


<p><b>Cabinet</b></p> <p>28th November 2017</p>	
<p><b>Report of:</b> Ann Sutcliffe, Acting Corporate Director, Place</p>	<p><b>Classification:</b> Unrestricted</p>
<p><b>Amendment to Private Sector Renewal Policy 2016 - 2018</b></p>	

<b>Lead Member</b>	Councillor Sirajul Islam, Cabinet Member for Housing
<b>Originating Officer(s)</b>	Martin Ling – Housing Strategy Manager
<b>Wards affected</b>	All wards
<b>Key Decision?</b>	No
<b>Community Plan Theme</b>	A Great Place to Live

### **Executive Summary**

The Council will shortly carry out a full review and update of the 2016 – 18 Housing Renewal Policy in order to reflect an increased budget, changing market conditions, the integration of Disabled Facilities Grant into the Better Care Fund, and the introduction of Universal Credit. The review will also give the Council an opportunity to take advantage of the flexibilities allowed under the Regulatory Reform Order (2002 Housing Renewal). It is expected that this policy will come to the Mayor in Cabinet for approval in March 2018. A copy of the existing policy is attached at Appendix A.

However the Private Housing Improvement Team are currently dealing with 2 Disabled Facilities Grant home extension applications where the costs are in excess of the mandatory Disabled Facilities Grant ceiling of £30k. It has recently become apparent that the two owner occupiers concerned may struggle to raise their contribution towards the costs.

In order for the Council to fully fund these extensions the Mayor in Cabinet is asked to approve a single amendment to the current policy in order to allow a top up discretionary grant for these and other cases to be considered where it is the best interests of the client to be awarded an additional discretionary grant.

## **Recommendations:**

The Mayor in Cabinet is recommended to approve an amendment to the 2016 – 18 Housing Renewal Policy as follows:

### **Clause 4.1:**

#### **Change**

Mandatory Disabled Facilities Grants will continue to be available to eligible owner-occupiers, and private sector tenants and the maximum mandatory Disabled Facilities Grant is £30,000.

These grants are means tested except for the benefit for a disabled child under the age of 18.

Applications for discretionary Disabled Facilities Grant cannot be considered due to budget restrictions

#### **To:**

Mandatory Disabled Facilities Grants will continue to be available to eligible owner-occupiers and private sector tenants and the maximum mandatory Disabled Facilities Grant is £30,000.

These grants are means tested except for the benefit for a disabled child under the age of 18.

Applications for Discretionary Disabled Facilities Grant above the maximum mandatory £30k limit will be considered on a case by case basis by the Home Improvement Agency (HIA) Grants Panel. Approval will be subject to it being identified that the client would not be able raise the necessary funds to complete the works which would then result in the adaptation not being carried out.

## **1. REASONS FOR THE DECISIONS**

- 1.1 The introduction of discretionary Disabled Facilities Grants in a small number of cases where it is verified that the client is unable to make a financial contribution will enable the Council to achieve the objective of the Disabled Facilities Grant which is to assist people with disabilities to live independently in their own homes.

## **2. ALTERNATIVE OPTIONS**

- 2.1 The Mayor could choose not to introduce discretionary Disabled Facilities Grants above the maximum mandatory £30k limit.

### **3. DETAILS OF REPORT**

- 3.1 The Council is committed to making Mandatory Disabled Facilities Grants available to all eligible owner-occupiers and private sector tenants so that they can remain living independently in their own homes. A disabled owner-occupier or tenant may apply for a Disabled Facilities Grant for a number of purposes which will primarily improve access and comfort. Mandatory Disabled Facilities Grants will continue to be available to eligible owner-occupiers and private sector tenants and the maximum mandatory Disabled Facilities Grant is £30,000. These grants are means tested except if for the benefit for a disabled child under the age of 18. The Grant level has remained at £30k since 2008 and is generally not adequate enough to cover the cost of extensions.
- 3.2 The current policy states that applications for discretionary disabled facilities cannot be considered due to budget restrictions. When the 2016- 18 Policy was produced the Council was receiving around £800k in Disabled Facilities Grant from central Government and was contributing in the region of £200k as a top up from General Fund resources. The budget was generally oversubscribed from year to year.
- 3.3 The Disabled Facilities Grant was introduced as part of the 1989 Local Government and Housing Act and the first grants were given in 1990, so it has been in use for over a quarter of a century. The most fundamental change came in 2014 when it was announced that the Disabled Facilities Grant would become part of the pooled health and social care budget, the Better Care Fund, and responsibility for its administration would pass from the Department of Communities and Local Government to the Department of Health.
- 3.4 In the Comprehensive Spending Review of November 2015 it was announced that the central government allocation for the grant was to more than double from £220m in 2014/15 to over £500m by 2019/20 and there was a substantial increase in resources for 2016/17 to £394m. As a consequence, the Council's Disabled Facilities Grant budget rose to £1.4m in 2016/17 and further to £1.7m in 2017/18. The Disabled Facilities Grant budget is part of the Better Care Fund and the Council can use the Disabled Facilities Grant allocation to meet other objectives within the Better Care Fund subject to agreement with the Clinical Commissioning Group.
- 3.5 The Council will shortly carry out a full review of the 2016 – 18 Housing Renewal Policy in order to reflect changing market conditions, the introduction of the Better Care Fund and increased Disabled Facilities Grant budgets which will give us an opportunity to take advantage of the flexibilities allowed under the Regulatory Reform Order (2002 Housing Renewal). It is expected that this policy will come to Cabinet for approval in March 2018.
- 3.6 The Council funds a small number of extensions to owner occupied homes in order to enable a disabled person to remain living independently at home. However, the costs have been capped at the mandatory £30k and home owners asked to make a contribution for any estimated costs above that limit.

- 3.7 The Home Improvement Agency is currently dealing with two cases where it is likely that the home owner would not be in a position to raise the additional sums. The shortfall in case A is in the region of £25k and in case B £15k. Details of the cases with the personal details of the clients removed are attached at Appendix B. In both cases the extension would enable the disabled occupant to continue to live in their home, access essential facilities and support carers.
- 3.8 With Disabled Facilities Grant now forming part of the Better Care Fund and with the considerable increase in funding it now makes sense to consider amounts in excess of £30k as part of a discretionary process to support people to live in their homes for as long as possible. The standard client means test will be applied to the mandatory grant in line with the current policy. The means test is not applied where the applicant is a child.
- 3.9 In order to proceed with works costing in excess of £30k the client or owner occupier is asked to raise sufficient funds to guarantee the excess costs including any potential unforeseen costs as a 20% contingency fund is built into the overall cost.
- 3.10 Where the client or the owner is either unable or reluctant to meet the additional costs, the Grants Panel will discuss whether a discretionary grant can be awarded in order to act in the best interests of the client and in consideration of the potential impact on the overall public purse. Failure to carry out an extension could result in increased risk of hospital admissions, additional care costs or rehousing to a higher care environment. Any recommendation by the Grants Panel would be subject to the final approval of the Divisional Director – Housing and Regeneration.
- 3.11 In most cases where this happens, the client or owner occupier is unable to raise the funds because they are asset rich and cash poor without an adequate income to support either the raising of a loan or remortgaging to raise the sums required. In order to protect the Council's interest the owner of the property will be required to agree that a Local Land Registry charge will be placed upon the property in the event of it being sold within 10 years of the completion of the works.

#### **4. COMMENTS OF THE CHIEF FINANCE OFFICER**

- 4.1 This report seeks the approval of the Mayor to the extension of the current Private Sector Renewal Policy to enable discretionary Disabled Facilities Grants (DFG) to be made available to applicants where works costs exceed the statutory limit of £30,000 for mandatory DFG funding. Each application will be means tested and considered on an individual basis.
- 4.2 The previous DFG financing regime ended in 2014-15 when the Council's annual budget was £995,000, part funded by DCLG grant of £744,000. Due to demands on the mandatory grants budget which was usually oversubscribed

(see paragraph 3.2), the option to approve discretionary DFG payments was not included within the Private Sector Renewal Policy.

- 4.3 Since the integration of the DFG funding system with the Social Care capital grant element of the Better Care Fund (see paragraph 3.4), the capital budget for DFG for use by the Private Housing Improvement Team has significantly increased. For 2017-18, the approved capital estimate is £1.417 million, including resources of £160,000 that were carried forward from 2016-17. The remaining DFG allocation is used by Adult Services to meet other objectives within the Better Care Fund programme. This increased budget provides the opportunity to provide resources to fund discretionary DFGs, with the report anticipating that only a small number of applications will be received each year. These will be fully financed from within the DFG budget for 2017-18.
- 4.4 As set out in paragraph 3.10, the client's well-being and the possibility of enabling them to remain in their own home is the primary benefit of extending the policy, however it should also reduce reliance on other health and social care services with consequential savings to public funds.

## **5. LEGAL COMMENTS**

- 5.1 A Disabled Facilities Grant (DFG) is a mandatory grant awarded through the Council to help adapt properties to the needs of disabled persons. The maximum grant that can be awarded is £30,000. This is provided by the Housing Grants, Construction and Regeneration Act 1996.
- 5.2 The Care Act 2014 amended the National Health Service Act 2006 ('NHS Act 2006') to provide a legislative basis for the Better Care Fund (BCF). The Government provides funding to local authorities under the BCF to integrate local services and under that funding, there is a requirement that the BCF integrates the DFG. The Council can use the BCF innovatively through the Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 ('2002 Order')
- 5.3 Article 3 of the 2002 Order provides that where housing conditions are found to require adaptation, repair or improvement, assistance may be provided by the Council. This would permit the Council to grant a DFG over £30,000.
- 5.4 The Council may not exercise the powers available under the 2002 Order unless it has adopted a policy for the provision of assistance, given notice of the policy and made it available to the public. The power to provide assistance must be exercised in accordance with the policy. The current Policy is the Private Sector Renewal Policy 2016 - 2018.
- 5.5 In order to provide assistance to persons who are entitled to a mandatory DFG but are seeking over £30,000 then it must amend its Private Sector Renewal Policy, specifically clause 4.1 as per the Report's recommendation. This change can be made pursuant to the 2002 Order.

- 5.6 The Private Sector Renewal Policy is not part of the Council's Budget and Policy Framework. The adoption of the Policy is an Executive function as is any amendment to the Policy. The Mayor in Cabinet therefore has the authority to agree the recommended change.
- 5.7 The BCF programme is governed by a formal agreement between the Council and the Tower Hamlets CCG under Section 75 of the NHS Act 2006. As stated in section 4.3 of the Finance comments, an amount of £1.47 million has been allocated to the DFG including a carry forward which can be used for the discretionary element of the DFG.
- 5.8 It is a condition of a DFG that the person occupies the property as their only or main residence. This is provided by means of an "occupier's certificate" supplied with the application. A breach of the conditions may mean that the grant has to be repaid. The grant condition period lasts for:
- 5 years - if the amount of grant assistance is £4,999 or less;
  - 10 years - if the amount of grant assistance is £5,000 or more.
- 5.9 If the grant amount is for a sum of £5,000 or over the Council may demand repayment of the part of the grant that exceeds £5,000, but may not demand an amount in excess of £10,000.
- 5.10 The 2002 Regulations provide that Assistance may be unconditional or subject to conditions, including conditions as to the repayment of the assistance or of its value (in whole or in part). This can include a condition as to 10 years occupation/ownership and this could include a requirement that the recipient agrees to a "general financial charge" be registered on the Local Land Charges Register pursuant to the Local Land Charges Act 1975 and the Local Land Charges Rules 1977
- 5.11 The Council has a duty under Section 3 of the Local Government Act 1999 to make arrangements to secure continuous improvement in the way in which its functions are exercised having regard to a combination of economy, efficiency and effectiveness (the best value duty). Awards of these grants are subject to eligibility criteria which seek to assist vulnerable persons in housing in disrepair. By doing so the need for other Council services or support is likely to be reduced.
- 5.12 When exercising its functions under this legislation by making decisions about grants the Council must comply with section 149 of the Equality Act 2010 in that it must have due regard to the need to eliminate unlawful conduct under the Act, advance equality of opportunity and foster good relations between persons who share a protected characteristic and those who do not (the public sector equality duty). The Private Sector Renewal Policy is designed to provide for those who are elderly or who have disabilities and in doing so it seeks to advance equality of opportunity for persons with those protected characteristic.

## **6. ONE TOWER HAMLETS CONSIDERATIONS**

- 6.1 The award of discretionary Disabled Facilities Grant will further enable the Council to assist disabled resident to continue to live independently in their homes and communities.

## **7. BEST VALUE (BV) IMPLICATIONS**

- 7.1 The needs of all clients who apply for Disabled Facilities Grants are considered by both Occupational Therapist and surveyors from the Home Improvement Agency. Recommendations for appropriate adaptations take into account the key objective of assisting the client to live independently at home as well achieving best value for the public purse. The provision of a discretionary Disabled Facilities Grant is designed to ensure that this objective can be achieved. If the adaptation was not to go ahead in some cases it is possible that additional costs will be incurred as a result of an increased risk of hospital admissions, additional care costs or rehousing to a higher care environment.
- 7.2 By placing a conditional charge on the property the Council will protect its financial interests in the event of the property being sold with an uplift in value as a result of the extension being built.

## **8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT**

- 8.1 There are no implications with regard to Disabled Facilities Grant and for a sustainable action for a greener environment.

## **9. RISK MANAGEMENT IMPLICATIONS**

- 9.1 By placing a conditional charge on the property the Council will protect its financial interests in the event of the property being sold with an uplift in value as a result of the extension being built.

## **10. CRIME AND DISORDER REDUCTION IMPLICATIONS**

- 10.1 There are no implications with regard to Disabled Facilities Grant and with regard to crime and disorder.

## **11. SAFEGUARDING IMPLICATIONS**

- 11.1 There are no implications for Safeguarding with regard to introducing a Discretionary Disabled Facilities Grant.

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## **Linked Reports, Appendices and Background Documents**

### **Linked Report**

None

### **Appendices**

Appendix A – 2016 – 18 Housing Renewal Policy  
Appendix B – Anonymised summary of cases

### **Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012**

None

### **Officer contact details for documents:**

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