

## Report to Health, Schools & Care Overview & Scrutiny



Date of Meeting	20 November 2019
Portfolio	Adult Care
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Public/Private Document	Public

### Disabled Facilities Grants and Associated Assistance Policy

#### Executive Summary

1. Disabled Facilities Grants (DFG) are governed by the Housing Grants Construction and Regeneration Act 1996. The legislation is quite specific in certain aspects, but more open to interpretation in others. The Disabled Facilities Grants and Associated Assistance Policy has been written to clarify how we intend to implement the legislation and formalises what is currently custom and practice.

#### Recommendation

2. That the Disabled Facilities Grants and Associated Assistance Policy is considered and approved for publication.

#### Reason for Recommendation

- 3.1 The provision of DFG is referred to as part of the Housing Assistance Policy currently in place (shared policy between Strategic Housing and Adult Care), borne out of the Regulatory Reform Order, which is a legal requirement for every local authority to have published. There is very little detail in the Housing Assistance Policy on how DFGs will actually be delivered.
- 3.2 Interpretation of the legislation, custom and practice has determined how we have made decisions and delivered DFGs over the last 20 years. We have developed decision making around published Ombudsman investigations, good practice guidance (Housing Adaptations for Disabled People: A detailed guide relating to legislation, guidance and good practice, published by the Home Adaptations Consortium in 2013 and updated in 2015) and sharing information and experience with other local authorities.

- 3.3 There are increasing challenges from service users and their carers/families around how decisions have been made in respect of their adaptations and we have been asked for policy documents to support decision making.
- 3.4 The attached policy has been developed to incorporate all aspects of DFG decision making. Some sections of the proposed policy are directly taken from the legislation and cannot be changed, whereas others are around interpretation and best practice.
- 3.5 Overview and Scrutiny Committee are required to consider the policy and approve the areas that are discretionary.

<b>Key Points for Consideration</b>
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- 4.1 The summary below provides brief information on all sections of the policy and notes on the areas of discretion, which will form the decision making for approval of the policy.

The full Policy can be found at Appendix 1

<b>Section of the policy</b>	<b>Summary</b>	<b>Issues of note to Members/decision required</b>
4. Eligibility to apply for a DFG	Taken directly from legislation, with some further clarification based on interpretation	
5. Means testing	Taken directly from legislation	
6. Applicant financial contributions (including works costing in excess of the maximum grant limit)	Details how we will deal in practice with situations where there is a contribution and also covers a discretionary top up grant provision of £10,000, which is already in place in the existing grants and assistance policy	It is recommended that we retain this provision as the maximum DFG limit has remained at £30,000 for over 10 years and costs of works have increased during that time, with extensions now costing significantly more than the £30,000 maximum grant limit.
7. Eligible works	Taken directly from the legislation, with some further clarification based on interpretation	
8. Works non-eligible for grant assistance	Formalisation of items that we have never provided assistance for, some interpreted from parts of the legislation, others where we believe there is no legal requirement to provide	
9. Use of rooms and minimum room sizes	We always seek to provide adaptations within the existing footprint of the property wherever possible. We receive many challenges after we	

	<p>advise that 2<sup>nd</sup> living rooms can be converted to bedroom/bathrooms, or that the configurations of bedrooms be changed to accommodate vertical lifts. This is formalising existing practice. We are also challenged to build bigger extensions, so have produced some suggested room sizes, in conjunction with other LAs, to use as a guide.</p>	
10. Bathroom works	<p>The legislation dictates the facilitation of access to a bathroom to be used by the disabled person, but not the detail of the fixtures and fittings. We have been using the principles detailed in section 10, to provide a basic, functional level access shower room to meet the needs of a disabled person. If an applicant wants a higher spec (e.g. more tiles, different tiles, new toilet, etc), we can facilitate this but they must fund it themselves.</p>	
11. Kitchen adaptations	<p>The legislation dictates the facilitation of access to a kitchen for a disabled person to prepare meals, but not the detail of the fixtures, fittings and space requirements. We have been using the principles detailed in section 11, to provide a basic, functional kitchen, to meet the needs of a disabled person, only if they need to prepare their own meals. A kitchen can be a high cost item and it only needs to be functional, so we would not provide items or facilities that anyone would be expected to have in their kitchen e.g. oven.</p>	
12. Ramping	<p>The legislation dictates the provision of access to and from a dwelling. Ramped access is the usual way this is provided and this section details how we will provide the ramp, in line with existing custom and practice and taking account of building regulations.</p>	
13. Access to gardens/fencing and safe play areas	<p>The legislation dictates facilitating access to a garden, but provides no detailed guidance for this. Many gardens are on several different levels where it would be inappropriate to attempt to provide access to all levels. Also, there is often an expectation that the works will cover landscaping. This</p>	

	<p>section details existing custom and practice to provide basic access to the most appropriate part of the garden. It also covers the provision of fencing and safe play areas for children with a disability.</p>	
14. Two dwellings converted into one	<p>We are often asked to provide adaptations to properties which were originally 2 dwellings, now converted into 1. These are often unofficial/illegal conversions, which don't meet current building regulations. There is also often an expectation that the DFG will carry out extensive works to make them flow better as one dwelling, which is not what the DFG is intended to do. This section formalises our existing custom and practice.</p>	
15. Party Wall etc Act 1966	<p>We are often involved in adaptations at the boundary of an adjoining property where the Party Wall Act is relevant. This section details how we will deal with those situations.</p>	
16. Disrepair	<p>We are regularly dealing with adaptations in properties where there is significant disrepair, which shouldn't be rectified as part of the DFG, as funding is limited and much of the work is the responsibility of the home owner. This section formalises how we currently deal with these situations. We can support people to apply to trust funds, or consider equity release products in situations where they do not have the funds available to maintain their homes.</p>	<p>Suggest we continue to fund any disrepair linked to the DFG up to the value of £250.</p>
17. Asbestos	<p>There are legal responsibilities in relation to how we deal with asbestos containing materials. Some properties can have significant levels of asbestos which is expensive to remove and shouldn't form part of the DFG. This section formalises how we currently deal with such situations.</p>	
18. Electrical issues	<p>Increasing issues with electrical installations in properties where we are undertaking adaptations, which can be very costly to rectify and full or partial rewires shouldn't really be part of the DFG costs.</p>	

19. Maintenance	After the warranty period/defects liability period, all adaptations with the <u>exception</u> of vertical lifts, steplifts and ceiling track hoists are the responsibility of the owner/landlord for ongoing maintenance and repair.	We offer to retain ownership of these items due to LOLER regulations (usually being operated by carers, so need maintenance/service to be up to date and also thorough examinations). Suggested that this continues
20. Overcrowding	Details how we will deal with an adaptation where the property is overcrowded.	Suggest we continue to use this discretion. It is in the good practice guidance.
21. Applicant's own choice of adaptation	Details the use of discretion in allowing an applicant to have a choice of adaptation, e.g. we recommend a vertical lift, but they prefer an extension, so we contribute the cost of the vertical lift towards the extension.	Suggest we continue to use this discretion. It is referenced in good practice guidance.
22. Works costing £10,000 or less (discretionary assistance)	Details how we can use a discretionary grant without a means test. Currently in the grants and assistance policy at £8,000. Proposal to increase to £10,000.	Suggest we continue with this discretionary form of assistance and increase to £10,000.
23. Adaptations for disabled children spending time in more than one property	Details how we will deal with a situation where a child's time is split between the homes of more than one adult, which is in line with the legislation that only 1 dwelling can be adapted as the "only or sole residence".	
24. Changes in circumstances leading to cancellation of the DFG after it has been approved	Details how we will deal with situations leading to a grant being cancelled, once works are in progress. This is in line with the legislation.	
25. Repayment of DFG	An amendment to the legislation in 2008 gave LAs the discretion to impose a limited charge on adapted properties to owner occupiers for repayment if their property is sold within ten years and if the DFG costs more than £5k. The maximum that can be reclaimed is capped at £10k. Repayment can only be sought from owner occupiers as the charge cannot be levied on properties occupied by tenants. Charges could be placed on a	We have never made use of this power, but most other LAs have and each year in the annual return, the question is asked of us whether we have had any monies repaid. It is likely to affect a small number of people, but would generate some revenue to the authority.

	<p>property via the local land charges system or at the Land Registry.</p> <p>When seeking repayment from grant recipients, the DFG General Consent Order 2008 provides some exemptions from recovery, which are detailed in this section.</p>	Suggest that this is implemented
26. Contractors undertaking the works	Details the requirements if applicants choose to employ their own contractor.	Some applicants challenge the requirements we have in place, as they want to use a friend, or someone who is not a recognised builder. Suggest we continue with requirements currently in place to keep people safe and protect the public purse.
27. Working with Registered Social Landlords (RSLs)	Details the requirement of the RSL to give permission for the adaptations. There is a legal requirement for the owner to consent to any works and RSLs have their own policies, which we have to work within.	
28. Respite/relocation during works	The DFG does not make provision for any respite or relocation costs whilst adaptation works are being undertaken but in some cases it is necessary for the disabled person to move out for a period of time whilst the works are in progress.	Need to make provision for those who need to access temporary respite due to health and safety risks. Include for a maximum of 7 days of respite costs in exceptional and specific circumstances.
29. Panel decision making	Explains how the Adult and Children's adaptations panels work.	
30. Data Protection Act 2018 and General Data Protection Regulations (GDPR)	Details our responsibilities under GDPR.	
31. Appeals and complaints	Details appeals and complaints process for challenging decisions made about adaptations.	
32. Summary of other discretionary related assistance	Summary of all the discretionary assistance.	This assistance is all discretionary – suggest this continues as good practice.

#### 4.2 **Alternatives Considered**

The alternative is to continue to have informal decision making around the interpretation of the legislation, or custom and practice, which is unhelpful when trying to respond to challenges and complaints.

Not having a formal policy approved and in place could lead to the service failing to deliver and perform as strongly as possible, which could in turn lead to the Local Authority failing to maximise the external funding for DFGs. The policy includes some innovative use of the capital funding from Central Government which is accepted as good practice and also ensures that the maximum number of vulnerable people receive adaptations which is recognised as contributing to less higher cost interventions in the longer term by Health and Social Care.

#### **Costs and Budget Summary**

- 5.1 The DFG capital budget is paid to the Council from Central government, therefore, no budget provision is required directly from the Council to support the delivery of the proposed policy. The policy ensures the capital budget can be maximised and enables us to be in a strong position to bid for additional resources from central government when opportunities arise.

#### **Risk and Policy Implications**

- 6.1 The policy maximises the help and support available for elderly, disabled and vulnerable people within the borough. The risks to not having a formally approved policy in place are greater, as we are more open to challenge and the decision making could be inconsistent.

#### **Consultation**

- 7.1 Consultation has been undertaken with staff from Adult Care, Strategic Housing Services and the Team for Children and Young People with a Disability within the Children's Service. Their comments and suggestions have been incorporated into the policy. The feedback has been extremely positive in having a formal policy in place. The policy has been reviewed by Legal Services and any comments incorporated.

<b>Background Papers</b>	<b>Place of Inspection</b>
8. There are no background papers, all relevant information is embedded in the attached proposed policy document.	Not applicable

**For Further Information Contact:**

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