

Agenda Item No: 10
Report To: Cabinet
Date of Meeting: 15th December 2022
Report Title: Disabled Facilities Grants and Disabled Adaptations
Report Author: Sharon Williams
Job Title: Assistant Director of Housing
Portfolio Holder: Cllr. Buchanan
Portfolio Holder for:



Summary: This report sets out the findings of a review into the Councils' processes for administering Disabled Facilities Grants (DFG's) and disabled adaptations in the Council housing stock

The review followed a motion passed at Full Council on 20th October 2022 and focused on the application process. External advice was sought from Foundations who reviewed the Council's approach in the context of the relevant the legislation and the most recent government guidance 'Disabled Facilities Grants (DFG) Delivery: Guidance for Local Authorities in England – March 2022'.

The outcome of the review confirmed that the Council is working within the scope of the legislation and guidance, however a series of recommendations have been identified to further improve service delivery. This includes a refresh of the Council's policy documents in relation to disabled Adaptations and improved information on the Council's website.

Key Decision: NO

Significantly Affected Wards: All

Recommendations: The Cabinet is recommended to:-

- I. **Note the responses to the issues identified at Full Council on 20th October 2022 and the outcome of the review into processing applications for Disabled Facilities Grants (DFG's) and Adaptations in the Council Housing Stock set out in the report.**
- II. **Agree the recommendations set out in the Foundations report at Appendix 3.**

Policy Overview: The Council has a mandatory duty to process DFG applications under the Housing Grants, Construction and regeneration Act 1996. The council has also set out a range of discretionary grants to top up grant funding where there may be a shortfall between the grant available and the costs of the work.

Financial Implications: The budget for DFG's for the financial year 2022/23 is £1.5m and the current projected spend for the same period is between £1.1m to £1.5m.

The budget for adaptations in the Council stock is currently £500,000, but the actual spend this year is predicted to be £1,000,000. In view of this the HRA budget for 2023/24 is recommended to be set at £700,000.

Legal Implications: The recommendations include actions to update policy, improve accessibility and clarify some aspects of the process to ensure the service continues to operate within the scope of legislation and guidance in respect of both DFGs and tenant adaptations.
Text agreed by Principle Litigator on [07/12/2022]

Equalities Impact Assessment: Not Required because there are no material changes to the processes.

Data Protection Impact Assessment: No new systems are being introduced at this stage

Exempt from Publication: NO

Background Papers: Housing Grants, Construction and Regeneration Act 1996. This is also supported by guidance issued by government in the Disabled Facilities (DFG) Delivery: Guidance for Local Authorities in England – March 2022.

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Report Title: Disabled Facilities Grants and Adaptations in the Council Housing Stock

Introduction and Background

1. Historically the Leader of the Council expressed a desire to 'level the playing field' for disabled people regardless of tenure. At that time waiting lists for DFG's for those in the private sector and adaptations in the council stock could be very lengthy and could take up to 2 years or more.
2. The Leader set a target of 6 months for the average time taken to process grant or adaptation works. To support this target, members agreed to part fund an Occupational Therapist to be co-located within the housing department to provide a dedicated service to Ashford. In addition the budget for adaptations in the Council Housing Stock was increased to £500,000.
3. A policy for dealing with adaptations in the Council stock had been introduced in 2014 with the aim for Ashford Borough Council to take responsibility as a landlord for responding directly to the needs of disabled tenants, without placing the onus on them to apply for a DFG. The aim was to speed up processing of applications and to directly fund works via the housing revenue account.
4. This approach significantly reduced the average waiting time across all tenures down to around 6 months and only those cases with a significant build such as an extension or major alterations taking longer than this to deliver. The approach worked well in terms of managing caseloads and in reducing wait times.
5. As a result of the impact of the pandemic the arrangement to fund a dedicated Occupational Therapist to co locate with the housing department ceased. However despite some delays during the height of the lockdown period of the pandemic and also restrictions on accessing homes, the wait times have remained relatively short and cases are processed as soon as they are referred with recommendations from the OT service. In the HRA many minor adaptations are undertaken within 6 weeks but more major works are generally completed within an average of 6 months. Exceptions to this are again where the works are major and / or complex or where specialist equipment is required.
6. Mandatory Disabled Facilities Grants are limited to a maximum of £30,000 with any costs over this needing to be met by the applicant. However the Council has adopted a discretionary grant fund designed to assist those struggling to afford to pay the top up themselves. Applicants assisted with this discretionary fund would otherwise not be able to proceed with their grant works.

7. Whilst a budget has been set in the HRA for £500,000 those tenants requiring adaptations will not be refused assistance if the budget is spent. So far in 2022 /23 the HRA is likely to spend in the region of £1,000,000 on adaptations. This increase represents not just the increasing prices of materials and labour but also the need for increasingly complex works and extensions.
8. The Council also takes a pragmatic view for those on the housing waiting list with a need for adaptations. Where it is unlikely for a suitable property to become available to meet a disabled persons needs we look to identify a property suitable for adaptation to meet the need.
9. In some examples where we have had small plots of land on infill sites, the housing department has built bespoke properties designed to meet the needs of challenging cases. The council won an award for such an approach with its new build fully adapted bungalows at Cryol Road for example.
10. More recently concern was raised via full council that the processes that the council were following may be disadvantaging applicants and that the approach may be illegal.
11. A motion was passed at Full Council on 20th October 2022 to conduct a review of the disabled facilities grant application process and the council housing adaptations. The review specifically addressed seven specific issues raised in the motion. As set out below
 - Issue 1 – ABC Policy to not carry out adaptations for Council tenants deemed to be under occupying
 - Issue 2 –ABC is engaging an Occupational Therapist (OT) (part paid by ABC? And getting their opinion before ‘allowing’ a resident to submit a DFG application delaying the receipt of a valid DFG application
 - Issue 3 – ABC could be allowing the O.T’s opinion to override the needs given by the disabled person themselves (and the views of parents and carers)
 - Issue 4 – ABC’s new 5 year tenancy agreement would seem to be at odds with a condition of disability grants where the tenant must guarantee that they will be resident in the adapted property for at least 5 years.
 - Issue 5 – ABC Does not seem to have a disabled facilities grant policy or equivalent alternative available for disabled tenants.
 - Issue 6 – The availability of DFG’s to ABC (Council) Tenants with disabilities, and processes for Council tenants with disabilities to apply for DFG’s does not appear to be signposted or communicated on ABC’s public facing website.
 - Issue 7 – In communications ABC has referred to limited resources in relation to disabled adaptations, and /or implied limitations of resources

through raising issues around having to transfer money from one budget to another.

12. A full copy of the motion is attached at for information at appendix 1.
13. As part of the review advice was sought from Foundations (the government appointed national body for Home Improvement Agencies who is recommended in the governments good practice guidance), the Council's Legal Department, the Home Improvement Agency (Town and Country) and the Occupational Therapy team.
14. The scope of the review was to consider the Council's processes and approach against the legislation and the governments good practice guide called 'Disabled Facilities Grants (DFG's) Delivery: Guidance for Local Authorities in England' which was published earlier this year in March 2022.

The Independent Reviewers Findings

15. The opinions of an independent external reviewer were sort, namely Foundations who have provided two reports attached at Appendix 2 and 3.
16. Their responses and commentary to the said issues is set out below for Cabinet accordingly.

Issue 1 – ABC Policy to not carry out adaptations for Council tenants deemed to be under occupying

Foundations Response

“ABC’s policy states that it aims to provide a faster and more straightforward service for delivering adaptations for ABC’s tenants, whilst recognising that they are entitled to apply for a statutory DFG. A landlord may withhold permission for adaptations to be carried out, but should not do so unreasonably.

The Equality and Human Rights Commission have suggested that social landlords which manage housing stock for the local community need to balance the needs of the individual resident against the needs of the wider community. This could include considerations relating to under-occupancy given the general demand for, and shortage of, family-sized accommodation, especially if this is linked with an offer of alternative suitable accommodation within a reasonable timeframe.

The McKeown judgement did not test the Council’s refusal as landlord, but as administrator of the DFG process, with the judgement concluding that each purpose for which a DFG could be applied should be considered on its own merit, and that it was not possible to refuse an adaptation for one purpose even if there were other DFG purposes which were not being met.”

Legal Services Advice

The Council cannot have a blanket policy to not carry out adaptations for Council tenants deemed to be under occupying. Therefore this will be clarified

when the current policy is reviewed, to reflect the current practice of considering applications on a case by case basis.

The Council's policy as relating to Council tenants should also make clear that council tenants can also apply through the DFG application process, including in under occupancy cases, however this is not necessary for them to be considered for an adaptation.

Issue 2 –ABC is engaging an Occupational Therapist (OT) (part paid by ABC? And getting their opinion before ‘allowing’ a resident to submit a DFG application delaying the receipt of a valid DFG application

Foundations response

“In order to determine an application for a DFG it is necessary to identify the relevant works that meet one of the purposes for which a DFG may be given. The local authority must next be satisfied that the relevant works are both necessary and appropriate, and reasonable and practical. The necessary and appropriate test has to be considered before the reasonable and practicable test.

A local authority which is not itself a social services authority shall consult the social services authority – Housing Grants Construction and Regeneration Act (HGCR) S24(5).

It is usual for the DFG process to be initiated by a resident contacting social services to request an assessment of their needs for a possible adaptation. It is also usual for a DFG not to be pursued where such an assessment doesn't identify any needs which meet one or more of the purposes for which a DFG can be given, or where the relevant works have been considered to be neither necessary and appropriate, or following that assessment, reasonable and practicable.

If a disabled person submitted a direct application for a DFG these assessments would still need to be made. Furthermore an application cannot be considered without the submission of a specification for the work, any necessary plans and at least two estimates (HGCR 2(2)). Starting the process with the assessment avoids the need for an applicant to incur potentially abortive time, effort and costs in preparing the specification, plans etc without knowing whether the works would be deemed to be necessary and appropriate, and reasonable and practicable, as the HGCR requires these tests to be satisfied before a grant application can be approved.

It is of course important that such assessments are person-centred and delivered in a timely manner.”

Legal Services Advice

Review of the current process/policy is required to ensure appropriate triage of applications is undertaken and clarify that whilst it is more practical and desirable for an applicant to first engage with the OT, this is not an essential prerequisite to an application.

Issue 3 ABC could be allowing the O.T's opinion to override the needs given by the disabled person themselves (and the views of parents and carers)

Foundations Response

"The DFG Guidance states that assessments should be person-centred (Section 4.33).

The Guidance goes on to state (Section 4.40) that the starting point and continuing focus should be the needs experienced and identified by the client and their carers. The process should be one of partnership in which the older or disabled person and carers are the key partners.

All partners should work to ensure that each adaptation is delivered sensitively, is fit for the purpose identified by the client, their family, or their carers, and within a timeframe that is made explicit at the outset. Neither the Guidance nor the HGCRA suggest that the disabled person's needs are paramount."

Legal Services Advice

The current policy is silent as to how views of, for example, parents and carers may be submitted to ABC. Consideration should be given to how this can be incorporated within a reviewed policy to ensure that these views are given appropriate weight. However officers were not presented with any evidence of carers, parents or partners complaining that their views have been inappropriately disregarded.

Issue 4 – ABC's new 5 year tenancy agreement would seem to be at odds with a condition of disability grants where the tenant must guarantee that they will be resident in the adapted property for at least 5 years.

Foundations Response

"The HGCRA requires an applicant to confirm that they intend that the dwelling to be adapted will be their only or main residence throughout the grant condition period. The requirement is to confirm an intention, not a guarantee, and is also qualified by the phrase 'or for such shorter period as [the applicant's] health or other relevant circumstances permit' (HGCRA S 21, 22 & 23)"

Additional Note

It appears that the reference to a 5 year tenancy agreement refers to the fixed term tenancies that ABC used to issue some years ago. ABC has now reverted back to issuing secure lifetime tenancies so in addition to the information above this is unlikely to arise in the future.

Issue 5 – ABC Does not seem to have a disabled facilities grant policy or equivalent alternative available for disabled tenants.

Foundations Response *“The Council clearly has a policy for council tenants which seeks to provide tenants of the council with a faster and more straightforward service whilst recognising that a tenant can apply for a statutory DFG. The review brief for Foundations does not include consideration of how the Council publicises the adaptations’ process for either private sector residents or council tenants. It also does not include any consideration of data relating to timescales for processing adaptations.”*

Additional Note

The existing policy document pre dates the most recent guidance from Government which was published in March 2022 and therefore does require a review and developing a new policy reflective of the guidance is recommended. In addition officers agree that the access to information and guidance on the Councils website and also in other forms should be improved.

Issue 6 – The availability of DFG’s to ABC (Council) Tenants with disabilities, and processes for Council tenants with disabilities to apply for DFG’s does not appear to be signposted or communicated on ABC’s public facing website.

Officers accept that improvements need to be made to the promotion of DFG’s and adaptations on the Council’s website and also in other formats. In view of this Foundations were not asked to consider how adaptations are promoted and publicised for either the council’s own tenants or residents living in the private sector (whether as owners or tenants). A very large scale engagement with the tenants is underway at present and this point will be covered in that exercise. Officers will also work with the in house web team to ensure that relevant key words are linked to the relevant pages.

Issue 7 – In communications ABC has referred to limited resources in relation to disabled adaptations, and /or implied limitations of resources through raising issues around having to transfer money from one budget to another.

Foundations Response

“The DFG Guidance states that ‘refusal to accept applications due to a lack of resources is unlawful’ (B118) and lack of resources cannot be cited as grounds for not approving a valid DFG application.

This would not apply where an adaptation for a Council tenant is not being dealt with as a DFG, but is being considered under an alternative process. Such adaptations are funded from the HRA and may be subject to budgetary decisions, although councils should generally try and ensure that access to adaptations is equitable across tenures.

Over recent years the significant increase in the DFG budget has generally meant that most councils have had a sufficient DFG budget to meet demand.

However, the DFG budget is now fixed in cash terms until 2024/25 which in effect means a real terms reduction in the amount of funding available over this period.

In these circumstances many councils will need to face difficult decisions about how to balance competing financial demands for essential services with a limited budget. This could involve supporting the DFG budget from the general rate fund and/or managing the process of administering DFG applications.”

Legal Advice

DFG applications should not be refused on grounds of lack of resources. The same should be applied to council tenants as they should be treated no less favourably and there is no evidence that this is not being followed. The Council's policy should reflect this.

Additional note

It is unclear what communication is referred to in the issue presented and no information has been presented to officers to enable such communication to be fully considered in this response. However there is no reference to limited resources within the current policy.

Additional Recommendations

17. Foundations were asked to review policies and procedures relating to the delivery of adaptations which considered issues beyond the 7 issues identified in the motion to Full Council. Due to the timescales involved in meeting the deadline to bring this report back to the December Cabinet, it was necessary to focus on the specific area around delivery of adaptations. A copy of Foundations findings is attached at Appendix 3 which continues a list of recommendations for improving the processes and arrangements for delivery of adaptations.
18. It is suggested that the recommendations contained within the Foundations report are included within an action plan for delivery in the new year to enhance service delivery. This should also include a review of the Council's policies to reflect the recent government guidance and an urgent action to improve access to information on the Council's website and in other formats.
19. The recommendations are anticipated to be fully implemented by the summer of 2022

Equalities Impact Assessment

20. An Equalities Impact Assessment is not required for this report as there is no significant change in approach

Consultation Planned or Undertaken

21. Once the new draft policy is completed consultation will be undertaken with relevant agencies, Foundations and with service users from all tenures.

Reasons for Supporting Option Recommended

22. Whilst the Council is operating processes for adaptations in Council stock and DFG's within the legislation, it is important to ensure that policies are updated to reflect the governments most recent good practice guidance.

Next Steps in Process

23. The recommendations contained within the Foundations report will form the basis of an action plan to review and update the Council's policies in relation to adaptations and to deliver the recommended actions.

Conclusion

24. In conclusion the advice provided by the government appointed organisation Foundations did not find that the Council was operating outside of the legislation, however it was identified that the Council's policies needed to be updated to reflect the recent government guidance published in March 2022.

Portfolio Holder's Views

25. I am satisfied that the review has invited an independent view for a government appointed agency. Whilst the processes followed have not been found to be illegal, I endorse the recommendations for enhancements in the context of continuous improvement and to ensure that we are reflecting the good practice issued in March 2022.

Contact and Email

26. Sharon Williams – sharon.williams@ashford.gov.uk

This Council notes:

1) That, as a local housing authority, Ashford Borough Council has a statutory duty under the Housing Grants, Construction and Regeneration Act 1996 (the 1996 Act) to provide adaptations for those who qualify for a Disabled Facilities Grants (DFG) including its tenants with disabilities.

2) That the courts have quite clearly stated that a Council can't use limited resources as an excuse for not meeting statutory requirements in relation to Disabled Facilities Grants (DFGs). In other words, it has to find money from *somewhere* to meet its *legal* duties in this area. These are three relevant extracts regarding this issue:

'I conclude, therefore, that, ... local housing authorities are not entitled to take resources into account in deciding whether or not to approve a DFG for section 23(1) purposes.' (R v Birmingham City Council 1998)

'To permit a local authority to avoid performing a statutory duty on the grounds that it prefers to spend the money in other ways is to downgrade a statutory duty to a discretionary power.' (R v Birmingham City Council 1998)

'...local housing authorities are obliged to approve DFGs within section 23(1) purposes whatever the resource implications of doing so may be.' (R v Birmingham City Council 1998).

3) That Ashford Borough Council has a duty to ensure that its tenants with disabilities are treated fairly and in accordance with the guidelines, which have been considered and adjudicated on by the Courts.

4) That the Council has already been made aware of a number of potential issues around DFGs by way of a question raised at the last full council in July including:

- a. That the policy approved by Cabinet in July 2014, not to carry out adaptations for disabled tenants deemed to be 'significantly' under occupying, could potentially be unlawful.
- b. That ABC engaging an Occupational Therapist (OT) and getting their opinion before 'allowing' a resident to submit a DFG application could be regarded as delaying the receipt of a valid DFG application and may be unlawful.
- c. That ABC could be putting the OT in a position of acting as a 'gatekeeper' and could be allowing the OT's opinion to override the needs given by the disabled person themselves (and the views of parents and carers) and that this may have the effect of overriding 'the primacy of the disabled persons perspective'.

- d. That ABC's new 5-year tenancy agreements could be at odds with a legal condition of disability grants where the tenant must guarantee that they will be resident in the adapted property for *at least* 5 years.
- e. That not clearly signposting or communicating the availability of DFGs to ABC (Council) tenants with disabilities, and processes for Council tenants with disabilities to apply for DFGs, on ABC's public facing website, may be unlawful. This was the case on July 18th 2022 - before the last full council and continued to be the case as at 13th October 2022.

3) That the Council must not be left in a position where it may be found to be acting unlawfully or be found by an ombudsman to be guilty of maladministration in regard to its statutory duties around DFGs.

4) That the Council has a duty to proactively address all aspects of its provision and processing of DFGs so that it avoids wasting public money and officer time on unnecessary court cases and cases brought before an ombudsman.

This Council resolves:

1) To undertake a full, thorough, and objective review into how the Council is currently addressing its statutory Disability Facilities Grants responsibilities towards its tenants with disabilities.

2) That this review is conducted in an open, objective, and honest way and with the required expertise to ensure that members, officers, and residents are completely certain of the current legal position with regards to how ABC meets its statutory DFG duties towards its tenants, and that all necessary corrective actions are identified.

3) That corrective actions for all issues identified during this review are undertaken within the shortest possible time frame and that no issues remain uncorrected by the end of 2022.

4) That above all, it will ensure that all laws and guidelines, including those which have been considered and adjudicated on by the Courts, relating to DFGs and Council tenants with disabilities are fully complied with.

Appendix 2



Adaptations Issues - Foundations' comments

Issue 1

ABC's policy states that it aims to provide a faster and more straightforward service for delivering adaptations for ABC's tenants, whilst recognising that they are entitled to apply for a statutory DFG. A landlord may withhold permission for adaptations to be carried out, but should not do so unreasonably. The EHRC have suggested that social landlords which manage housing stock for the local community need to balance the needs of the individual resident against the needs of the wider community. This could include considerations relating to underoccupancy given the general demand for, and shortage of, family-sized accommodation, especially if this is linked with an offer of alternative suitable accommodation within a reasonable timeframe. The McKeown judgement did not test the Council's refusal as landlord, but as administrator of the DFG process, with the judgement concluding that each purpose for which a DFG could be applied should be considered on its own merit, and that it was not possible to refuse an adaptation for one purpose even if there were other DFG purposes which were not being met.

Issue 2

In order to determine an application for a DFG it is necessary to identify the relevant works that meet one of the purposes for which a DFG may be given. The local authority must next be satisfied that the relevant works are both necessary and appropriate, and reasonable and practical. The necessary and appropriate test has to be considered before the reasonable and practicable test.

A local authority which is not itself a social services authority shall consult the social services authority - HGCRS S24(5).

It is usual for the DFG process to be initiated by a resident contacting social services to request an assessment of their needs for a possible adaptation. It is also usual for a DFG not to be pursued where such an assessment doesn't identify any needs which meet one or more of the purposes for which a DFG can be given, or where the relevant works have been considered to be neither necessary and appropriate, or following that assessment, reasonable and practicable. If a disabled person submitted a direct application for a DFG these assessments would still need to be made. Furthermore an application cannot be considered without the submission of a specification for the work, any necessary plans and at least two estimates (HGCRS 2(2)). Starting the process with the assessment avoids the need for an applicant to incur potentially abortive time, effort and costs in preparing the specification, plans etc without knowing whether the works would be deemed to be necessary and appropriate, and reasonable and practicable, as the HGCRS requires these tests to be satisfied before a grant application can be approved. It is of course important that such assessments are person-centred and delivered in a timely manner.

Issue 3

The DFG Guidance states that assessments should be person-centred (Section 4.33). The Guidance goes on to state (Section 4.40) that

The starting point and continuing focus should be the needs experienced and identified by the client and their carers. The process should be one of partnership in which the older or disabled person and carers are the key partners.

All partners should work to ensure that each adaptation is delivered sensitively, is fit for the purpose identified by the client, their family, or their carers, and within a timeframe that is made explicit at the outset.

Neither the Guidance nor the HGCRA suggest that the disabled person's needs are paramount.

Issue 4

The HGCRA requires an applicant to confirm that they intend that the dwelling to be adapted will be their only or main residence throughout the grant condition period. The requirement is to confirm an intention, not a guarantee, and is also qualified by the phrase 'or for such shorter period as [the applicant's] health or other relevant circumstances permit' (HGCRA S 21, 22 & 23)

Issue 5

The Council clearly has a policy for council tenants which seeks to provide tenants of the council with a faster and more straightforward service whilst recognising that a tenant can apply for a statutory DFG. The review brief for Foundations does not include consideration of how the Council publicises the adaptations' process for either private sector residents or council tenants. It also does not include any consideration of data relating to timescales for processing adaptations.

Issue 6

As noted above the current review does not include consideration of how adaptations are promoted and publicised for either the council's own tenants or residents living in the private sector (whether as owners or tenants).

Issue 7

The DFG Guidance states that 'refusal to accept applications due to a lack of resources is unlawful' (B118) and lack of resources cannot be cited as grounds for not approving a valid DFG application. This would not apply where an adaptation for a Council tenant is not being dealt with as a DFG, but is being considered under an alternative process. Such adaptations are funded from the HRA and may be subject to budgetary decisions, although councils should generally try and ensure that access to adaptations is equitable across tenures. Over recent years the significant increase in the DFG budget has generally meant that most councils have had a sufficient DFG budget to meet demand. However, the DFG budget is now fixed in cash terms until 2024/25 which in effect means a real terms reduction in the amount of funding available over this period. In these circumstances many councils will need to face difficult decisions about how to balance competing financial demands for essential services with a limited budget. This could involve supporting the DFG budget from the general rate fund and/or managing the process of administering DFG applications.

Dave Eldridge

Regional Adviser, Foundations



Foundations

Review of the Organisation and Delivery of Adaptations for Disabled People for Ashford Borough Council

Foundations, December 2022

Introduction

Foundations has been the UK Government appointed National Body for Home Improvement Agencies (HIAs) in England since 2000. Since 2015 our role has expanded to lead on improving the delivery of the Disabled Facilities Grant (DFG). Foundations provides several services to support local authorities and Home Improvement Agencies improve their delivery of the DFG. These include in-depth service reviews as well as shorter pieces of work including workshops and consultations with Foundations' team of locally based Regional Advisers.

Ashford Borough Council commissioned Foundations to carry out a review with the following aims:

- i) To consider the structure, organisation and management of the teams/services involved in carrying out the key stages in the management and processing of DFG applications as described in the DFG Guidance.
- ii) To consider the above for both residents living in the private sector (homeowners and tenants of private landlords or housing associations) and tenants of Ashford Borough Council.

Background and Context

The framework for the review was provided by the key stages of delivering home adaptations described in the DFG Guidance¹ which was issued by the Department for Levelling Up Housing and Communities and the Department of Health & Social Care in March 2022. The Guidance describes five key stages:

Stage 0: first contact with services

Stage 1: first contact to assessment and identification of the relevant works

Stage 2: identification of the relevant works to submission of the formal grant application

Stage 3: grant application to grant approval

¹ <https://www.gov.uk/government/publications/disabled-facilities-grant-dfg-delivery-guidance-for-local-authorities-in-england>

Stage 4: approval of grant to completion of works

The focus for this review is those functions related to the delivery of adaptations which are carried out by Ashford Borough Council or its agents and accordingly this review has focused on stages 2-4. This is because where responsibility for local government functions is split between the county council and the district or borough council Stage 0 and Stage 1 stages are usually carried out by the social services authority. Stages 2-4 are further described in the Guidance as:

Stage 2 • Application form and eligibility information • Design and costing of adaptations

Stage 3 • Check application is correct • Issue approval letter

Stage 4 • Arrange and carry out the works • Ensure all is satisfactory and make payment

Methodology

Due to the short timeframe for the completion of the review the proposal was based on a review of written policies and procedures relating to the delivery of adaptations. The documents which have been reviewed are listed in Appendix B. However it was subsequently decided to include interviews with key staff involved in the operational delivery of adaptations. Unfortunately it was not possible to arrange an interview with Dave Green who has operational responsibility for adaptations for adaptations for tenants of the Council, but the following staff were interviewed with regards to adaptations in the private sector:

Ashford Borough Council

- Julian Watts, Private Sector Housing Manager
- Gary Clarke, Senior Private Sector Housing Officer

Town and Country Housing

- Donna Crozier, Operations Manager
- Sue Peirson, East Kent HIA Casework Manager
- Tristan Bruce, Surveyor Manager
- Jasmin Harrison, Casework Coordinator

The review has also referenced the Government's DFG Guidance and Adapting for Ageing: Good Practice and Innovation in Home Adaptations² published by the Centre for Ageing Better in 2018.

The review considered the adaptations' process for both residents in the private sector and for the Council's own tenants. Adaptations are often classified as either minor adaptations, typically valued at less than £1,000, or major adaptations costing over £1,000. The reason for this is that under the Care and Support Regulations 2014 social services has a statutory duty to arrange minor adaptations and the provision of equipment free of charge with the cost being met from social services. For adaptations costing over £1,000 private sector residents are usually required to make an application for a Disabled Facilities Grant, and similarly there is usually a separate process for Council tenants. This review has only considered the process for major adaptations.

The brief for the review did not include consideration of timescales for processing adaptations and this report does not therefore include any discussion of the length of time which a resident may have to wait for adaptations.

The review was carried out by Dave Eldridge, London and Southeast Regional Adviser for Foundations.

Processes and Procedures

Stage 2 – Identification of the Relevant Works to Submission of the Formal Application

In the DFG Guidance this stage covers the process following receipt of an assessment (usually from an Occupational Therapist) to submission of a formal application for a Disabled Facilities Grant. It includes confirming eligibility, completion of the application form and supporting documents and preparation of a priced schedule of the works to which the assessment relates.

The Council receives the assessment for adaptations for private sector residents from Kent County Council Occupational Therapists. This is submitted by e-mail and logged by the Private Sector Housing Team who also complete basic eligibility checks including whether

² <https://ageing-better.org.uk/sites/default/files/2018-10/Adapting-for-ageing-report.pdf>

the applicant is in receipt of a passported benefit and therefore eligible for a full grant for the identified works. The OT referral includes a basic description of the works and in the case of recommendations for stairlifts includes a quotation for the cost of the works. For more extensive works the recommendations may include a request to confirm the works are feasible before a detailed specification is prepared.

For adaptations for council tenants the process appears to be similar, with an e-mail being sent to the planned maintenance inbox and it is assumed that the content of these referrals is similar to those received for private sector residents. The Council's own Procedure Guide also states that adaptations' referrals may also be received from other agencies such as 'a doctor, scheme manager or external company such as High Kent', although Annexe A, the Procedure Policy, simply refers to 'OTs working for other bodies such as the Intermediate Care Team'. It is possible that the policy, which is dated July 2014, may pre-date the Procedure Guide and...

...it is recommended that both documents are reviewed for consistency and clarity.

In the case of referrals for private sector residents the occupational therapist will usually flag what are described as 'critical' cases. Where this is the case, the Council may carry out a feasibility assessment prior to onward referral to Town and Country Housing, the Council's commissioned Home Improvement Agency (HIA) or will refer the case on to the HIA noting that it is deemed to be 'critical'. Cases are otherwise processed in date order. Adaptations for council tenants are prioritised on receipt by the award of points based on the tenant's responses to a Council questionnaire given to the tenants when the OT's assessment is carried out, with additional points awarded each month to reflect waiting times.

With regard to referrals relating to residents in the private sector it is not clear how the term 'critical' is defined. For Council tenants, whilst there is a more systematic approach to assessing priority, the approach is subject to the tenant's own interpretation of their circumstances and could be seen as lacking an objective frame of reference.

It is therefore recommended that a clear prioritisation process is developed which should be applied to applicants across all tenures to ensure a tenure neutral and objective assessment can be made regarding prioritisation. The DFG Guidance recommends that request for adaptations should be categorised on the basis of complexity and urgency and provides a list of circumstances which should be treated as urgent.

For private residents, once the Private Sector Housing Team have completed the basic checks the assessment details are e-mailed to the HIA. Where the adaptations are for an adult who is not in receipt of a passported benefit the HIA supports the applicant to complete

the DFG test of resources as well as completing the application forms. The HIA also manages the discretionary aspect of the test of resources as set down in the Council's discretionary housing assistance policy, although it is not clear where this element of the discretionary assistance is described. Visits are scheduled using Foundations Case Manager, a customer records and workflow system developed by Foundations specifically for Home Improvement Agencies.

The role of Home Improvement Agencies often includes a discussion of alternative housing options where the cost of works is likely to be high or where the adaptations may not be feasible, but for Ashford residents this discussion is initiated at the assessment stage (Stage 1).

Whilst the review did not include consideration of the role of OTs it may be useful to consider whether this function is best carried out by KCC at the assessment stage or at Stage 2 by the HIA or Ashford Council, both of which have a more direct relationship with assessing and identifying housing options, with a similar role being carried out by Neighbourhood Housing Officers for Council tenants.

The application procedure for adaptations is different for Council tenants who are not required to complete an application form and are also not subject to a means-test.

For private residents the development of a specification and estimates for the proposed adaptations depends on the nature of the work. Whereas prior to Covid a site visit often involved the Council's Senior Private Sector Housing Officer this is usually now only the case where the works are complex and a feasibility assessment may be required. In such cases the OT may also be involved in a site visit. As noted above feasibility studies may also be carried out prior to the referral being made to the HIA in a small number of cases following a request from the OT to the Council, typically where complex adaptations are being considered for a child.

Adaptation proposals need to be agreed by the applicant, the OT and the Council, with a turnaround time of 10 days in the case of straightforward works and 15 working days in the case of more complex adaptations. Pricing is via a schedule of rates for straightforward adaptations such as a wet room with this process being managed by the HIA's surveyor once the proposed works have been agreed. For more complex adaptations the works are tendered with this process managed by the HIA. The use of electronic communication since COVID has improved efficiency as has the need for less involvement from Council officers. However, there may need for greater clarity in TCH's role and responsibilities, since TCH's surveying staff may find themselves having to manage the client's expectations and manage requests for explanations and/or variations based on the OT's recommendations which are

themselves simply an outline of the work required and lack detail. This issue has become more prominent post-COVID with fewer site visits from the Council's staff. One perception of TCH's role is that they are the Council's agent with the role being to ensure that the OT's recommendations are developed into a schedule of works and successfully delivered. An alternative perception is that they primarily act as the applicant's agent to arrange the delivery of adaptations as specified by the OT.

It is therefore recommended that a protocol (or similar) is developed to clarify the respective roles and responsibilities of the Council and the HIA. This may be best addressed in the context of a review of the commissioning arrangements for the HIA or, pending that, by a review of the current Service Level Agreement.

It may also be useful for applicants to be provided with a clear set of information about what work may or may not be included in DFG-funded adaptations. Such information may help to manage the expectations of applicants and could support the role of the HIA's surveyors. This reflects one of the good practice features identified in Adapting for Ageing where one of the three overarching elements of good practice is helping DFG applicants 'navigate the system'.

DFG applicants may wish to vary the works, with the DFG being used to offset the cost of a more extensive scheme than has been recommended by the OT. The Council has a procedure document relating to this and it is also referred to in the Council's DFG information leaflet, but...

...it may be useful to consider developing a guide to 'own schemes' jointly by the Council and the HIA to provide more information about this option for people who may be interested in exploring this. It may also be useful to review the content and style of both the current procedure note and the waiver letter.

Where the adaptations involve specialist equipment (e.g. stairlifts, through floor lifts and wash/dry toilets) KCC OTs will usually obtain one quote for the work with TCH obtaining a second. Given the specialist nature of such equipment it may be appropriate to review how such works are procured, particularly with regard to stairlifts and through floor lifts, though this relates in large part to the role of KCC's OTs and is therefore outside the scope of this review.

Little information has been provided about how works are specified for Council tenants and how the tenant's views are taken into account in the development of the schedule of works. It is therefore difficult to make any observations with regard to this aspect of adaptations for Council tenants. There is detailed discussion in both the procedure and the policy about

circumstances in which adaptations may be refused. However it is not clear what information is provided for Council tenants about how the council deals with requests for adaptations and the grounds on which requests may be declined. The DFG Guidance is clear that ‘the provision of clear, concise, easy to understand and readily accessible information is a vital aspect of providing a good service’ (p 30) and...

...it is recommended that the Council reviews what information is provided to Council tenants to ensure that this is the case. This should include timescales for the processing of adaptation requests.

Stage 3 – Grant Application to Approval

For private residents this process seems to be dealt with promptly and efficiently. The interviews with staff from both the Council and the HIA confirmed that most applications are approved within two weeks, and many more quickly than this. The delivery of speedy adaptations is one of the three overarching elements of good practice identified in the Centre for Ageing Better’s report Adapting for Ageing. Although not part of the review brief and acknowledging that approvals are only one part of the overall process it appears that adaptations for Ashford’s private sector residents are delivered without undue delay. Examination of data on the end-to-end journey would enable greater scrutiny of the overall timescales involved and would provide evidence about how Ashford’s performance compares with the best practice timescales set down in the DFG Guidance

Approval documents are issued by the HIA using Council letterheads and the HIA also instructs the successful contractor. At approval stage the Council will also provide additional discretionary funding where the works exceed the statutory maximum grant. This additional funding is incorporated into the grant approval. The mandatory and discretionary elements of the approved sum are identified in the approval document. It is important to ensure that the applicant is aware of the distinction between the statutory and discretionary elements of any grant funding, especially if different repayment provisions are applied, and previous comments about the provision of information to applicants may apply to this issue as well.

The Council places a local land charge on the property where the grant has been approved for an owner, and this is discussed with the applicant by the HIA when the application documents are being prepared. Where the applicant is required to contribute towards the cost of DFG-funded adaptations this is also discussed with the applicant by the HIA, and the applicant is asked to sign a form to confirm their agreement with this.

This stage is not replicated for adaptations for Council tenants as grant approval is not required. No documents relating to the approval of the adaptation works for Council tenants was seen as part of the review and it is therefore not possible to comment on this aspect of communication with the tenant whose home is to be adapted.

Stage 4 – Approval of Grant to Completion of Works

For private residents this stage is documented in the Council's DFG Procedure and no particular issues were identified either in the documentation or in the discussions with the staff involved. The Council relies on TCH to complete a final inspection of the works and the information provided suggests that the OT's sign off is limited to a phone call to the applicant to make sure they are happy with the works. The council issues a post completion questionnaire to the resident. An anonymised selection of these has been viewed, all of which provide positive feedback.

It is however recommended that consideration is given to inspecting a percentage of all completed adaptations to complement the feedback from residents and ensure that the responses provide an accurate reflection of resident satisfaction with the works.

For Council tenants there is little information in the documentation provided about this stage. It is assumed that as with adaptations for private residents that the work is subject to final approval by an Occupational Therapist although this is not detailed in the documentation. As the properties are all owned by the Council it is assumed that post-work inspections take place, but there is no evidence of feedback being sought from tenants. A selection of complaints mentioning Disabled/Adaptation for the period 2019 – 2022 was viewed as part of the documentation provided for the review. Eight of the nine complaints which related to adaptations concerned Council tenants. These covered a variety of circumstances, and it is not possible to draw conclusions from this sample.

However, if post-work feedback is not currently sought from tenants it is recommended that this is introduced with the results monitored to provide information on which to base any necessary service improvements which may be identified.

Additional Comments

During the course of the review a number of other issues were identified. Although these did not necessarily form part of the brief these are included in the report and identify areas of the overall service for further consideration.

Commissioning and Monitoring Arrangements for Town and Country Housing

The service delivered by TCH is contracted by KCC. The current service is out of contract with KCC and operates against a specification that is over ten years old and is not fit for purpose as it references services and funding that are no longer available. In common with other local councils, Ashford has agreed a supplementary service level agreement with TCH which seems to mirror many of the basic requirements in the KCC specification. The KCC specification includes a number of Key Performance Indicators, many of which do not relate to the service currently being provided. The much shorter SLA contains no Key Performance Indicators. Neither contract appears to be regularly monitored.

It is recommended that the commissioning arrangements for this service should be reviewed, relevant Key Performance Indicators should be agreed between the parties to the contract and the service should be regularly monitored.

A review of the service specification would also allow a fuller consideration of the functions which are delegated to TCH and the functions which are retained by the Council. This was noted in the discussion about Stage 2. In general the relationship seems to work well and both parties were positive about each other's roles. However, there is a significant underspend on the DFG budget.

It is recommended therefore that consideration is given to improving throughput whilst at the same time delivering a person-centred service focused on enabling Ashford's private sector residents to continue to live safely, well and as independently as possible in their own homes.

Data Management and Workflow Control

TCH use Foundations Case Manager which is a customer relationship management system which allows for the capture of key data and enables effective workflow management. It was

specifically designed for use by Home Improvement Agencies. Since it is a cloud-based system it is possible to allow third parties to access it at a variety of different levels. Currently Ashford's staff have no access to this system. Ashford's own case management consists of the M3 system complemented with a spreadsheet. M3 is a simple data system that captures worksheet records and produces a worksheet number that is used throughout the life of a case. The system enables the retention of all digital data and or scanned files, can enable payments and collects information for filtering reports when and if required. The spreadsheet is a simple excel system that captures a comprehensive set of data related to each DFG application. However, many local systems have found that reliance on spreadsheets is not an effective way of capturing data and managing workflows, especially as systems become more complex.

As part of a review of the commissioning and monitoring arrangements it is recommended that case management systems are reviewed to ensure workflows can be effectively tracked and monitored and data collected and utilised for monitoring and reporting purposes.

Discretionary Housing Assistance Policy

Ashford has a discretionary housing assistance policy. However given the significant underspend on the DFG budget it may be appropriate to review this to ensure that it is effective in providing housing-focused grants which complement the mandatory framework and help to meet the overarching aims of the Better Care Fund.

Conclusions

This review has been conducted in a relatively short space of time. The brief focused on part of the overall adaptations process and didn't include some key elements such as data analysis which would have enabled a fuller picture to emerge particularly with regard to delivery timescales and spend. Although the brief included adaptations for council tenants as well as for residents in the private sector, most of the content relates to adaptations in the private sector. This reflects a number of factors including the greater complexity of the delivery arrangements and the need for a formal process for applying for a DFG. It was also not possible to arrange interviews with the key staff involved in managing the delivery of adaptations for Council tenants.

A number of recommendations have been identified in the report. These are summarised in Appendix A. Some of the recommendations will be relevant irrespective of tenure and some are specific to the service for either council tenants or private sector residents. Inevitably there are more recommendations relating to the private sector for reasons noted elsewhere in the report. Nonetheless it is hoped that the report will provide the basis for further consideration about how the adaptations' services for the residents of Ashford can be taken forward.

Appendices

Appendix A – List of Recommendations

- i) that the Procedure Guide and the Procedure Policy for Council tenants are reviewed for consistency and clarity.
- ii) that a clear prioritisation process is developed which should be applied to applicants across all tenures to ensure a tenure neutral and objective assessment can be made regarding prioritisation. The DFG Guidance recommends that request for adaptations should be categorised on the basis of complexity and urgency and provides a list of circumstances which should be treated as urgent.
- iii) that consideration is given to how alternative housing options are discussed with applicants and whether this function is best carried out by KCC at the assessment stage or at Stage 2 by the HIA or Ashford Council, both of which have a more direct relationship with assessing and identifying housing options, with a similar role to be carried out by Neighbourhood Housing Officers for Council tenants if this does not already happen.
- iv) that a protocol (or similar) is developed to clarify the respective roles and responsibilities of the Council and the HIA. This may be best addressed in the context of a review of the commissioning arrangements for the HIA or, pending that, by a review of the current Service Level Agreement.
- v) that all applicants are provided with a clear set of information about what work may or may not be included in DFG-funded or Council-funded adaptations.
- vi) that consideration is given to producing a guide to 'own schemes' jointly by the Council and the HIA to provide more information about this option for people who may be interested in exploring this. Additionally that the content and style of both the current procedure note and the waiver letter.
- vii) that the Council reviews what information is provided to both private sector residents and Council tenants applying for adaptations about the overall end to end process. This should include information regarding timescales for the processing of adaptation requests in addition to the statutory timescales noted in the current DFG guide produced by the Council.
- viii) that if post-work feedback is not currently sought from Council tenants it is recommended this is introduced, with the results monitored to provide information on which to base any necessary service improvements which may be identified.

- ix) that consideration is given to inspecting a percentage of all completed adaptations to complement the feedback from residents and ensure that the responses provide an accurate reflection of resident satisfaction with the works.
- x) that the commissioning arrangements for the HIA service should be reviewed, with relevant Key Performance Indicators agreed between the parties to the contract and the service to be regularly monitored.
- xi) that in view of the current DFG underspend consideration is given to improving throughput whilst at the same time delivering a person-centred service focused on enabling Ashford's private sector residents to continue to live safely, well and as independently as possible in their own homes.
- xii) that as part of a review of the commissioning and monitoring arrangements it is recommended that case management systems are reviewed to ensure workflows can be effectively tracked and monitored and data collected and utilised for monitoring and reporting purposes.

Appendix B – List of Key Documents Reviewed

Ashford Borough Council

DFG questionnaire

DFG Process (private sector residents)

DFG Information Leaflet

DFG Offset Process

Discretionary Grants Procedures 2019

Waiver Letter

Grant Approval Letters

DFG Timeline 2017

Own stock – Disabled Adaptations procedure

Own stock – Disabled Adaptations flowchart

Kent County Council

HIA Specification 2012-2105

Sample of anonymised OT recommendations

Ashford Borough Council/Town & Country Housing

Service Level Agreement 2022-23



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