



**North East
Derbyshire**
District Council

Adaptations Policy Briefing Note

Background

The Adaptations Policy was amended due to a Local Government & Social Care Ombudsman complaint, the Ombudsman investigation concluded:

- The policy did not inform tenants that they can apply for a Disabled Facilities Grant
- The policy did not take recent Case Law into consideration when processing applications

The Ombudsman decision to rectify fault was for the Council to:

- Review the adaptations policy
- Tell tenants refused a disabled adaptation how to apply for a DFG
- Write to the tenants refused an adaptation in the last two years and invite them to apply for a DFG, explaining the means test and other relevant differences to the adaptations policy.

Policy Overview

- Rykneld Homes implement the policy and manage adaptations to Council owned homes
- The policy covers the decision-making process and procedure for disabled adaptations for council tenants
- NEDDC's Environmental Health Department manage Disabled Facilities Grants (DFGs) for adaptations to the private sector
- The DFG framework is mandatory and applies across all tenures
- The policy reflects the principles set out in the Disabled Facilities Grant (DFG) delivery: Guidance for Local Authorities (for consistency)

Funding Adaptations

- The main Disabled Facilities Grant budget cannot be used for funding adaptations to local authority owned properties (only accessible to the private sector and registered providers)
- Adaptations to Council owned properties have to be funded through the Housing Revenue Account (this is a mandatory requirement)

- DFG Funding is means tested, meaning the applicant may have to contribute to the cost of the adaptation
- Adaptations to Council homes are NOT means tested

Key Policy Amendments

The Policy amendments are based on the Ombudsman findings and case law.

- Insert wording to explain the difference between an adaption and a DFG
- Re worded the Refusals section to insert contact details for the Environmental Health Department for applicants to apply for a DFG if refused under this policy
- Amend wording to ensure policy states that adaptations will be applied using the same principles as the DFG process
- Inserted the Appeals, Disputes and Complaints section
- Reviewed and amended the flowchart in Appendix A
- Reworded circumstances where RHL may not undertake an Adaptation, including:
 - Cannot refuse adaptation due to a property not being suitable for the household (including under occupation)
 - Re worded policy as cannot refuse adaptation and expect tenant to move to an adapted property (can still give tenant the choice to move)
 - Removed where the property will not meet the long-term needs of the disabled person (adaptations have to be based on current need to make the property as safe as reasonably practicable)

What this means for the Council

- Adaptations will be completed and assessed under the DFG criteria for consistency
- Rykneld Homes to work more closely and seek advice as necessary with Environmental Health when assessing adaptations
- HRA adaptation costs may rise due to more adaptations being accepted
- Adaptations are mandatory and are a priority over housing management moves, however wherever possible, within legislation, this still will be a focus

What's next?

- Monitor the number of adaptations against the amended policy
- Monitor HRA funding costs
- Monitor the number of DFG referrals to Environmental Health for Council tenants
- Monitor the number of refusals and reason for the refusal
- Monitor the number of appeals
- Full Adaptations Policy review in 2025

Case Law for Information

1. *McKeown, R (On the Application Of) v London Borough of Islington [2020] EWHC 779 (Admin)*

The court has said that applications for DFGs from council tenants should be considered on the same basis as those from other residents. It said councils cannot refuse a DFG because the property is unsuitable for the disabled person's needs. Councils cannot require their tenants to move home instead of providing a DFG if the statutory tests are met.

2. *Gulrez V Redbridge London Borough Council [2022] EWHC 2908 (Admin) (18 November 2022)*

Any policy in place that undermines the objective of a disabled facilities grant to make a property as safe as reasonably practicable may be deemed unlawful. The High Court held that a local authority's policy to refuse all disabled facilities grant applications for backup adaptations was unlawful. The authority was wrong to refuse the application for a backup stairlift when an existing through floor lift frequently broke down.