients to receive a wider package of financial advice or to test the equity release market
- there will be no opportunity to potentially recover costs back to the project

8. STRATEGIC IMPLICATIONS

Endorsement of the extension scheme will support the corporate objective of Caring for our People by providing help to the over 55s to allow them to remain in their own homes and avoid repossession.

9. ENGAGEMENT

- 9.1 The Mortgage Breathing Space scheme is administered by Wakefield, who holds the ring-fenced capital budget on behalf of 18 partner Local Authorities across the Yorkshire and Humber region. The scheme partners have been consulted about the proposed changes and have endorsed the principle of a scheme extension to widen the available client base who could be helped.

10. CORPORATE IMPLICATIONS

10.1. Potential risks to the Council

Early equity release products were unregulated, had a poor reputation and received bad press. However, strict regulation through the Equity Release Council, a trade body, was established to combat this and the worst offending companies were removed from the market. Since then the reputation has improved dramatically and equity release grew by 29% between 2013 and 2014 and continues to grow. This is further endorsed as Age UK have recently launched an equity release product.

However, the legacy of some bad practices from early equity release schemes in the 1990s remains. The highest level of reported complaints are made by extended family about perceived “mis-selling” resulting in lost or dwindling inheritance.

This could potentially pose a reputational risk for the Council as clients may not distinguish between the independent advice being given and the client relationship with the Council. By maintaining a clear separation between the role of the IFA in advising on wider financial matters and the role of the Council in terms of removing the homelessness risk, this will allow risk mitigation. IFA referral will be on the basis of advising on any loan product being suggested and will be

clearly articulated in correspondence.

In addition, any clients who are taking advice on equity release will be strongly advised to consult with their families to give the IFA the opportunity to explain matters more fully if required.

10.2 **Financial Implications**

10.2.1 The Council received a grant of £2m in 2009/10 to provide interest free Mortgage Breathing Space loans. In addition to providing loans this funding also covers staffing costs for the officers involved in the administration of the scheme and a 'grant' element to fund fees associated with the loan. The current available funding is £907k, with £526k of loans outstanding. Any repayments are added back into the pot of funding available. The average totals over the last 4 years are:

- Loans agreed £209k per annum
- Administration costs, including fees, £116k

10.2.2 Under the current policy the Mortgage Breathing Space funds the following costs for each application:

- Valuation for the property
- Costs of IFA advice in relation to the Mortgage Breathing Space loan
- Land registry and legal costs (£275)

The estimated total cost of these is circa £700. The proposal is to pass all of these on to the new client group, on the basis that they are not considered as vulnerable as the mainstream Mortgage Breathing Space clients and thus are more able to accommodate these costs.

10.2.3 There may be varying circumstances and thus the proposed policy includes provision for slightly different arrangements regarding the IFA fee. These are set in appendix 1 of this report.

10.2.4 The recommended option should assist some of the district's older residents who may otherwise be at risk of losing their homes and as a result may become an added pressure for the Council.

10.3 **Legal Implications**

Given the estimated value of services to be paid for by the Council under these arrangements it is not anticipated that the Council's Contract Procedure Rules will apply, however, this will be kept under review. The Localism Act 2011 provides the Council with a power to make provision for the loans and enter into the necessary legal agreements with successful applicants. The Localism Act 2011 also provides the Council with a power to charge (on a cost recovery basis) a person for discretionary services that the person has agreed to being provided with

10.4 **Equality Implications**

The extension of the current Mortgage Breathing Space scheme has been considered in the context of the Local Authorities' Public Sector Equality Duties under the Equality Act 2010. The extension scheme is initially aimed at older home owners, because of the increased difficulties they face in accessing mainstream credit. Younger homeowners have opportunities to re-finance and access mainstream credit that are not available to older home owners, so their likelihood of facing repossession are reduced. An equality impact assessment has been completed and is attached as an Appendix to the report. The impact assessment sets out which groups will be adversely affected by the proposal and what measures are being taken to mitigate/reduce the effects of the negative impact.

10.5 Information Governance Implications

No additional impacts are expected.

10.6 Other implications

Procurement comment here.

11. RECOMMENDATIONS

11.1 That approval is given:

- a) to introduce an extension to the current Mortgage Breathing Space scheme
- b) to extend the advice sought through Independent Financial Advisors as part of the Mortgage Breathing Space loan application to allow residents to look at their longer term options.

12. REASONS FOR RECOMMENDATIONS

12.1 By introducing an extension scheme older residents will be able to access help that will allow them to stave off repossession action and prevent homelessness. This in turn will reduce the number of approaches to the Council for residents facing legal action and repossession.

Testing of equity release as a longer term option for residents to plan for their current and future needs will both allow them to potentially remain living as independently as possible for as long as possible, and help the Council to understand the benefits and issues arising from this type of financial product.

Service Director: Sarah Pearson, Economic Growth and Strategic Housing, Regeneration and Economic Growth

Contact Officers: Janet Howley, Lead Officer, Strategy and Initiatives

Joanne Ingram, Senior Loan Officer
Strategic Housing, Floor 2, Wakefield One, Burton Street,
Wakefield, WF1 2EB

Telephone No: 01924 305892

E-mail address: jhowley@wakefield.gov.uk , jingram@wakefield.gov.uk

Appendices

Appendix 1 – The Proposal rationale and application process

Appendix 2 - Proposed policy for the pilot project

Appendix 3 - Case studies illustrating how the project might work

Background Papers:

Cabinet report August 2009, ADMINISTRATION OF 'BREATHING SPACE' (A REGIONAL MORTGAGE RESCUE SCHEME), Current Mortgage Breathing Space Policy and Terms and Conditions

APPENDIX 1 – THE PROPOSED EXTENSION

	Extending the existing Mortgage Breathing Space scheme eligibility criteria
1.	It is proposed to extend the current Mortgage Breathing Space scheme to include residents aged 55 or over who are facing shortfalls on their interest only mortgages. The over 55 age group has been chosen as this is the minimum age at which individuals can release equity from their homes.
2.	Where the client has a shortfall on their interest only mortgage that is less than £15,000, redemption of the outstanding mortgage by way of a Breathing Space loan will be considered. This will stabilise the household and remove the immediate risk of homelessness. As part of the loan process, the client will receive advice from an Independent Financial Advisor (IFA) who will advise on the implications of taking out the loan and also give wider advice on repayment options.
3.	<p>Repayment of the loan will be via the following methods:</p> <ul style="list-style-type: none"> - Monthly payments if the household budget shows it is affordable. This will start within one month of loan completion. - Repayment in full following successful equity release. - If repayment on monthly terms is not affordable, the client will sell their property to remove the equity and repayment in full made from the proceeds of sale -
4.	Redemption of the mortgage removes the risk of homelessness and stops the high level of costs that clients are charged during legal action. If a property sale is needed the client has time to sell at market value and make a structured move to more suitable accommodation. More importantly, it preserves the equity within their home allowing them to take this money with them to fund their living costs going forward, reducing the potential costs to a range of public services.
5.	Where a client has a shortfall of more than £15,000, negotiations with the lender will identify a suitable loan offer (initially 10% of the outstanding balance to a maximum of £15,000). In return, the lender will agree not to pursue legal action for 12 months and costs and charges will be stopped. This will give time for the client to plan without facing homelessness through repossession action.
6.	<p>Repayment of the loan will be via the following methods:</p> <ul style="list-style-type: none"> - Equity release following advice from an IFA to repay the outstanding mortgage in full and any loan provided and costs covered by the project. - If equity release is not viable, the client can market their property for sale. The loan payment secures time to achieve a sale at market value without fear of facing litigation and homelessness. The outstanding mortgage plus loan payment and associated costs would be repaid from the proceeds of sale.

7.	<p>The current and proposed loan processes are shown below:</p> <table border="1" data-bbox="279 271 1305 571"> <thead> <tr> <th colspan="4" data-bbox="279 271 1305 309">CURRENT PROJECT</th> </tr> <tr> <th data-bbox="279 309 533 347">Step 1</th> <th data-bbox="533 309 796 347">Step 2</th> <th data-bbox="796 309 1043 347">Step 3</th> <th data-bbox="1043 309 1305 347">Step 4</th> </tr> </thead> <tbody> <tr> <td data-bbox="279 347 533 571">Breathing Space team assessment of eligibility for the scheme</td> <td data-bbox="533 347 796 571">If eligible, loan offer in principle is made</td> <td data-bbox="796 347 1043 571">All clients referred for IFA on the loan offer</td> <td data-bbox="1043 347 1305 571">If on the advice of the IFA the client is happy to proceed, then the loan is finalised</td> </tr> </tbody> </table> <table border="1" data-bbox="279 645 1305 1088"> <thead> <tr> <th colspan="4" data-bbox="279 645 1305 683">PROPOSAL</th> </tr> <tr> <th data-bbox="279 683 533 721">Step 1</th> <th data-bbox="533 683 796 721">Step 2</th> <th data-bbox="796 683 1043 721">Step 3</th> <th data-bbox="1043 683 1305 721">Step 4</th> </tr> </thead> <tbody> <tr> <td data-bbox="279 721 533 1088">Same as with current project</td> <td data-bbox="533 721 796 1088">Same as with current project</td> <td data-bbox="796 721 1043 1088">Same as current project plus IFA reviews long term financial position and options including equity and pension release</td> <td data-bbox="1043 721 1305 1088">Same as current project plus IFA may arrange further financial products for client</td> </tr> </tbody> </table>	CURRENT PROJECT				Step 1	Step 2	Step 3	Step 4	Breathing Space team assessment of eligibility for the scheme	If eligible, loan offer in principle is made	All clients referred for IFA on the loan offer	If on the advice of the IFA the client is happy to proceed, then the loan is finalised	PROPOSAL				Step 1	Step 2	Step 3	Step 4	Same as with current project	Same as with current project	Same as current project plus IFA reviews long term financial position and options including equity and pension release	Same as current project plus IFA may arrange further financial products for client
CURRENT PROJECT																									
Step 1	Step 2	Step 3	Step 4																						
Breathing Space team assessment of eligibility for the scheme	If eligible, loan offer in principle is made	All clients referred for IFA on the loan offer	If on the advice of the IFA the client is happy to proceed, then the loan is finalised																						
PROPOSAL																									
Step 1	Step 2	Step 3	Step 4																						
Same as with current project	Same as with current project	Same as current project plus IFA reviews long term financial position and options including equity and pension release	Same as current project plus IFA may arrange further financial products for client																						
8.	<p>In the extended scheme clients will continue to be referred to seek independent financial advice on the Mortgage Breathing Space loan element but also potentially on a wide range of products including equity release. The purpose of this is to allow them to make an informed decision on funding their longer term future as well as dealing with immediate mortgage issues.</p>																								
9.	<p>The proposed extension client group, people 55 or over with substantial equity in their homes differs from the residents supported through the current scheme. Current clients have generally suffered an income shock which has resulted in them going into arrears and facing repossession action. For them any additional charges are unaffordable, which is why the Breathing Space scheme grant covers the administration charges, valuation costs, legal fees and charges for securing and removing any loan charge.</p> <p>To achieve this, it is proposed that the grant given under the current policy be revised for these new clients. Currently, excluding staff costs, each loan processed through the project incurs set up costs in the region of £700.</p>																								
10.	<p>It is proposed to pass on the costs of the property valuation, any specific IFA advice received on the Mortgage Breathing Space loan and the legal costs associated with loan contracts and securing and removing the legal charge. It is proposed to operate on the following basis:</p> <ul style="list-style-type: none"> - <u>Where the client receives wide ranging advice and takes advantage of other financial products</u> e.g. equity release, pension release, bonds etc, the IFA will receive no payment from the Breathing Space 																								

scheme. The IFA will be expected to provide advice on the Mortgage Breathing Space loan element free of charge, and rely on the fees charged for the wider services. As equity release or other products purchased will directly affect the loan required, this can be monitored to ensure best value is achieved for the scheme. Repayment of the loan and the associated costs will occur when equity release completes and clears all secured charges on the property.

- Where the client cannot access wider financial products through the IFA but has equity, a loan may be given to allow them to sell their property, take their equity and make a planned move. The client will only receive advice on the Mortgage Breathing Space loan, so fixed IFA fees will be paid initially by the scheme, as per current working practices. However the cost of the IFA, plus the valuation and legal charges will then be passed on to the client, to be recouped from the proceeds of the sale of the property.
- If a client does not need to access wider financial products and can afford to repay the Breathing Space loan without releasing equity, the costs of the IFA, valuation and legal charges will be passed on to them, and built into their monthly repayment charge. Repayment on a monthly basis will be made by the client at a figure that is affordable to their budget.
- Particularly vulnerable clients - arrangements to protect the most vulnerable clients from hardship in respect of the proposed fee recovery will continue through the Special Cases Panel as per the current scheme. However all clients will have some equity within their property so the number of cases where fees might be waived is expected to be very small.

APPENDIX 2 - POLICY FOR THE MORTGAGE BREATHING SPACE SCHEME EXTENSION – “MORTGAGE BREATHING SPACE 55+”

PREFACE

The Council is participating in a regional scheme called Breathing Space. The scheme facilitates the provision of loans in accordance with powers given under S1 Localism Act 2011 in respect of the provision loans for people within the Council district who are coming to the end of their interest only mortgage and have a shortfall or no means of repayment to their mortgage. The Mortgage Breathing Space scheme is administered by Wakefield Metropolitan District Council (WMDC) on behalf of local authorities in Yorkshire and Humberside.

1. Introduction

- 1.1 The Mortgage Breathing Space scheme aims to prevent homelessness and to support homeownership where it is considered that it will be sustainable on a long term basis. The scheme will provide loans to owner-occupiers/Applicants in difficulty as a result of interest only mortgages coming to an end where there is a shortfall. The scheme will also provide support and access to financial, housing and debt advice.
- 1.2 The Mortgage Breathing Space Loan (the Loan) is an interest free, loan which is secured against the property. Its purpose is to help Applicants to avoid repossession of their home.
- 1.3 Applicants will be required to take independent financial advice on their current financial circumstances. The Mortgage Breathing Space Loan will not be the best option for everyone.
- 1.4 Successful applicants will be required to take part in 3 monthly reviews of their financial circumstances throughout their loan period
- 1.5 The Loan is due for repayment as specified within the loan contract. This will either be on monthly terms for 1, 2, 3, 4 or 5 years or immediate repayment in full as a result of releasing capital from the equity within the property. The Loan also becomes due for repayment in full if the property is sold or there is a breach of the agreement. Breaches of the agreement include (but are not exhaustive):
 - Sub-letting the property without notifying Wakefield Council
 - No buildings insurance in place on the property
 - A failure to engage
 - A refusal to undertake regular reviews
 - The property being left empty for more than 30 days without good reason or notification to Wakefield Council
- 1.6 The Loan will be appropriate where there is a reasonable expectation that the Applicant will be able to sustain home ownership in the longer term after the period of assistance provided by the Loan.
- 1.7 The Loan may also be considered in circumstances where time is needed to allow for the sale of the property and a planned move to alternative accommodation. An

application in these circumstances will only be considered/ progressed where the Applicant has placed their home on the market for sale at or around the independent valuation provided.

- 1.8 As part of the Breathing Space scheme the Council and Wakefield Council will provide support including financial capability and budgeting support, to maximise the possibility that the Applicant will be able to retain the property when the loan assistance ends.

2. Amount of loan

- 2.1 The maximum amount of the loan available is £15, 000. The minimum amount is £2,000.
- 2.2 In calculating the loan assistance that can be offered, Wakefield Council will take into account the total balance outstanding on the prior mortgage or secured loans at the date of the loan application. Alternatively the Loan may be based on the redemption figure of the mortgage and/or secured loan or the loan which is subject to the charging order, if this is below the maximum loan amount.
- 2.3 The Loan can provide assistance in respect of a first mortgage, or second or subsequent mortgage, secured loan or to redeem a charging order. The Loan can be used towards more than one mortgage, but the total cannot exceed the maximum loan limit of £15,000.

3 Eligibility Criteria

The Applicant must satisfy the following criteria to be considered for the Loan:

- 3.1 **The Applicant must have an owner's interest in the property on which the mortgage is secured.** All legal owners of the property must agree to accept joint and several liability for the loan.
- 3.2 **The Applicant must be resident at the property and this must be their only home.** Where there are joint owners, it is sufficient in certain circumstances to be approved by Wakefield Council or the Special Cases Panel that only one of them fulfils this condition.
- 3.3 **The Applicant has sufficient equity in the property.** The maximum value for all secured borrowing, including the Breathing Space Loan must not exceed 90% of the property value. Where the applicant is within the repayment period of the Right to Buy discount, this will be taken into account as secured borrowing.
- 3.4 **The Applicant is coming to the end of their interest only mortgage where a shortfall exists, or a charging order is forcing legal action.** The client is unable to repay their mortgage or loan instalments and so is about to incur charges associated with legal recovery by their lender.
- 3.5 **The cause of difficulties must be due to an inability to repay the mortgage balance or shortfall, resulting from an interest free mortgage coming to an end.** The Loan is not intended to assist those with issues of long term debt and money mis-management. Wakefield Council will have sole discretion to decide whether this criteria has been met by the Applicant.

- 3.6 **The Applicant has received recent advice on their financial situation.** Advice can be obtained from an advice agency, e.g. Citizens Advice Bureau, who can discuss all options.
- 3.7 **The Applicant does not have the immediate financial resources to repay their mortgage shortfall or balance.** A financial assessment will be undertaken to determine this and other options will be considered before a loan is offered.
- 3.8 **There must be an expectation that the Applicant will be able to meet any secured loan repayments associated with the Loan, or will place the property on the market either prior to a loan being provided or during the loan period if circumstances change for the worse or do not improve.** This will be assessed by the loan officer on the facts of the case, taking into account potential increases in income or reductions in expenditure. Wakefield Council will carry out a credit reference search and will take into account the whole of the Applicant's financial situation in deciding whether a Loan is appropriate.

4 Conditions

- 4.1 The Applicant will be eligible for one Loan only.
- 4.2 The Applicant will be required to obtain independent financial advice before they enter into the Loan with Wakefield Council.
- 4.3 The Applicant must agree to receive debt counselling and money advice during the loan application process.
- 4.4 The Applicant must agree to 3 monthly review meetings to monitor their financial situation. The client must agree to provide review information and sign consent to allow Wakefield Council to engage with lenders and other creditors. If appropriate, the Applicant must agree to receive wider additional money advice.
- 4.5 The Loan will be secured on the property by registering a Legal Charge at Nottingham (West) District Land Registry.
- 4.6 All owners of the property must be party to the application for it to be considered.
- 4.7 Adequate building insurance for the property must be maintained during the Loan period and a copy provided to Wakefield Council if required.
- 4.8 The property must be kept in good repair throughout the Loan period.
- 4.9 The applicant (or, in Exceptional Cases of a joint application, one of the applicants) will occupy the property as his or her only residence throughout the loan period. The property must not be left empty for over 6 months without an appropriate reason and must be notified to Wakefield Council. **Sub-letting of the property is not permitted without the permission of Wakefield Council.**
- 4.10 The loan must be repaid in full either by way of monthly instalments, as a lump sum repayment following capital release from the property's equity or following sale of the property. Where the property is in joint ownership and is subsequently transferred to one of those owners singularly then Wakefield Council should be informed. The Special Cases Panel in its sole discretion will decide whether this disposal will be an exempt disposal.

- 4.11 If there is a breach of the above conditions 4.4, 4.7, 4.8, or 4.9, the owner/s shall on demand from the Council repay the full loan or lesser amount decided by the Panel in its absolute discretion as being reasonable in the circumstances.**
- 4.12 Where the home is jointly owned all the owners will be jointly and severally liable to pay the loan in full.
- 4.13 Wakefield Council shall be entitled to demand immediate payment of the loan together with all other sums then owing but unpaid, upon the happening of any of the following events:
- If in the event of the applicant's death the property has not been sold or loan repaid within a period of 18 months by the executors of the applicant's estate: OR
 - If someone else moves into the property with the applicant, without the consent of Wakefield Council: OR
 - If the applicant lets out the property to another party without the prior approval of the Wakefield Council: OR
 - The applicant ceases to live in the property as their principal residence or the property changes type from an owner occupied residential property: OR
 - If any information provided by the applicant for the purposes of the loan proves to be incomplete or inaccurate: OR
 - The applicant takes out an additional charge secured against the property, other than any mortgage or loan taken without the full knowledge and agreement of Wakefield Council at the time the property is purchased: OR
 - The applicant takes out a further advance of monies from a mortgage provider who either already has a charge registered on the property or subsequently takes a charge over the property without obtaining Wakefield Council's written consent.

General Terms

- 4.14 In the event that the loan does not proceed to completion, the Council and Wakefield Council will not be liable in law or otherwise for any claims, costs or loss.
- 4.15 All assistance in this policy is subject to available financial resources and the final decision to approve or refuse an application for assistance is at the sole discretion of Wakefield Council. In making an application for any assistance under this policy, applicants will be required to sign and accept the conditions. Applicants should seek independent legal and/or financial advice.

5 Applications

- 5.1 Where there are joint owners of a property, only one application can be made.
- 5.2 Loan applications will normally be considered in order of date of receipt of application. If demand exceeds available funds the loans officer will develop a process to prioritise cases with reference to the priority need criteria at paragraph 10.2 of the Homelessness Code of Guidance for Local Authorities (Department for Communities and Local Government, 2006).
- 5.3 Enquiries regarding applications for assistance can be made at:

Breathing Space Homeowner Support Team
01924 302892

Or in writing to: Strategic Housing, Wakefield Council
Wakefield One
Wakefield WF1 7EB
E mail: mortgagehelp@wakefield.gov.uk

6 Exceptional cases

- 6.1 Where an application for assistance is made outside the approved policy, this will be considered by the Lead Officer, Homeowner Support Team and Wakefield Council's Service Director, Strategic Housing, who will determine whether it can be approved or refused on a case by case basis.

7 Payment of the loan

7.1 The Loan will be paid directly to the mortgagee (mortgage lender) or client's solicitor where appropriate on completion of the legal charge.

7.2 The Loan will not be paid if the property is repossessed or if all the applicants give up residence in the property before payment of the loan has been issued to the mortgagee (mortgage lender).

8 Repayment

8.1 The Loan will be an interest free over a loan period of 1,2,3,4 or 5 years, or until repayment in full is received as a result of a property sale or the release of equity, to occur within 12 months, from the date stated on the loan completion letter.

8.2 Any sum not repaid within the loan period will accrue interest, which will be charged at 3% above the Bank of England base rate which is current on the date that the fixed period expires.

8.3 The Special Cases Panel will consider cases of financial difficulty sympathetically and positively. However any recovery action on failure to repay the loan will be the responsibility of Wakefield Council.

8.4 Court action to enforce repayment (which can result in repossession of the property) may be taken by Wakefield Council if the Loan is not repaid at the end of the loan period, or the client defaults on conditions 4.4, 4.7, 4.8 or 4.9.

9 Complaints procedure

- 9.1 The Council has a complaints procedure. A complaint can be made by contacting:

Email: customerrelations@wakefield.gov.uk

Tel: 01924 305757

Fax: 01977 724308

Wakefield One
Burton Street
Wakefield WF1 2EB

9.2 If an applicant wishes to appeal a determination on their loan application, an appeal can be made to:

The Lead Officer, Homeowner Support Team
Strategic Housing and Economic Growth
Wakefield One
Burton Street
Wakefield
WF1 7EB

Tel: 01924 305892
Fax: 01924 306325
E mail: mortgagehelp@wakefield.gov.uk

10 Definitions

10.1 The **Applicant** is defined as a person who occupies the property as their only or main home.

10.2 **Owner's Interest** is defined as a freehold interest or a leasehold interest of at least 50 years.

10.3 **First Disposal** means any change or alteration in the proprietorship register at HM Land Registry.

10.4 **Independent Financial Advice** means advice from an independent financial adviser or whole of market mortgage adviser.

10.5 **Wakefield Council** means Wakefield Metropolitan District Council

10.6 **The Council** means the local council for the district where the Applicant resides.

10.7 **The Special Cases Panel** means a panel of representatives from the councils participating in the Breathing Space scheme appointed to make decisions on exceptional cases and recovery of Breathing Space loans.

10.8 **Exceptional Case** means an individual situation relating to a loan application to be decided in accordance with clause 6.

10.9 **Exempt Disposal** means a disposal of the property during the loan period to be considered by the panel in their sole discretion as one where repayment of the loan is not required at that time.

Appendix 3 – WORKED EXAMPLES

Case Study 1

The client is almost 68 and his interest only mortgage is coming to an end in 2 months. He has been told by his lender that he has a shortfall of £9,000. His lender will not extend his borrowing past 70 due to mortgage rule changes (this is in 30 months' time). They have agreed that he can extend his mortgage for 2 years but will apply £3,000 arrangement fees and interest at 6%. This will make his monthly payments £532. His budget shows that after everything has been paid out each month, he has about £100 left over. His monthly mortgage is £350 a month. He cannot afford to repay the mortgage shortfall on his current budget which would leave him vulnerable to homelessness as a result of repossession action.

The project would give him a secured loan of £9,000 to fully redeem his mortgage shortfall. This will stabilise him within his home. The £700 costs of the property valuation fee, legal charges and IFA received are added to his repayment plan. Loan repayments would be calculated on the following basis:

- Surplus income of £100 a month
- Mortgage money that will be released once his mortgage is paid off - £350 a month
- potential total available income is £450 a month
- £9,700 divided by 30 months equates to £323 a month.

By paying off the mortgage in full, the client can repay his loan in full in 2 and a half years at £323 a month, and still have an additional £125 in his monthly household budget. He may choose to pay more each month to clear the loan earlier but leaving some additional money in his budget will protect him from cost of living increases. He will be better off as a result, not be facing possible homelessness and the interest free loan can be repaid without adding hardship.

Case Study 2

The client is 56 and on low income, having retired due to ill health. She has struggled to make her interest only mortgage payments each month (approximately £110 each month) and although the lender has confirmed some time ago that there is a shortfall on the mortgage, she has not been able to convert her mortgage to a repayment one as she cannot afford to pay any more. She has been told that when the mortgage finishes in 6 months' time, she will still owe £22,000. Her property is worth £170,000. Her circumstances are such that she cannot repay the shortfall and her low income means that she will not be considered for further borrowing. This puts her at risk of repossession and homelessness by her lender.

Because the shortfall is above £15,000, the project cannot redeem the outstanding mortgage in full. However, an offer is made to the lender to give them a minimum payment of £2,200 (10% of the outstanding balance) with scope to increase this to a maximum of £15,000. The lender would have to agree not to take legal action for a period of 12 months. This ensures that costs and charges are not added to the client

account. The client receives independent financial advice through the project and equity release is identified as viable. Because she has a large level of equity, the £700 costs for the property valuation, legal charges and IFA will be passed on to her and are included in her loan application. She will be able to release enough money to fully redeem her mortgage and also repay her Mortgage Breathing Space loan in full, including the £700 costs, plus keep some money back to help her with essential repairs and supplement her income in the longer term. By doing this, she stabilises her finances, and removes the threat of homelessness, meaning she can stay in her home in the longer term.

Case Study 3

Client is 60 and a 25 year interest only mortgage has come to an end. There is no endowment policy in place and the full outstanding balance is £65,000. The property is worth £80,000. Although the lender could consider extending the mortgage term for another 10 years, the monthly payments will be in the region of £720 per month which the client cannot pay. This puts the client at risk of eviction.

The project would offer the lender a loan payment of £6,500 (10% of the outstanding balance) in return for an agreement not to take legal action for a period of 12 months. The client receives legal advice from an independent financial advisor but equity release is not a viable option, because there is only a small amount of equity in the property, and not enough to redeem the outstanding mortgage. The client would then market the property for sale at a realistic market price. The agreement with the lender would mean that the client has time to sell the property and make a planned move to an alternative and more suitable accommodation without facing legal action and the high costs and charges that repossession brings. The mortgage and loan would be fully redeemed from the proceeds of sale and the client will have maximised the available equity which they can then use. The recovery of the £700 valuation fee, legal charges and IFA costs would be subject to a decision through the Special Cases Panel, given that the client is vulnerable, the final sale price may be less than £80,000 and the client has little equity.