

Title of report: Home Adaptations and Assistance Policy

Decision maker: Cabinet Member for Health and Adult Wellbeing

Decision date: 10 February 2023

Report by: Head of Prevention and Support

Classification

Open

Decision type

Key

This is a key decision because it is likely to be significant having regard to: the strategic nature of the decision; and / or whether the outcome will have an impact, for better or worse, on the amenity of the community or quality of service provided by the authority to a significant number of people living or working in the locality (two or more wards) affected.

Notice has been served in accordance with Part 3, Section 9 (Publicity in Connection with Key Decisions) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

Wards affected

(All Wards);

Purpose

This report is seeking Cabinet approval of the revisions of the policy document "Home Adaptations and Assistance Policy".

This meets the legal requirements for the council to have such a policy, clearly sets out its mandatory duties in this area and maximises the ability to use relevant powers under legislation to support the county's residents to remain living safely and independently in their own homes. The revisions update the policy in line with current government guidance and good practice.

Recommendation(s)

That:

- a) The revisions to the Home Adaptations and Assistance Policy be approved.**

Alternative options

1. Not to have a current policy - it would inhibit the council's abilities to make maximum use of flexibilities allowed under legislation without a published policy.
2. Retaining the previous policy, without revision would not allow the council to respond as flexibly in supporting people to remain living in their own homes, and would fail to meet current government guidance.

Key considerations

1. The council has had a Housing Renewal Policy since 2003. The Home Adaptations and Assistance Policy agreed by the Cabinet Member Health and Wellbeing on 27 March 2018 replaced previous Housing Renewal Policies and set out how the council would meet statutory duties for provision of adaptations and how it would use its powers to help improve living conditions within its area and meet local identified needs. The policy was due for revision in April 2020, but delayed in anticipation of the government releasing their response to the government funded review of the Disabled Facilities Grants undertaken in 2019, and which was finally released in March 2022.
2. The Home Adaptations and Assistance policy has now been revised and is designed to meet the following current legislation:
 - a) Councils have a power under the Regulatory Reform Order (Housing Assistance) 2002, article 3, to provide assistance for "the purposes of improving living conditions within their area" but may not exercise that power unless they have adopted a policy for provision of assistance under that article.
 - b) There remains a duty to provide mandatory Disabled Facilities Grants under the Housing Grants, Construction and Regeneration Act 1996 (as amended).
 - c) The Care Act 2014 emphasises housing in connection with wellbeing.
 - d) The proposed revised Home Adaptations and Assistance Policy sets out Herefordshire Council's policy for provision of assistance in accordance with the above legislation and reflects other local priorities identified in wider current Herefordshire Council housing related strategies.
3. Appendix 2 identifies the key features and changes to the previous Home Adaptations and Assistance Policy with a brief summary of the reason for the change. Some of the key policy changes of note are as follows:
 - a) The Government issued revised guidance around the delivery of mandatory Disabled Facilities Grants in the document "Disabled Facilities Grant (DFG) Delivery: Guidance for Local Authorities in England" March 2022. The Home Adaptations and Assistance Policy has been revised with reference to guidance in that document.
 - b) In the above document the government confirmed that funding for DFGs provided from the Government via Local Authorities' Better Care Fund may be used in one of the following three ways: in accordance with mandatory DFG approvals, providing assistance in accordance with the local published Housing Assistance Policy or for other agreed social care capital funding projects. This assists with the clarification for

the Better Care Fund group of budget availability for Regulatory Reform Order flexibilities identified within this policy.

- c) The document “Housing Associations and Home Adaptations: Finding ways to say yes” was published by Foundations (the Government funded advisory body for Home Improvement Agencies) in March 2022. This has also informed the review of this policy, and assisted with firming up ongoing working arrangements around the administration of DFGs with Housing Association partners.
 - d) The Policy also notes an important high court ruling around DFG decision making. In 2020 a high court ruling on a Disabled Facilities Grant request: R (McKeown) v Islington LBC [2020] EWHC 779 (Admin), [2020] PTSR 1319 caused some national discussion around the interpretation of this ruling with regards to an apparent inference that different “purposes” can be considered separately within a property, with a separate DFG application for each purpose thus incurring concurrent DFG applications which previously has not been considered nationally as appropriate practice. This case is referred to within the section on mandatory DFGs, Successive or Concurrent Applications, with a note that it is the opinion of Herefordshire Council that this is not specifically the way this judgement should be interpreted. Nevertheless with the approval of the Head of Prevention Services, in the event that there is no other identified route to meet a client’s needs, the option of a second concurrent DFG may be considered. This is in line with Legal Services advice gained in January 2021.
4. Appendix 2 also highlights where increased funding has been made available to disabled applicants or other vulnerable people in several areas within this revised policy. Notably:
- a) The Emergency Repayable Grant has been increased from £15,000 to £25,000. This reflects the increased materials and labour costs for these works in the current economic climate, and the extent of works that are being identified as required to help support vulnerable people living in their own homes.
 - b) The Discretionary Disabled Facilities Grant has increased significantly from £15,000 to £50,000. Again this reflects the increased cost of materials and labour, with the average cost of extending a property even by just one room, now often exceeding the mandatory DFG limit which has remained at £30,000. Without discretionary assistance very few extension works would currently be possible to complete, unless funded by clients or families themselves. Whilst the council does not fund a large number of extensions, as other options within the property can sometimes be identified, without the option of extending this would leave disabled children or adults at risk in the long term in inaccessible properties, and causing considerable strain on carers residing with them.
 - c) The Discretionary Assistance option has also increased from £5,000 to £10,000. This is only used very occasionally when other forms of assistance are not appropriate, but again has increased to reflect increased material and labour costs.
 - d) The policy also identifies any changes to the land charges applied to home owners on receipt of the increased funding. For example the maximum land charge applied for the Discretionary DFG will now be increased from £10,000 to £30,000.
5. Other changes to the Policy identified with in Appendix 2 include some changes which have been brought about to support partnership working or to clarify options more clearly. For example:
- a) Increased flexibility has been included for the Emergency Repayable Grant to include a wider category of works that may not be rated as Category 1 Hazards but pose risks caused by the structural condition of the property and are essential to facilitate works by

other partner agencies to enable the person to remain living safely at home. This is anticipated to ensure effective joint working with agencies such as other Social Care colleagues, Keep Herefordshire Warm, Hereford and Worcester Fire and Rescue Services, etc.

- b) There has been a change in the Discretionary Fast Track Adaptations Scheme to focus this more specifically on Hospital Discharge or Palliative Care arrangements, and to ensure that the assistance is equitable across tenures and financial circumstances.
6. Since the previous version of the policy the Council has adopted a new Dynamic Procurement System which is now briefly referred to within Section 1.16 of the Policy. The new system allows the council to continue to support local contractors who wish to join the scheme and who can bid for works across the county within the scheme. It also includes greater quality assurance checks and a 2 year insurance backed warrantee on completed works.

Community impact

7. The home adaptations and assistance policy takes into account the following local policies:
- a) Local Housing Strategy 2021-2026
 - b) Affordable Warmth Strategy 2016-19
 - c) Housing Allocation Scheme 2010
 - d) Housing Enforcement Policy
 - e) Housing Market Area Needs Assessment – Final Report July 2021
 - f) County Plan 2020-2024
 - g) Herefordshire Health and Wellbeing Strategy
8. In Herefordshire with regards to the local policies above the key issues that must be addressed by the home adaptations and assistance policy are as follows:
- a) Statutory legislative duties and government guidance
 - b) The challenges presented in the Care Act 2014 to offer practical help to the residents of Herefordshire to live independently at home including the provision of adaptations and community equipment, preventing, delaying or reducing the need for care and support.
 - c) Adaptations to aid independent living for older persons in their own homes rather than moving to care homes.
 - d) Improve the quality of life by providing adaptations to the homes of disabled people.
 - e) Assisting with hospital discharge to return home, and reduce delayed transfers of care.
 - f) Improving housing safety and security
 - g) Reducing the risk of falls at home
 - h) Linking with other agencies to help reduce fuel poverty.
 - i) Supporting disabled children, young people and their families

- j) End of life care – supporting people to die in their usual place of residence rather than elsewhere.

The assistance available under this policy is applicable to both adults and children who are living in a domestic non-residential setting.

Children who are living in long term foster homes or who have been adopted are therefore eligible for assistance under this policy.

Environmental Impact

- 9. The Home Adaptations and Assistance policy address environmental commitments by:
 - a) Working in partnership with Keep Herefordshire Warm, to facilitate energy efficiency options where situations of excess cold are identified in the homes of vulnerable people who own their own homes.
 - b) Promoting best use of adapted properties and recycling of adaptations with Registered Social Landlords & Housing Solutions
 - c) Providing a specialist Housing Occupational Therapist to work with council colleagues & developers around design of new build properties to promote best practice in accessible housing design
 - d) Use of a dynamic procurement system that allows local contractors to bid for works to adapt properties within the local area.

Equality duty

- 10. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:
- 11. A public authority must, in the exercise of its functions, have due regard to the need to –
 - a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 12. The Equality Act 2010 established a positive obligation on local authorities to promote equality and to reduce discrimination in relation to any of the nine 'protected characteristics' (age; disability; gender reassignment; pregnancy and maternity; marriage and civil partnership; race; religion or belief; sex; and sexual orientation). In particular, the council must have 'due regard' to the public sector equality duty when taking any decisions on service changes.
- 13. When reviewing this policy consideration has been given to complaints and challenges received from the public. With regards to tenure differences and equality, the government has made it

clear that the Disabled Facilities Grant is intended to fund adaptations for owner occupiers, private tenants or tenants of private registered providers (housing associations). Eligible council tenants can apply for a DFG in the same way as any other applicant. However local housing authorities with a Housing Revenue Account (HRA) should self-fund home adaptations through this account. As Herefordshire Council does not have a HRA, the disabled facilities grant in Herefordshire operates across all tenures.

14. In some instances, and also in accordance with government guidance, Registered Social Landlords will be consulted with regards to adaptations to their properties and will be encouraged to contribute where appropriate to adaptations or other related issues which may be affecting the completion of an adaptation. Where an adaptation is for urgent but short term use, a recycled adaptation option may be provided by the registered landlord as a quicker option for the tenant. In addition tenants may be encouraged to consider rehousing as an alternative option to adapting their property where they are in agreement to do so. Where an adaptation is refused by a landlord the Home Improvement Agency will discuss the reasons for this with the landlord to ensure that they are aware of their duties under legislation.
15. Implementation of the previous Home Adaptations and Assistance policy identified that the requirement to place a land charge on the property was inhibiting the provision of the assistance across tenures. The current policy now allows greater flexibility in the placing of the land charge with the decision to fund without a land charge to be made in conjunction with the Head of Prevention services.
16. There has been a change in the Discretionary Fast Track Adaptations Scheme to focus this more specifically on Hospital Discharge or Palliative Care arrangements, and to ensure that the assistance is equitable across tenures and financial circumstances.

Resource implications

17. The assistance options provided within the policy are funded from the government allocated capital fund for Disabled Facilities Grants, which is allocated by central government annually.
 - i. Central government allocation for this financial year 2022/2023 is £2,268,653.
 - ii. The allocation has been around £2million since 2019/ 2020.
 - iii. Actual spend on adaptations is determined by both the amount of the assistance set by the policy and the number of applications that can be administered during the year. The reviewed policy increases the assistance available which is expected to allow progression of some of the larger types of works that were delayed or otherwise hindered previously by the maximum funding limit for each type of assistance available.
 - iv. The staffing capacity of the Independent Living Services has a major impact on the number of applications that can be progressed during the year. In May 2022 a staffing review was carried out with a number of additional posts agreed within Independent Living Services to try to facilitate timely Occupational Therapy assessments and subsequent recommended interventions, including adaptations, for clients of the service. Due to a national shortage of Occupational Therapists, recruitment to these posts has been difficult, however an external agency has been used to reduce waiting times and ensure throughput of recommendations for Disabled Facilities Grants.
 - v. Recruitment and staff changes within the Home Improvement Agency have also been a challenge during this year with difficulties in recruiting to the business support post and staffing changes within the caseworker posts. This has resulted in fewer applications being

approved than initially projected. However recruitment is ongoing and with recent interest in caseworker posts it is anticipated that these posts will be filled in the near future.

- vi. As already described, the increased maximum funding limit made available for different types of assistance within the policy has been made in line with increased costs within the building trade for materials and labour. Nationally the costs of extending properties is now above the maximum government limit of £30k for the mandatory DFG, and most authorities have had to consider how best to help fund the larger adaptations. Some authorities have created their own local Disabled Facilities Grant option with an increased fund limit. The decision taken here to increase the level of the discretionary DFG is considered the most flexible option to allow for joint working with other colleagues and partners with regards to how mandatory DFGs can be topped up. For example this allows Strategic Housing to help top up with conditions on the top up for RSL partners, or the RSL's themselves to top up in the event that they have funding available to do so. In private properties the top up contains a condition for an agreed land charge which will remain on the property until the property is sold, at which point the funds will be paid back to the council. There is an option for the property owner to appeal against this in the event of hardship.
- vii. Technology options remain included within the policy both in the form of equipment via the Technology Enabled Care Services, and via major adaptations. Within a DFG, technology can be used and is highlighted by the recent government guidance as an option for local authorities to consider under the existing DFG legislation. In addition, in Herefordshire the Technology Enabled Care Services provide an assessment service via the Occupational Therapy Team, equipment provision via the Integrated Community Equipment Service and monitoring via an Alarm Receiving Centre. Elements of this service are funded via the DFG budget in accordance with the limitations on capital spend.
- viii. Within Herefordshire Council's Technology Enabled Communities (TEC) Programme, the Cabinet Member for Health and Wellbeing has already agreed a decision to spend £110,959 from the DFG budget in 2022/2023, and £539,820 within the DFG budget for 2023/2024 to provide the budget for the restocking of digitally compliant equipment within the Integrated Community Equipment Service which will then be provided to individuals dependent upon use of alarms within the community. This decision was taken on 30 September 2022 in recognition of the importance of developing technology enabled living and empowering individuals to live independently and safely.

Legal implications

18. Any Council Policy must be up to date, as well as being fit for purpose. A Policy should offer clarification and in turn reduce the risk of any challenge.
19. Any Policy must comply with any relevant legislation and current statutory duties.

Risk management

20. Adopting this policy would eliminate the risk to the council of not having such a policy or having an outdated policy. This would include risk of potential legal challenge and damage to reputation.
21. There are risks also that not having the assistance available within the policy would result in increased costs to social care and the NHS, as indicated in government guidance and research.

22. The DFG budget is monitored by the Better Care Fund at a council directorate level and as such regular budget control meetings give assurance on robustness of budget control and monitoring. The policy also allows for review “at the end of the policy period or sooner if prompted by central government legislation or significant funding changes”.
23. Risks are managed at service and directorate level. In addition to the above risks, other key risks identified at the time of review of the policy included the following:
 - Risk: not spending capital budget allocation. This risk was to be mitigated by the review of the Independent Living Services with regards to the staffing capacity and outputs of the service. The government guidance with regards to how the DFG budget may be spent has also been helpful in mitigating this risk and ensuring spend across relevant assistance areas. Regular quarterly reviews and budget forecasting also ensure that the actual spend can be reviewed against predicted spend and adjustment made if required.
 - Risk: not completing mandatory adaptations due to increased building costs over grant limit of £30,000, clients & carers left at risk, responsibility to meet needs falls back on social care directorate. This is mitigated by increasing the discretionary grant available as top up.
 - Risk: lack of wider options to meet housing & adaptations needs, clients unable to be discharged back home due to unsafe housing conditions, increased admittance to care homes. Mitigation: promotion of the emergency repayable grant and increased financial support available to remedy serious hazards.

Consultees

24. In preparation for the Policy review a consultation was held February- March 2021 with a wide range of stakeholders. The list of stakeholders included staff, representatives or managers from the following: Community Wellbeing directorate (Adults and Communities Directorate at that time), Wye Valley Trust & 2Gether Trust Occupational Therapy Teams, Strategic Housing, Housing Solutions, local Housing Associations, Foundations, Hereford and Worcester Fire Services, Environmental Health, User and Carer representation from the Making it Real board, Keep Herefordshire Warm, Talk Community.
25. A Questionnaire comprising 18 questions was sent to stakeholders and responses collated from those who responded. Responses were received from Independent Living Services, Strategic Housing, Housing Solutions, Bromford Housing, Citizen Housing, Platform Housing and Making it Real board. Appendix 3 details the responses received.
26. The responses received have helped identify or confirm where changes were required within the policy to ensure that it remains fit for purpose and clear to stakeholders. Reference should be made to Appendix 2 Summary of changes made to the Home Adaptations and Assistance Policy.
27. A Political Group consultation was held on the 19th January 2023. Many Councillors attended and the key questions discussed at the meeting were as follows:
 - Land Charges fee: Can this be raised any higher since the limits of the discretionary DFG have been raised?

- Following this discussion the service went away and consulted with expertise and agreed the maximum land charge applied for the Discretionary DFG will now be increased from £10,000 to £30,000.
- Since we are raising the limits of some of the DFG's, how can we be sure that this will not limit us in providing help to all those that need it, how we will prioritise?
 - The team assured the Councillors that increasing the amount of the grants will not limit the amount of people support can be provided too.

Appendices

Appendix 1	Home Adaptations and Assistance Policy
Appendix 2	Summary of changes made to the Home Adaptations and Assistance Policy
Appendix 3	Consultation Questions with Responses March 2021

Report Reviewers Used for appraising this report:

Please note this section must be completed before the report can be published		
Governance	John Coleman	Date 05/01/2023
Finance	Kim Wratten	Date 06/01/2023
Legal	Samantha Evans	Date 19/12/2022
Communications	Luenne featherstone	Date 16/12/2022
Equality Duty	carol trachonitis	Date 16/12/2022
Procurement	Lee Robertson	Date 19/12/2022
Risk	Jo Needs	Date 19/12/2022

Approved by	Hillary Hall	Date 11/01/2023
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Please include a glossary of terms, abbreviations and acronyms used in this report.