



**Report Reference Number: E/21/27**

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**To:** Executive  
**Date:** 2 December 2021  
**Status:** Key Decision  
**Ward(s) Affected:** All  
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**Lead Executive Member:** Cllr Mark Crane, Leader of the Council and Lead  
Executive Member for Housing, Leisure, Strategic  
Matters, External Relations and Partnerships  
**Lead Officer:** June Rothwell, Head of Operational Services

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**Title: Draft DFG (Adaptations) Policy 2021**

**Summary:**

Local housing authorities have a duty to consider housing conditions in their area, including the needs of chronically sick and disabled persons and the adaptation of existing accommodation. The legal responsibility for the provision of Disabled Facilities Grants (DFG) sits with the District Council, who are committed to facilitating any appropriate property aid or adaptation which will allow our residents to live independently with confidence and dignity. The attached draft DFG (Adaptations) Policy 2021 will provide our residents and relevant stakeholders with a clear policy and process for delivering property adaptations, as well as providing suitable alternatives when adaptations are not appropriate or practicable.

**Recommendation:**

**That Executive Members approve the draft DFG (Adaptation) Policy 2021 in order to progress with consultation.**

**Reasons for recommendation:**

For private residents, the provision for adaptations is funded via the Government and Better Care Fund, whilst for Council tenants, this provision is funded via the Council's Housing Revenue Account (HRA) budget. However, as per legislation, applications for a DFG can be made from people living across all tenures. By approving the draft policy for consultation, we will be one step closer to implementing a more transparent and fair policy which ensures all residents throughout the Selby district undergo the same process when making an adaptation request, irrelevant of their housing tenure. This would see the Council make best use of current housing stock and maximise spend of our Better Care Fund allocation.

## **1 Introduction and background**

- 1.1** A suitable and well adapted home can be the defining factor in enabling a disabled person to live well and independently. At a time of significant financial constraints, delivering help with home adaptations is said to be one of the most efficient and effective ways of making best use of scarce resources. Selby District Council is therefore committed to our vulnerable and disabled residents having the ability to remain in their homes for as long as it is safe and reasonable for them to do so, a provision provided for via the DFG process.
- 1.2** Currently, as a two-tier administrative area, Selby District Council staff facilitate and administer the adaptation process, as well as carry out any required work. However, this is done in partnership with North Yorkshire County Council and in particular the Occupational Therapy team. They are responsible for the majority of visiting residents, assessing their needs and submitting the adaptation request for our consideration.
- 1.3** As the service provider, the District Council is in the best position to understand the administrative DFG process and propose a new policy which will improve resident's experience and ensure all individuals who require a DFG are catered for appropriately. In light of LGR, this new process will ensure we are best prepared for the realignment of services and the coming together of the District and County Council.
- 1.4** The draft policy will set out clear parameters as to how the Council will review and meet requests for adaptation assistance. We will:
- Work in partnership with North Yorkshire County Council (NYCC).
  - Clearly set out the criteria by which the Council will assess all DFG requests, managing expectations.
  - Recognise the vital importance of DFG work to our residents, whilst ensuring all work is necessary, reasonable, and practicable.
  - Make best use of Selby's housing stock.
  - Explore all options to support residents in their DFG requests.
  - Focus on providing a high quality service, delivering cost effectiveness.
  - Comply with legal and statutory requirements in relation to the provision of disabled adaptations.

## **2 Policy Headlines**

- 2.1** The aim of the draft DFG (Adaptations) Policy 2021 is to clearly set out the parameters of the DFG process for both our residents and relevant stakeholders. The policy aims to clarify:
- The difference between 'minor' and 'major' adaptations.
  - Funding and the means-test process.
  - The referral process and timescales.
  - Who is eligible for the service.

- When an adaptation will not be undertaken and alternative options.
- Types of discretionary assistance.
- Rules surrounding tenants who undertake their own adaptation work.
- Changes in need and future maintenance obligations.
- Complaints and reviews.

### The Funding Process

- 2.2 In terms of funding Council house adaptations specifically, it has always been the practice of the Council to pay for all adaptations, regardless of whether they are minor or major adaptations (under or over £1000) and without considering the financial circumstances of the tenant requiring the work. However, in order to better align with the DFG process, it is expected that all minor adaptation work, independent of tenure, will now be funded via the County Council. The Care Act 2014, which applies to local authorities with a social services function (namely North Yorkshire County Council), requires said local authority to provide minor aids and adaptations up to the value of £1,000 free of charge.
- 2.3 Presently, the District Council is paying for these minor adaptations. However, by referring the cost back to the County Council, given their legal responsibility, additional funds would be available within the Council's HRA adaptations budget which could be redirected to more costly and critical adaptations. This would allow us to help more of our tenants who need major adaptations and ensure work is undertaken at the earliest opportunity.
- 2.4 Again in-line with DFG requirements, the policy includes a means-test for all applicable residents, including Council tenants, who require a major adaptation. This process exactly mirrors the DFG application, which will consider average weekly incomes and any savings over £6,000. Amounts are set against an assessment of basic needs, considered against a range of allowances. This process is entirely set by Central Government and does not provide flexibility to change these amounts, although they are subject to change.
- 2.5 This is in contrast to the current procedure, where the HRA would be entirely responsible for funding any adaptation request received from our tenants, up to a maximum of £30,000. This means that works likely to amount to more than £6000 would only be automatically funded provided the applicant is receiving a means-tested 'passported' benefit (a list of which is included in the policy). Applicants not in receipt of such a benefit would need to complete the same 'Test of Resources' undertaken as part of a DFG application. This may result in an applicant having to financially contribute towards the works in some capacity, from part to full payment.
- 2.6 Notably, means-testing under these guidelines is likely to be a rare occurrence for Council tenants. However, when it is required, it has the potential to help alleviate HRA budgetary pressures and ensure that Council funding can be utilised where most needed.

### Supported Moves

- 2.7 Whilst the primary aim of the policy is always to help people remain in their own homes, sadly this is not always possible. This is usually due to practical reasons based on technical issues related to the property's design or layout, or due to disproportional costs in relation to the adaptation required. When an adaptation is not viable then, it will be necessary to consider moving the applicant to a more suitable property which; either does not require adaptation, or where the adaptation is more suitable to take place.
- 2.8 In this circumstance, the Council may provide financial assistance to a resident to cover any associated moving costs. This is available to applicants from any tenure and is a discretionary payment offered typically up to a maximum payment of £6,000 (but can be increased in exceptional circumstances). This assistance is detailed further in our Private Sector Housing Assistance Policy, also in draft form, and would be provided via DFG funding. This assistance should help to encourage relevant applicants to consider a move should this be the most suitable way forward. Should this offer be refused however, the policy does provide scope for the Council to refuse the adaptation request. This will allow the Council to both meet the needs of its residents, but also make best use of its housing stock.

### Discretionary Assistance

- 2.9 Subject to the availability of funding, the Council is able to use its discretion under the Regulatory Reform Order 2002 to offer further assistance to applicants who meet certain criteria. This includes works under a DFG that may otherwise not be eligible for assistance via the traditional route, or are expected to cost less than £6,000. It can include specialised equipment and remote/smart technology, as well as aids and adaptations for people with mental health issues, behavioural and/or learning disabilities. This is a slight increase on the current amount set at £5,000 due to the general increased cost of materials, works and inflation. It also has the potential to 'top-up' a DFG award if adaptation work exceeds the £30,000 limit.
- 2.10 This assistance, along with further schemes, are made available under our new Private Sector Housing Assistance Policy (in draft) which also provides additional detail as to eligibility and the application process. Notably, this discretionary assistance will only be awarded to households where a disabled or vulnerable person is resident. Availability is also subject to the Council's annual budget setting procedure and the availability of sufficient levels of external funding. All such payments are at the District Council's discretion and will be removed once available funds are exhausted.
- 2.11 Through a combination of mandatory DFGs and the use of discretionary assistance, we will help to ensure that more Selby district residents, irrelevant of tenure, are living independently and in suitable accommodation, prevented from needing additional health and social care intervention.

## Exceptions

2.12 The policy also accepts that there may be circumstances that warrant exceptions to the policy and where necessary and appropriate, provides the Council with the ability to assess individual cases and agree exceptions. The policy is also expected to be reviewed annually, or when there is a fundamental change of legislative or regulatory provisions.

## **3 Building Safety Bill**

3.1 When completing any new building work in the future, it will also be important to consider the draft Building Safety Bill. Following the Grenfell Tower tragedy in 2017, the Hackitt Review of Building Regulations and Fire Safety was commissioned. The review concluded that the whole system needed major reform and that residents' safety needed to be a greater priority through the entire life cycle of a building.

3.2 Government have therefore published new draft regulations, introduced in the House of Commons on 5 July 2021. The Government has indicated that the first round of provisions will come into force within 6-12 months of the Bill gaining Royal Assent (October 2022 - April 2023), whilst the bulk of the new regulatory regime will come into force within 12-18 months of Royal Assent (April 2023 - October 2023).

3.3 The draft Bill establishes a new national Building Safety Regulator, which will sit in the Health and Safety Executive and report to the Secretary of State. The Regulator will have three main functions:

- Overseeing the safety and standards of all buildings, developing key performance indicators (KPIs) related to building control work, data collection and powers to impose sanctions for poor performance.
- Assisting and encouraging the improvement of competence in the building industry and amongst building control professionals and improving building standards.
- Leading implementation of the new, more stringent regulatory regime for 'higher-risk buildings,' including powers to order remedial works and stop non-compliant works.

3.4 At present, 'higher-risk buildings' are defined in the Bill as buildings in England that are at least 18 metres in height or have at least seven storeys and contain at least two residential units. The Secretary of State does however have general powers to amend this definition if deemed necessary. The Bill sets out a more rigorous regime for higher-risk buildings, providing clarity on 'duty-holders' and their roles, ensuring that the right people are held to account when things go wrong. These 'duty-holders' originate in the Construction (Design and Management) Regulations 2015 and are those who commission construction work and who are key in the design and construction process. They are the Client (who commissions the work), the Principal Designer, the Principal Contractor, designers and contractors.

3.5 The Bill also amends the Landlord and Tenant Act 1985 to import a new service charge regime related to building safety and allows landlords to be granted entry to dwellings for relevant building safety purposes with 48 hours prior notice. The Bill will also amend the Defective Premises Act 1972 allowing parties to sue under the Act with a prospective and retrospective period of 15 years. It also creates a new duty on those who do any work on a building which contains a dwelling to ensure that the work does not render the dwelling unfit for habitation.

3.6 There will also be changes to the building industry:

- Developer levy - applied to developers seeking building control approval to develop certain high-rise residential and other in-scope buildings in England, to ensure they make a contribution to fixing historical building safety defects.
- New Homes Ombudsman - where new-build homebuyers can channel their complaints. Developers are required to be a member of the scheme to ensure the Ombudsman can hold them to account and require them to pay compensation where appropriate.
- Complaints to Housing Ombudsman - allowing social housing residents to escalate a complaint directly to the Housing Ombudsman services once they have completed their landlord's complaints process.
- New regulator for construction products - a new national regulator who will identify 'designated products' and 'safety critical products' that may be withdrawn from the market if they present a risk, and will be able to investigate non-compliance and prosecute companies that break the rules.

3.7 We will continue to follow the draft Bill throughout its journey to gain Royal Assent and to becoming law as this will have direct implications on the work we do in regards to both construction and extension of properties. We will ensure that all relevant work is compliant under this new legislation.

## **4 Consultation**

4.1 Approval of the draft policy would allow us to progress to the next stage of the process and begin consultation. This would include Council tenants and Selby residents more widely. In light of the current climate, this is likely to take the form of an online questionnaire, publicised on both our own and North Yorkshire County Council's website. Given the demographics of those who are more likely to apply for a DFG however, we will also ask visiting Occupational Therapists to make their customers aware of the consultation and provide them with hard copies of the questionnaire for those residents who prefer or require them.

4.2 We will also consult with our partners at North Yorkshire County Council, both at a policy and strategic level, and with those on the frontline who will help us to deliver this service. Consultation has already taken place with District Council staff who will help us deliver the service.

4.3 A timetable for consultation and reapproval is detailed below:

<b>Dates</b>	<b>Events</b>
02/12/2021	Draft DFG (Adaptations) Policy 2021 at Executive for consultation approval.
06/12/2021 – 31/12/2021	Consultation with residents and stakeholders – including Policy Review 09/12/2021.
04/01/2022 – 14/01/2022	Time taken to consider feedback and make changes.
17/01/2022 – 28/01/2022	Final discussions with key stakeholders.
10/03/2022	Policy taken back to Executive for final approval.

## **5 Alternative Options Considered**

None.

## **6 Implications**

### **6.1 Legal Implications**

Section 8 of the Housing Act 1985 requires local housing authorities to consider housing conditions in their area. This includes having regard to the needs of chronically sick and disabled persons, including the adaptation of existing accommodation.

### **6.2 Financial Implications**

There is both a capital and revenue budget in place to assist with Council adaptation requests, which would not be required to change with the introduction of this policy.

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

N/A

### **6.4 Corporate Plan Implications**

N/A

### **6.5 Resource Implications**

Much of our adaptation work is fulfilled by current Council staff. However, introduction of this policy and means-testing would require new resource for the 'Test of Resources' process. However, this could be fulfilled by the DFG Co-Ordinator (1FTE), a role assimilated into the Council with the closure of Selby's Home Improvement Agency in 2018.

### **6.6 Other Implications**

N/A

## 6.7 Equalities Impact Assessment

Under the Equality Act 2010, local authorities must demonstrate 'due regard' to the Public Sector Equality Duty, working to eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the act; advance equality of opportunity between people who share a protected characteristic and those who do not; and foster good relations between people who share a protected characteristic and those who do not.

An Equality, Diversity, and Community Impact Screening was completed on 21/06/2021. It was noted that this policy will specifically impact on households where a person is classed as disabled under the Housing Grants, Construction and Regeneration Act 1996. Most likely, the impact will be positive as it will provide residents with a clear and straightforward policy for adaptation requests, managing expectations and timeframes.

## 7 Conclusion

The provision of DFGs, including applications by local authority tenants, is expected to be tenure neutral; and whilst this is difficult to achieve given the difference in budgetary restraint, introducing parallel guidelines and processes to that of the DFG process furthers this tenure neutral agenda.

The main aim of any DFG is for the applicant to lead a more independent and healthy life; and whilst an adaptation may be the best solution, this should always be considered in relation to other appropriate options. This policy will therefore provide the Council with greater flexibility to consider each individual case and achieve the best possible outcomes for both the resident and Council.

Executive approval allows us to consult with key stakeholders and residents on the proposed policy, to ensure we take on board all relevant feedback and use this to shape our housing service delivery.

## 8 Background Documents

N/A

## 9 Appendices

Appendix A: Draft DFG (Adaptations) Policy 2021

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