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MID SUFFOLK CABINET	
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For consideration at the meeting on Monday, 4 March 2019, the following additional or updated papers that were unavailable when the Agenda was printed.

REVISED AGENDA

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Report now attached.

Cabinet Member for Housing

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Agenda Item 16

MID SUFFOLK DISTRICT COUNCIL

TO: Cabinet	REPORT NUMBER: MCa/18/74
FROM: Councillor Jill Wilshaw, Cabinet Member for Housing	DATE OF MEETING: 4 March 2019
OFFICER: Heather Worton, Corporate Manager - Property Services	KEY DECISION REF NO. CAB105

REGULATORY REFORM ORDER POLICY ON MINOR DISABLED ADAPTATION SCHEME

1. PURPOSE OF REPORT

- 1.1 To adopt a separate Regulatory Reform Order Policy (RRO) on minor disabled adaptation schemes.

2. OPTIONS CONSIDERED

- 2.1 **Option 1:** Adopt a separate RRO Policy. The existing Disabled Facilities Grant (DFG) process can be long and complex and often comes at a time of crisis. The criteria for a DFG is very rigid and has remained relatively unchanged for 20 years. The introduction of an RRO enables greater flexibility around the use of DFG funding to ensure local authorities can target resources to tackle local issues which may be preventing people being able to remain at home and live independently.

It gives power to an authority to provide "assistance in any form, to any person to repair, adapt or rebuild residential premises". There are a number of scenarios where removing the requirement to make a full Disabled Facilities Grant application would enable an application for an adaptation or provision of equipment to progress quickly. An RRO allows the provision of small-scale adaptations to fulfil needs not covered by mandatory DFG's. Below are the proposed changes to the current DFG process.

- Where the cost of the adaptation is £4,999.99 or less the requirement to undertake a means test will be removed. This figure is used, as above this, costs are registered as a local land charge and there is a requirement to repay monies if the property is sold within ten years. Adaptation work below £1000 are dealt with by the County Council. Keeping the figure at £4,999.99 simplifies matters and does not penalise applicants who have incurred a charge historically. By applying a financial ceiling, the risk of public funds being misappropriated is proportional to the benefit of the costs of administering a more complex process.

Examples of work that would be covered within this limit include ramps, bathing/washing facilities, additional heating, stairlifts, key safes, wash/dry toilets. The removal of the means test in these circumstances has received approval from Foundations (a body appointed by the Ministry of Housing, Communities and Local Government to oversee Home Improvement Agencies and offer advice on DFG's).

- Where works exceed £5,000 the standard DFG process will be followed which includes a means test.

- Where adaptations are straightforward, it can remove the requirement for an Occupational Therapist referral. This is often the bottleneck in the adaptation process therefore removing this should speed up the end to end journey. Further details can be found in the Key Information, 4.6 - 4.9.

2.2 **Option 2** – No change to the existing RRO policy. This option keeps the provision of grants as statutory through the DFG process with the option to help people with physical disabilities. It follows a prescribed process which could be considered as equitable, however some residents will continue to be put off by the process and there is little risk to the Council in providing a DFG for people who could afford to pay for the adaptations themselves. However, this will mean the considerable underspend will continue and our vulnerable residents will not get the assistance they need.

3. RECOMMENDATION	
3.1	That the Regulatory Reform Order Policy on Minor Disabled Adaptation Scheme as described in Option 1 be adopted and reviewed in 12 months.
REASON FOR DECISION	
For a Regulatory Reform Order Policy on Minor Disabled Adaptation Scheme to be used legally, members need to have adopted such a scheme	

4. KEY INFORMATION

- 4.1 The legislative framework for Disabled Facilities Grants (DFGs) is provided by the Housing Grants, Construction and Regeneration Act 1996. Purposes for which grant aid is mandatory are specified in the legislation as is the application process. The grants are to facilitate access to the property, main living areas and amenities. Grants are client focussed and a means test is applied, except in children’s cases. They also attach a repayment condition to the property in some circumstances.
- 4.2 The current statutory DFG is not appropriate for many other vulnerable residents for example; to help applicants who have been diagnosed with a life limiting condition to remain at home; where a property is unable to be fully adapted to meet the client’s needs but there is a relevant safety risk that requires addressing; or for mental health and behavioural conditions.
- 4.3 The Council has a statutory duty to provide disabled facilities grants for the adaptation of properties to enable disabled people to remain living as independently as possible in their own homes, irrespective of tenure. The process can seem overly complex, long and out of date to certain conditions. Local authorities have been encouraged by government to use the flexibilities provide under the Regulatory Reform (Housing Assistance) Order 2002 (RRO) to implement a simplified process to speed up adaptations in some circumstances.
- 4.4 With an ageing population the demand for DFGs is rising. Over 70% of DFGs are for people over 70 years of age. This is recognised by the Government who increased DFG funding by 79% nationally and 78% in Suffolk in 2016/17. They further increased Suffolk funding by 9% in 2017/18 with a further increase in 2018/19.

- 4.5 This significant increase in DFG budget has led to an increasing number of authorities introducing RRO's in order to spend the DFG monies on more innovative schemes.
- 4.6 The DFG legislation only places a duty on authorities to *consult* social services on whether proposed adaptations are *necessary* and *appropriate*. Recent government guidance has stated that an Occupational Therapist assessment is not needed on every application. There are many smaller and straightforward adaptations where an experienced Private Sector Housing Officers can make a judgement. Under the current scheme Private Sector Housing Officers/Orbit Technical Officers ensure any DFG application is *reasonable* and *practicable*.
- 4.7 It has been recognised that it is crucial to involve the disabled person in the assessment of their own needs. This combined with the experience and expertise of housing or health professionals will enable an inclusive solution to be developed which restores confidence and dignity within the home. Under the proposed RRO, eligible work could include work such as decluttering, deep cleaning and boiler repairs. None of this will require a OT assessment.
- 4.8 More complex cases, such as where the likely progression of a condition is beyond the knowledge of both the disabled person and the Officer, would involve an assessment from an Occupational Therapist.
- 4.9 Terminally ill applicants who could be eligible for assistance under the RRO would be supported by Hospital Occupational Therapists
- 4.10 In Suffolk, the Orbit Home Improvement Agency (HIA) assists residents in the private sector with the process of applying for DFGs and having adaptations carried out. This is funded by Suffolk County Council, local authorities and from an agency fee. The current fee is 15% of the cost of the eligible adaptations. This fee is included in the grant.
- 4.11 It should be noted that Orbit HIA do not assist council tenants applying for disabled adaptations. Officers in the Property Services team manage these cases. Adaptations in our council stock are funded from the Housing Revenue Account and not the Disabled Facilities Grant budget.
- 4.12 The complexity and length of the process for residents in the private sector, including having to deal with a builder can be daunting for some applicants. The process for Council tenants is more straightforward as we own the property therefore much of the paperwork is not necessary. The Agency Service provided by Orbit was designed to remove the stress from applicants. Without assistance to complete the works, applicants often cannot access basic facilities such as the bathroom or get in and out of their home. This is not only isolating, it undermines dignity and independence whilst increasing the need for care, including hospitalisation and the associated costs.
- 4.13 There are a number of resourcing issues within the current HIA. It is anticipated that any increase in demand for adaptations in Babergh and Mid Suffolk following the adoption of the RRO will be dealt with in-house using existing staffing resource. Orbit HIA are unable to undertake any significant increase in caseload without additional funding being from the two councils.

- 4.14 Babergh and Mid Suffolk are experiencing significant DFG budget underspend. As of January 2019, just under 50% of the allocated budget has been committed. Figures from the Orbit HIA reveal that although Babergh and Mid Suffolk have the second highest number of enquiries in the county, we have the lowest number of DFG applications. One of the most significant reasons for this is 'failing' the means test. Where potential applicants are in receipt of income related benefits they are 'passported' and do not have to undergo a means test. Only 20% of applicants within Babergh and Mid Suffolk are passported. Across the rest of Suffolk, the figure is nearer 80%. These figures indicate that demand is not being met within Babergh and Mid Suffolk under the current DFG process.
- 4.15 Orbit HIA received 534 requests for assistance in Babergh and 559 in Mid Suffolk between April 2018 to December 2018. In this time period, 12 DFG's were approved in Babergh and 21 in Mid Suffolk. It should be noted that not all requests require an adaptation.
- 4.16 It is recognised that the availability of financial assistance for adaptations is not widely known, even amongst health professionals/charities who are assisting the very people who could benefit from this funding. A promotion campaign is currently underway to ensure our residents and fellow professionals are aware of the DFG and should it be approved, the new flexibility there is within the RRO to assist even more of our vulnerable residents. It is vital that other agencies provide effective signposting.
- 4.17 Consideration has been given to BMBS undertaking the necessary works. With a dedicated Adaptations team, the councils could ensure any work is carried out in a timely way, is quality assured and provides value for money. This could provide an income stream for BMBS. Whilst this remains an aspiration, at this time BMBS are not adequately resourced. External Contractors will continue to carry out this work.
- 4.18 The future of the Suffolk HIA and the whole DFG delivery model is currently under consideration. A Working Group has been set up comprising of Foundations, Suffolk County Council, the seven Suffolk District/Borough councils and Health professionals to put together a future delivery model and explore what we want to see from any future Partnerships. Although this work is taking place, this report aims to address the immediate issues Babergh and Mid Suffolk face. It will create a flexible and robust process for our vulnerable residents to access funding and assistance easier and quicker.
- 4.19 Referrals for the new process will come via several routes. Either from Orbit HIA, direct from the applicant themselves, from health professionals, hospitals or charities. We will be directing customers to our website where a short and simple online application form will be available as well as details of the help we can offer. However, a telephone number will also be available as some applicants may struggle or have queries. We will also ensure other Agencies are aware of the process as they will often assist clients for example Age UK. The whole idea is that the application process is as simple as it can be to remove unnecessary red tape. The grant will be administered in-house by the Property Services Team. If it becomes apparent that the work required will exceed £4,999 the applicant will be referred to Orbit HIA and the mandatory DFG route will be followed.

4.20 Using the RRO, the assistance we can provide will enable a disabled person to stay safe, well and remain at home will have no restriction as long as the financial ceiling is not exceeded. Examples of some of the help we could offer include decluttering, creating a quiet space for people with autism, coloured equipment for dementia sufferers, rental of stairlifts for terminally ill patients, provision of assistive technology as well as the more traditional physical adaptations such as ramps and over bath showers.

5. LINKS TO JOINT STRATEGIC PLAN

5.1 Providing disabled adaptations to vulnerable residents is vital to enable people to be independent in their homes and communities and assisting people to leave hospital. A majority of residents living with a physical or mental health condition do not want to leave their home and adapting their home quickly is key to reduce pressure on other health bodies and prevent a resident deteriorating further.

5.2 There is a chronic under-supply of retirement homes currently, making it the most under-supplied area of the housing market. Changing the way disabled adaptations are delivered across the district are an important housing delivery to The Joint Strategic Plan. It will contribute to the housing challenges in relation to maximising the quality, suitability and availability of existing housing stock.

6. FINANCIAL IMPLICATIONS

6.1 Funding for this work comes from the Better Care Fund via a Central Government Grant which is paid to Suffolk County Council (SCC) who then allocate funds to district and borough councils. It is overseen by the Health and Well-being Board.

6.2 The Babergh allocation for 2018/19 was £444,252.00
The Mid Suffolk allocation for 2018/19 was £407,855.00

6.3 The minor disabled adaptation scheme proposed will not have any adverse financial impact as any works are only approved if there is budget available.

7. LEGAL IMPLICATIONS

7.1 The Housing Grants Construction and Regeneration Act 1996 is the primary legislation that governs how DFGs are administered and delivered. This is a statutory function of LA's.

7.2 The Regulatory Reform (Housing Assistance) Order 2002 gives powers to local authorities to provide assistance. However, before a local authority can exercise the powers under Regulation 3, it must prepare and publicly advertise its policy for doing so. The scope of the order is very wide and allows the Council to decide whether it provides grants, loans, advice etc. for the purpose of repairing, improving, extending, converting or adapting housing accommodation.

7.3 The main provisions on these schemes, which are provided instead of a full DFG, are that:

- they must not disadvantage the individual for example, a scheme where they could have qualified for a grant under DFG, but can now only get a loan would not be allowed);

- they must not fetter the discretion of the authority (so that each case must be considered on its merits, even if it falls outside of the policy, and a clear mechanism for applying discretion in these cases is available);
- that a full DFG is still available to the individual if they request it;
- that the scheme must meet their identified need.

7.4 Assistance can be given as:

- a grant – a sum of money for a specific purpose, with few or no conditions attached, and no repayment required;
- a repayment loan – interest bearing or 0% repaid in instalments over a period of time;
- a charge on the property – interest bearing or 0% to be repaid on the sale of the property;
- a combination of those listed above.

It is envisaged that the majority of our assistance will be in the form of grant aid for the purposes of disabled adaptations

8. RISK MANAGEMENT

Risk Description	Likelihood	Impact	Mitigation Measures
Ineffective financial management of capital programme	2 - Unlikely	2 – Noticeable	Monthly budget monitoring & performance monitoring of the HIA
Inadequate capital programme for grants	3 – Probable	2 - Noticeable	3-year Capital Programme. Partnership working with Suffolk Strategic Housing Board to ensure grant is paid to the Council from the Better Care Fund

9. CONSULTATIONS

- 9.1 Consultation has taken place with the other Local Authorities in Suffolk and Orbit HIA.
- 9.2 The Mid Suffolk Disability Forum have been consulted and gave positive feedback as they had previously raised concerns about the DFG process. Unfortunately, Babergh do not currently have an equivalent body.
- 9.3 Housing Portfolio Holders have been consulted on the proposals and the rationale behind the proposals.

10. EQUALITY & DIVERSITY ANALYSIS

- 10.1 This policy directly impacts on people with a disability but in a positive way which improves their independence and quality of life.

11. ENVIRONMENTAL IMPLICATIONS

- 11.1 The introduction of an amended policy does not in itself have an impact on the environment however building works to adapt properties do. Currently the Contractors used by the Agency are required to meet certain criteria. As the scheme develops, the Council will look to use the same local contractors and build its own approved list. This includes recycling of materials where possible and disposing of waste in a responsible manner.

12. BACKGROUND DOCUMENTS

1. Regulatory Reform (Housing Assistance) (England and Wales) Order 2002
2. The Housing Grants Construction and Regeneration Act 1996

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