

Report To:	EXECUTIVE CABINET
Date:	28 November 2018
Executive Member / Reporting Officer:	Councillor Brenda Warrington – Lead Member for Adult Services Stephanie Butterworth – Director of Adult Services David Moore – Interim Director of Growth
Subject:	HOUSING FINANCIAL ASSISTANCE POLICY 2018 - 2023
Report Summary:	<p>With increased Government Disabled Facilities Grant funding and continued repayments from previous housing improvement grants and loans, the report provides an updated Private Sector Housing Renewal Policy to enable a wider and more holistic approach to Housing Adaptation improvements.</p> <p>The revised Policy replaces Tameside’s current Private Sector Housing Renewal Policy approved in 2003.</p>
Recommendations:	<ol style="list-style-type: none"> 1. That the proposed amendments to the Disabled Facilities Grant and other associated funding loans and grants be approved. 2. That following comment the report is considered by the Strategic Commissioning Board for approval and, by means of a Key Decision Notice, the Lead Member for Adult Social Care approves a 6 week public consultation exercise in respect of the proposed amendments..
Links To Community Strategy:	Supportive Tameside: Help people to live independently
Policy Implications:	An updated Financial Assistance Policy underpins a number of Tameside and wider regional policies in providing quality care in the home for those that need it
Financial Implications: (Authorised By Section 151 Officer)	<p>The 2018-19 Disabled Facilities Grant allocation is £2.37m and the 2018-19 commitments are in line with the allocation. Set out in section 3.8, in points one to five, are the services funded by the grant. There is no payback for this funding.</p> <p>The services set out in section 3.8, points six to eight, are the services to be funded by repayable Housing capital funding. As at 1 April 2018 there is a £0.372m reserve built up by the recycling of payback Housing capital funding over previous years. These services will be monitored separately from the Disabled Facilities Grant funded schemes. The ongoing funding of these schemes will be closely monitored because the timing of the repayments is unknown.</p> <p>The Boiler Replacement scheme set out in section 3.8, point nine, will be subject to available grant or other funding.</p>
Legal Implications: (Authorised By The Borough Solicitor)	The Council has statutory duties to provide Disabled Facilities Grants and various powers to provide financial assistance for the purpose of improving living conditions in its area. Failure to implement the grant scheme appropriately would leave the council at risk of legal challenge and could potentially lead to breaches of

the Human Rights Act 1998. The current policy was approved in 2003 and so it is timely, given legislative changes, to carry out a policy review, to ensure the Council remains compliant and that the scheme is meeting its objectives.

The Council is commendably looking at removal of some of the bureaucracy involved with applying the scheme and to this end is adopting a wider discretionary policy to allow for flexibility. There is always a risk to the Council that the implementation of any policy may give rise to legal challenge, and so as with all Council policies it should be kept under review.

An EIA has been completed and this should be reviewed following the consultation, for Members to ultimately consider and understand prior to approval of the final policy.

The Test of Resources (ToR), or means test, used to determine whether an applicant is eligible for grant assistance is a requirement of Section 30 of the Housing Grants, Construction and Regeneration Act 1996 and the Housing Renewal Grant Regulations 1996 as amended. When the Regulatory Reform Act 2003 removed references to mandatory means tested grants for various forms of private sector renovation Circular 05/03 stated, amongst other comments "... Mandatory disabled facilities grants, paid under the legislation, are still directly subject to the provisions of the 1996 Act and Regulations".

Although the ToR is closely based upon the Benefits ToR there is no provision for a right of appeal in the regulations, and so it is all the more important to ensure the policy is clear for all applicants to understand, and properly implemented to avoid any successful legal judicial review challenge or complaint to the Local Government Ombudsman.


Risk Management:

The key risks (detailed in Section 5.5) are summarised:

- Failure to provide statutory DFG adaptations. Changes to the Policy may result in an increase in requests for alternative and more expensive adaptations and may bring Local Government Ombudsman intervention and reputational damage to the Authority - It will be necessary to ensure applications are prioritised to ensure the most urgent cases are funded.
- Insufficient funding to provide appropriate interventions outside statutory DFG funding. Changes to the Policy may result in an increase in requests for alternative and more expensive adaptations - It will be necessary to ensure applications are prioritised.
- Loan payments not repaid to the Authority. Future funding of schemes will be affected – Loans protected by securing local land charges or other legally binding interventions.
- Disputed funding award claims by applicants. Complaints to Local Government Ombudsman may bring reputational damage to the Authority – Clear information on funding strategies made available to the public.

Access To Information:

The background papers relating to this report can be inspected by contacting the report writer Nigel Gilmore, Head of Strategic Infrastructure:

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1. INTRODUCTION

- 1.1 The Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 (RRO) gives local authorities a general power to introduce policies for Private Sector Housing, to provide assistance to individuals with renewals, repairs and adaptations in their homes through grants or loans.
- 1.2 The aim of such general powers is to allow a local authority to fund essential home repairs to reduce injury and accidents, to ensure homes are adequately heated, to expand the scope of adaptations available under the Disabled Facilities Grant (DFG) legislation, and allow people to relocate to alternative accommodation if their current home is not able to meet their needs. Assistance can be given directly to the individual or through a third party such as a local authority or other partner.
- 1.3 In 2008, Government set in place a number of changes to the way DFG was administered and used. These changes included the relaxation and removal of the ring-fence element in 2010, allowing DFG monies to be used more flexibly and as part of wider strategic projects, to keep people safe and well at home and to reduce bureaucracy in the grant's administration.
- 1.4 In reducing bureaucracy, local authorities are able to use the RRO to create assistance schemes which help people meet their needs without undergoing a full DFG process.
- 1.5 In order to take full advantage of the relaxed RRO policy, a local authority must comply with a number of conditions:-
- There must be a formally adopted policy in place, which sets out how the authority intends to use its powers;
 - Any policies must be readily available to the public.
- 1.6 The main provisions applied to any assistance delivered instead of a full DFG, are:-
- Home owners are owner occupiers;
 - That a full DFG is still available to the individual should it be requested;
 - Each case must be considered on its own merits and a clear mechanism for applying discretion is made available in all circumstances; and
 - That any scheme must meet identified need.
- 1.7 Assistance can be given as:-
- A grant - a sum of money for a specific purpose, with few or no conditions attached and no repayment required;
 - A repayment loan – interest bearing or 0% repaid in instalments over a period of time;
 - A charge on the property – interest bearing or 0% to be repaid on the sale, transfer or disposal of the property; and
 - A combination of these.

2. TAMESIDE MBC REGULATORY REFORM ORDER

- 2.1 Tameside's current Private Sector Housing Renewal Policy was adopted in 2003 and apart from a number of minor updates, has remained largely unchanged. It is available at <https://www.tameside.gov.uk/housing/renewalpolicy>. The minor updates consist of:-
- A Key Decision, 14 September 2011, entitled Adaptations Service, addressing issues to improve delivery of adaptations outside the DFG process;

- A Key Decision, 17 July 2013, entitled Adaptations, changed the delivery of adaptations to meet the reduced level of funding; and
- A decision of the Single Commissioning Board dated 2 August 2016, entitled Disabled Facilities Grant Delivery Considerations, enabled the delivery of housing adaptations through the relaxation of a number of criteria.

2.2 In updating the current Tameside RRO policy, it is intended to:-

- Incorporate changes in Government policy in respect of DFG and its increased flexibility;
- To reflect the continued increase in Government funding within the RRO policy;
- Approve the use of ongoing loan repayments to fund alternative initiatives within this updated policy;
- Subject to available funding, increase the number of potential assistance initiatives; and
- Subject to available funding include Energy Efficiency Measures/ Boiler Replacement Scheme within the updated policy

2.3 At the same time, whilst the 2002 RRO repealed much regulation around repairs and renewals for local authorities, and considerably increased its flexibilities in meeting residents' needs, it did cite the continued requirement for a statutory DFG.

2.4 There is a general recognition, however, that any amount of DFG funding is unlikely to meet all eventualities for people's needs where they have a health or disability related condition. It is important, therefore, that any policy clearly sets out the limitations of any help that may be available.

2.5 In recognition of the above Tameside has developed a number of policies to create assistance schemes which help people meet their needs.

3. SUMMARY OF THE HOUSING FINANCIAL ASSISTANCE POLICY 2018 – 2023

3.1 The 2002 RRO provides local authorities with the ability to design their own financial assistance policies to suit their specific requirements and priorities. In this respect the revised policy provides the means to allow vulnerable and disabled residents access to existing forms of financial assistance which will assist them in maintaining independence, preventing further deterioration in their condition and reducing the need to call upon social care and health services.

3.2 In addition and as part of the revised policy, the Council intends to introduce new forms of assistance to enable the offer to be increased to the elderly and the vulnerable homeowner, assisting those individuals who may not qualify for a DFG adaptation but who may need other assistance to prevent or defer the need for further and more expensive interventions at a later date.

3.3 With the exception of mandatory DFG, help provided through the Policy will generally be available on a single occasion only. The Council will endeavour to advise people on how to maintain their homes and will expect them to do so following any help given without resorting to further financial assistance.

3.4 Proposed assistance is offered in a number of ways and subject to financial considerations as summarised in **Appendix 1**. Dependant on circumstance, individual instances can attract funding of varying amounts and are in many cases subject to a "test of resource" and for home owners, a local land charge.

3.5 In summary nine alternative types of financial assistance are proposed.

- 3.6 The funding for assistance noted in sections 1 to 5 below will be provided utilising the annual allocation from government. There is no payback involved in this funding.
- 3.7 Funding for assistance noted in sections 6 to 8 below will be provided from repaid Housing Capital. Current sources of funding are from two historic assistance schemes: Anchor Staying Put Scheme and West Pennine Equity Loan Scheme where the investment is secured by means of a charge. Disposal or transfer of ownership triggers the condition that requires repayment of the investment.
- 3.8 Section 9, Boiler Replacement Scheme, will be subject to external grant funding when made available through Government or elsewhere:-
1. **Mandatory Disabled Facilities Grant:** To provide assistance utilising the mandatory DFG to those people who qualify to make applications under existing legislation. The rules for circumstances where repayment of mandatory DFG may apply are applicable.
 2. **Proportionate Mandatory Disabled Facilities Grant:** To provide financial assistance to a homeowner who wishes to carry out works to undertake adaptations over and above those as assessed as being necessary and appropriate by an Occupational Therapist. The rules for circumstances where repayment of mandatory DFG may apply are applicable.
 3. **Grant for Adaptations (Discretionary):** As part of this Policy the Council will exempt any application for financial assistance to undergo the test of resources (means test) for DFG where the approved amount is under £5,000.
 4. **Payments towards Adaptations (Discretionary Grant Assistance):** Such a grant may include:
 - a. **Unforeseen Works Assistance:** For circumstances where the maximum grant has been awarded and unforeseen works occur
 - b. **Shortfall Assistance:** For circumstances where the cost of providing the adaptations as recommended by the OT exceeds the maximum DFG grant
 - c. **Contribution Assistance:** In circumstances where the disabled person or applicant cannot meet the contribution indicated towards the costs of the works, which has been determined by the statutory test of resources
 - d. **Relocation Assistance for Home Owners:** Relocation assistance applies in circumstances where the disabled person needs to move from their existing residence as a result of being unable to adapt the property
 5. **Hospital Discharge Grants:** Other areas of funding may include Discretionary Hospital Discharge Grants to prevent delayed discharge through assistance aimed at carrying out works up to £5,000 to render a property habitable and safe for the patient to be discharged to. This grant is not repayable by the applicant.
 6. **“Stay Put” Scheme:** The provision of a “Stay Put” scheme for home-owners over 65 subject to certain qualifying conditions to provide assistance up to £6,000 for repair works of an essential nature that will prevent further deterioration of the property and help maintain independent living. There will be a local land charge for this funding at 0% interest.
 7. **Home Repair Assistance:** Introduction of “Home Repair Assistance” for vulnerable home-owners under the age of 65 subject to certain qualifying conditions to provide assistance up to £6,000 to remove Health & Safety issues and carry out works of an essential nature that will prevent further deterioration of the property. There will be a local land charge for this funding at 0% interest.
 8. **Safety Net Assistance:** In circumstances where the owner occupier does not qualify for either the Stay Put scheme or the Home Repair Scheme and where an extreme risk to the health and safety of the occupier or other members of the public exists due to the

condition of the property the Council may provide financial assistance up to £6,000. There will be a local land charge for this funding at 0% interest.

9. **Boiler Replacement Scheme:** Whilst previously offered through the Council, the Boiler Replacement Scheme inclusion provides for a more proactive intervention by the authority and will be subject to available grant or other funding. Assistance will only be available where a heating system or boiler is considered by the Council or a qualified Gas Safe engineer to be in need of repair, replacement, or condemned.

4. FINANCIAL IMPLICATIONS

- 4.1 Over the five year period (2015/16 to 2019/20) Government indicated a substantial increase in overall DFG related funding. Whilst these figures have been generally borne out in practice, for individual years they are only confirmed well into each financial year providing continued uncertainty in long term planning. Over the period in question Tameside's allocations have risen from £1.2m in 2015/16 to £2.327m during 2018/19.
- 4.2 A number of initiatives in this new policy will be funded from on-going capital and loan repayments associated with previous loan policy; in effect recycling the funds.
- 4.3 Previous schemes to assist residents to improve their homes have been a factor of the original RRO policy. Two such schemes required the amount of assistance to be secured by a charge placed on the property at the local charges register or in some cases at HM Land Registry. Some of these charges are resulting in repayments of this assistance.
- 4.4 One scheme, Anchor Staying Put Scheme operated by Anchor Housing Home Improvement Agency on behalf of the Council, used housing capital to offer financial assistance to home owners over 60 years of age to carry out essential repairs to their properties. The maximum amount of assistance was £5,000 secured by a land charge repayable upon disposal or transfer of ownership. The scheme came to an end in 2012.
- 4.5 The second scheme, an Equity Loan Scheme operated by West Pennine Housing Association (now Regenda Homes) used Housing Capital provided by the Council, permitted home owners to carry out major repairs to their properties. The funds invested were secured by a charge at HM Land Registry and must be repaid upon disposal or transfer of ownership. The amount of investment was calculated as a percentage of the improved value at the time of the loan and this percentage is used to calculate the amount to be repaid based upon the current open market value.
- 4.6 In cases where new initiatives demand charges to be placed on a property, repayment of capital will be used fund other schemes within this policy as they are repaid.
- 4.7 The new RRO policy, in addition to assisting more people with disabilities, will help improve the overall condition of housing stock within the borough and will greatly assist with the Council's stated aim of supporting more of its residents to live independently and reduce the need for those same residents to call upon other and more expensive related services.
- 4.8 The overall capital expenditure in the provision of such initiatives, within the amended RRO policy, will not impact upon the current provision and will be contained within existing budgets.
- 4.9 Whilst mandatory DFG requirements are statutory, all initiatives outside the DFG will be subject to the availability of relevant funding meeting relevant criteria.

5. RISK MANAGEMENT

- 5.1 Making arrangements to meet assessed needs for people who fall within the requirements of the Care Act 2014 and dealing with applications for DFG's are statutory duties. Failure to make sufficient resource available creates a risk of external 3rd party intervention as well as reputational damage. The Local Government Ombudsman, in criticising long delays in delivering adaptations, has recognised that Councils have to work within their budgets and has looked favourably on appropriate priority systems, whilst the Courts have always referred to the mandatory nature of the DFG and not considered the absence of funding as an excuse for long delays.
- 5.2 The failure to provide a sufficiently resourced service for the provision of adaptations is likely to lead to long term increased costs in the provision of care packages to the health and other sectors of the community as the independence of individuals is compromised. The provision of a full DFG with the proposed new initiatives will reduce such impacts.
- 5.3 Funding for initiatives that are deemed to be non-statutory will be subject to available resources. Raising expectations will lead to complaints and criticism and require careful management as the initiatives are publicised.
- 5.4 Future RRO Policy reviews will be undertaken on a five year cycle unless legislation or other circumstances require additional intervention.
- 5.5 Table 1 below highlights the main risk elements of the proposed RRO policy.

Table 1: Main Risk Elements Of The Proposed RRO Policy

Risk	Impact	Mitigation
Failure to provide statutory DFG adaptations	Greater call by residents on alternative and more expensive interventions by health service and other partners. Reputational – Potential intervention by Local Government Ombudsman	Ensure list of interventions is prioritised to ensure most urgent cases are funded.
Insufficient funding to provide appropriate interventions outside statutory DFG funding	Greater call by residents on alternative and more expensive interventions by health service and other partners	Ensure prioritised interventions by local authority provider
Loan payments not repaid to Authority	Reduced future funding for RRO policy	Ensure surety of repayment by land charge or other accepted legally binding interventions
Disputed funding award claim by applicants	Reputational. Potential intervention by Local Government Ombudsman	Ensure clear funding strategies are made available to wider public

6. EQUALITY IMPACT ASSESSMENT AND CONSULTATION

6.1 An Equality Impact Assessment is attached to this report (**Appendix 2**). It has been drafted to address the impacts of this policy change and will continue to operate alongside the implementation of the revised policy for the purpose of continuous monitoring.

6.2 The implementation of the proposed changes will positively aid disabled people who do not meet the requirements of DFG criteria and are unable to financially support further adaptation.

6.3 This EIA is being undertaken to explore how the impact of the proposed changes to adaptations funded by the DFG and other resources is provided in the future. The changes are driven by:-

- Increasing demand exceeding current capacity in terms of both funding and resources to meet this demand.
- Fluctuating DFG budget position over a number of years.
- Ongoing relaxation of DFG criteria in delivering services.
- Managing expectations of any proposed policy reviews.

6.4 These actions will positively impact upon individuals who are:-

- Disabled and living within the community.
- Unable to afford or fail to meet statutory requirements for a DFG.
- Unable to afford the cost of essential property repairs that are likely to have an impact on their health and wellbeing.
- Currently unable to move from a hospital environment into suitable residential accommodation without assistance to render a property habitable and safe to live in.
- Potentially delayed by hospital discharge with increased cost to the NHS due to the inability to provide adaptations and facilitates in less formal care in the home environment.

6.5 To manage the changes within the policy, the authority will:-

- Continue to offer reassessment should a person's needs change in the future.
- Continue to provide advice to individuals and signpost them where appropriate to alternative options.
- Ensure the impact of the proposals is kept under regular review, both generally and specifically, in individual cases.

6.6 The Council wishes to make it easier for residents of the borough with disabilities to apply for and obtain grant assistance (without the need to apply for a DFG) in order to maintain independent living and, if possible, to become less reliant on mainstream services.

6.7 The Regulatory Reform Order (Housing Assistance)(England and Wales) Order 2002 Article 4 – “provision of assistance: supplementary” states:-

“A local housing authority may not exercise the power conferred by article 3 (Power of local housing authorities to provide assistance) in any case unless:

- (a) they have adopted a policy for the provision of assistance under that article;
- (b) they have given public notice of the adoption of the policy;
- (c) they have secured that
 - (i) a document in which the policy is set out in full is available for inspection, free of charge, at their principal office at all reasonable times; and

- (ii) copies of a document containing a summary of the policy may be obtained by post (on payment, where a reasonable charge is made, of the amount of the charge); and
- (d) the power exercised in that case in accordance with that policy.”

6.8 In order to seek wider support for the proposed Housing Financial Assistance Policy update, it is intended to consult with a range of users as part of the above EIA process. These will include the Authority’s Adult, Social and Children’s Services, Disability User Groups, Registered Providers (whom the Council has service level agreements with for adaptations) and through the facilities offered by the Authority’s Big Conversation initiative. (**Appendix 3**).

6.9 The Council is not making any changes to the mandatory DFG: the ability of a disabled person to benefit from assistance or to purchase a more suitable home where the current home cannot be adapted will remain; as will the safety net assistance to remove health and safety risks from the home.

7. RECOMMENDATIONS

7.1 The recommendations are set out at the front of the report.