

South Lakeland District Council
Overview and Scrutiny Committee

Friday 8th July 2022

Cabinet

Wednesday, 20th July 2022

Disabled Facilities Grants policy review

Portfolio: Housing Portfolio Holder, Cllr Helen Chaffey
Report from: Director of Customer and Commercial Services
Report Author: Julie Jackson – Principal Specialist, Lee Curren – Housing Strategy and Delivery Specialist
Wards: (All Wards);
Forward Plan: Key Decision

Links to Council Plan Priorities:

Delivering a balanced community – The Disabled Facilities Grant (DFG) Policy 2018 invokes the Regulatory Reform (Housing Assistance) (England and Wales) Order 2002, which enhances South Lakeland District Council's ('SLDC') powers and duties under the primary legislation (Housing Grants, Construction and Regeneration Act 1996). By administering grants in this way it helps to facilitate adaptations aiding safety and independence in the home as well as assisting Carers to care. This enables a better quality of life for our residents and helps support the delivery of balanced communities.

A fairer South Lakeland – This policy empowers SLDC to maximize access and use of the Disabled Facilities Grant funding particularly by way of discretionary grants in the district. This enables SLDC to assist more residents across the district where it might not without such a policy.

1.0 Expected Outcome and Measures of Success

1.1 That the proposed changes to the policy are adopted thus updating the Disabled Facilities Grant Policy 2018 to reflect current needs of the community. The amendments will address a number of issues including addressing potential disadvantage to those on lower incomes by means test limitations. This can be measured by the number of grants approved.

2.0 Recommendation

2.1 It is recommended that Overview and Scrutiny Committee:-

(1) considers the amendments to the Disabled Facilities Grant Policy 2018 attached at Appendix 1 and recommend the amended Policy to Cabinet for approval;

2.2 It is recommended that Cabinet:-

(1) considers the amendments to the Disabled Facilities Grant Policy 2018 attached at Appendix 1 for approval and adoption with immediate effect and

(2) the Director of Customer and Commercial Services in consultation with the Operational Lead – People Welfare and Income Maximisation and the Legal Governance and Democracy Lead Specialist (Monitoring Officer) be delegated authority to change the means test level where deemed appropriate; and

(3) Delegates authority to the Lead Specialist Legal Governance and Democracy (Monitoring Officer) to make the necessary amendments to the Constitution outlined in paragraph 3.2(2) of the report.

3.0 Background and Proposals

3.1 Disabled Facilities Grants ('DFG') were introduced in 1990, the principal legal provisions in governing administration of grants are contained within the Housing Grants Construction and Regeneration Act 1996, as amended. This piece of legislation could be interpreted restrictively and so The Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 ('RRO') was introduced giving Local Authorities further powers to allocate grants reflecting local needs, provided these are contained within a policy document.

3.2 South Lakeland District Council's (SLDC) 2018 policy document requires review, following an internal audit April 2021. A number of recommendations are proposed amending the current policy:-

(1) Demonstrate clearer links with the Council Priorities - this is an Audit recommendation being clearer on links to the Council Plan Priorities illustrates that the council is working with, and contributing to the benefit of our communities and the council priorities.

(2) Increase the level at which the council applies a means test from £5,000 to £10,000. This figure is the same as Eden District Council and Barrow Borough Council. The cost of DFG works in the past 6 months, particularly for level access showers which account for about 80% of DFG grants, has been exceeding £5,000. It is anticipated that customers' incomes have not increased during this time thus causing an imbalance. As a result, the council are means testing more customers who would have been automatically eligible for a grant a year ago without means test. Means testing increases waiting time for application decisions and ultimately commencement or works. This delays assistance for those who need it most. It is proposed that authority be delegated to the Director of Customer and Commercial Services to agree a change in the means testing level where required in the future.

(3) Provide further clarity on the DFG Contract arrangements – this is an Audit recommendation. The DFG process is unusual in that the council acts as agent for the customer. The Audit recommended this is made clearer in the policy. Officers will seek legal advice accordingly on the related contractual documentation to protect the Council's position.

(4) Clarify Service Standards - The audit recommended the council's standards to be set out more clearly in the policy, providing clarity for customer expectation and to ensure standards are upheld. South Lakeland District Council has a statutory duty to assess the housing need within the district including the National Parks and plan to meet those needs. The DFG service feeds into the council's Housing Strategy action plan by adapting and improving homes to improve the health and wellbeing of older, younger and vulnerable people.

3.3 The current Policy states that it will be reviewed annually which is unnecessary, given that legislation has not changed since 2002. The next DFG Policy review will be undertaken as part of the LGR process for the new Westmorland and Furness Unitary council. At this time the frequency of subsequent reviews will be considered.

4.0 Appendices Attached to this Report

Appendix No.	Name of Appendix
1	DFG Policy Review 2021
2	DFG Policy 2018
3	Health and Sustainability Impact Assessment
4	Equality Impact Assessment

5.0 Consultation

- 5.1 Proposals for the re-organisation of local government ('LGR') in Cumbria which will take effect in 2023, will result in the abolition of South Lakeland District Council and Cumbria County Council. The local housing authority and county council roles will then assume a new unitary council 'Westmorland and Furness Council'. This policy has been developed in consultation with Barrow Borough, Eden District and Cumbria County Councils to ensure that it is fit for purpose ensuring a consistent approach that can then be adopted for the new Westmorland and Furness Council.
- 5.2 Consultation has been undertaken with key stakeholders including Occupational Therapists at Cumbria County Council, the NHS and the Portfolio Holder's Housing Provision Advisory Group on 8 December 2021.
- 5.3 The Proposals will be considered by Overview and Scrutiny Committee at their meeting of 8 July 2022.

6.0 Alternative Options

- 6.1 A number of proposals have been recommended by Audit. As highlighted in 3.2 above. The impact of the changes means the council can help more people more quickly. The Council could decide to keep the existing Policy, however, this is not recommended as it will potentially reduce the number of people we can assist and reduces the ability to be flexible or move quickly to react to the needs of our community, for example, in reviewing the means test as necessary.
- 6.2 The recommendation to clarify the contractual arrangements between the Council, the customer and the contractors is recommended to provide greater certainty for all parties; an alternative is to maintain the status quo which is contrary to legal advice and not recommended as greater clarity around legal roles in the arrangements would assist all parties. This is an Audit recommendation.

7.0 Implications

Financial, Resources and Procurement

- 7.1 The council receive monies annually for DFG via the Better Care fund which is ring fenced for DFG adaptations. There has been a underspend on our budget due to the impact of Covid 19 in the financial year 2020/21, and 2021/22 and fewer grants due to means testing level. Underspends can be carried over which will result in funding being available to assist more customers.

Human Resources

- 7.2 No impact

Legal

7.3 External legal advice has recently been provided in relation to the procurement arrangements regarding Disabled Facilities Grants; the recommendations of that legal advice were adopted as part of the recent update to the Council's Contract Procedure Rules.

7.3.2 The Council's legal advisers recommend updating the Disabled Facilities Grant Policy to replace the existing 'Contract Arrangements' paragraph on page 16 of the 2018 policy with the new wording outlined in Appendix 1 to this report. This includes clarification that the Council will complete the contractual paperwork with the contractor on behalf of, and as agent for, the applicant (customer). Therefore even though the Council signs paperwork with the contractor, the contract is between the applicant and the contractor; the Council is not a party to the contract acting in its own capacity and will not be liable for disputes arising between the parties (applicant and contractor). It is envisaged that in the event of a disputes between the applicant and the contractor, the Council will help to resolve these, but, should this not be possible, it may be necessary for the applicant to seek independent legal advice to remedy

7.3.3 It is recommended that JCT contracts for works are prepared and put in place before works start and that the Council's Legal Governance and Democracy team is instructed by officers to prepare these contracts.

7.3.4 The proposed amendments to the Contract Arrangements in the DFG Policy include reference to the Disabled Facilities Grant Procedure and it is recommended that this is reviewed and updated accordingly also.

7.3.5 It is recommended that the service's standard form of appointment for contractors, and contractual arrangements where a customer seeks to use a private architect, are also referred to Legal Governance and Democracy specialists for review and advice.

Health and Sustainability Impact Assessment

7.4 Have you completed a Health and Sustainability Impact Assessment? Yes – attached at Appendix 3.

7.5 Summary of Health and Sustainability Impacts

		Positive	Neutral	Negative	Unknown
Environment and Health	Greenhouse gases emissions		Y		
	Air Quality		Y		
	Biodiversity		Y		
	Impacts of Climate Change		Y		
	Reduced or zero requirement for energy, building space, materials or travel		Y		
	Active Travel		Y		

Economy and Culture	Inclusive and sustainable development		Y		
	Jobs and levels of pay		Y		
	Healthier high streets		Y		
	Culture, creativity and heritage		Y		
Housing and Communities	Standard of housing	√			
	Access to housing	√			
	Crime		Y		
	Social connectedness	√			

Equality and Diversity

7.7 Have you completed an Equality Impact Analysis? Yes – attached at Appendix 4.

7.8 Summary of Equality and Diversity impacts

Please indicate: P = Positive impact; 0 = Neutral; N = Negative; Enter "X"						
Age	P					
Disability	P					
Gender reassignment (transgender)			0			
			0			
			0			
			0			
			0			
			0			
			0			
			0			
Socio-economic disadvantage	P					

Risk Management	Consequence	Controls required
Insufficient resources to meet demand	We have a statutory duty to provide DFGs to eligible persons, if there are insufficient funds from our award from the Better Care fund via Cumbria County Council this will need to be met by other council funds	Regular monitoring of spending and budget particularly on the discretionary grants. Seek additional resources where necessary. Worst case scenario we could review the policy and reduce our discretionary powers.

Risk Management	Consequence	Controls required
Insufficient contractors to carry out the required works.	Essential DFGs are not carried out for the benefit of eligible applicants.	Continued participation in the Framework recently tendered to enable a wider contractor base.

Contact Officers

Julie Jackson, Principal Specialist People

Lee Curren, Housing Strategy and Delivery Specialist

Background Documents Available

Name of Background document	Where it is available
Housing Strategy 2016-25	This can be found via a link on SLDC website Policies and plans (southlakeland.gov.uk)
Internal Audit Progress Report 2020/21 Disabled Facilities Grants – see Appendix 2	This can be found on the Council's web-site .

Tracking Information

Signed off by	Date sent	Date Signed off
Section 151 Officer	21.6.22	23/06/2022
Monitoring Officer	21.6.22	28/06/2022
CMT	21.6.22	21/06/2022

Circulated to	Date sent
Lead Specialist	6.6.22
Human Resources Lead Specialist	N/A
Communications Team	N/A
Leader	N/A
Committee Chairman	N/A
Portfolio Holder	9.6.22
Ward Councillor(s)	N/A
Committee	8.7.22
Executive (Cabinet)	20.7.22
Council	N/A