



# Private Sector Housing Renewal Assistance Policy

2022 - 2027

Draft 1

## CONTENTS

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	<b>PAGE</b>
1 Introduction	1
2 Links to National, Regional and Corporate Objectives and Strategies	4
3 Working in Partnership	8
4 Consultation	9
5 Principles and Priorities of the Policy	10
6 Reviewing the Policy	17
7 Housing Interventions and Initiatives	18
8 Enforcement	27
9 Advice	28
10 Comments and Complaints about the Policy	29
11 Appeals	30
Appendix A : Disabled Facilities Grants	31
Appendix C : Home Repair Assistance	43
Appendix C : Private Sector Housing Enforcement Policy	45

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## 1.0 INTRODUCTION

- The Council delivers its private sector housing responsibilities principally through the Environmental Health Service, with input across a range of other Council Services including Regeneration, Community Safety, Licensing, Planning and Development Control Services. The private sector housing function is delivered in accordance with the Council's Corporate Plan, and one of the Council's corporate aims is 'To help create a safer and healthier environment for our communities to live and work' with the key underlying objective of developing a Private Sector Housing Strategy to improve conditions for homeowners and private tenants. The Council also aims 'To protect and improve the environment and respond to the climate emergency' and as part of that aim this Policy is intended to link in with the development of a Climate Change Strategy and an action plan of response to a declared climate emergency.
- Private Sector Housing comprises the following areas:
  - Stock Condition
  - Disabled Facilities Grants and other related corporate capital programmes
  - Empty Properties
  - Private Rented Sector Enforcement
  - Area Renewal
  - Housing and Health
  - Houses in multiple occupation
  - Decent Homes
  - Affordable Housing
  - Energy Efficiency
  - Anti-social Behaviour in the private sector
- These areas of service are enacted under a range of legislation, including the Regulatory Reform (Housing Assistance) (England and Wales) Order 2002, which set a new policy framework for enforcing housing standards and for providing housing financial assistance to repair, improve or adapt private sector housing.
- Enforcement action is also pursued under a variety of housing and environmental health legislation, enabling the Service to take measures to deal with disrepair by serving notices, and undertaking works in default where necessary.
- The links between private sector housing and the Council's corporate priorities are quite clear and there are also links to other corporate Strategies and Policies, including
- [Affordable Housing and Homelessness](#)
- [Affordable Housing and Viability Assessment](#)

- [Gypsy and traveller accommodation assessment](#)
- [High Peak Local Plan Viability Study](#)
- [High Peak Local Plan Viability Study](#)
- [Strategic Housing Land Availability Assessment \(SHLAA\)](#)
- [Strategic Housing Market Assessment](#)
- [Strategic Housing Needs Survey](#)
- [Home Energy Conservation Act 1995](#)
- [Empty Property Strategy 2017 \[490KB\]](#)
- [Homelessness and Rough Sleeping Strategy 2018-2022 \[453KB\]](#)
- [High Peak Supplementary Planning Document - Housing need in High Peak 2007 \[480KB\]](#)
- The Council's private sector housing service operates within a rapidly changing national legislative and budgetary environment. This means that the nature, shape and focus of the service is likely to continue to shift over the coming years.
- The Council's Housing Renewal Policy outlines the principles by which High Peak Borough Council will assist owner-occupiers, and tenants and landlords in the private sector, with housing renewal in compliance with the Regulatory Reform (Housing Assistance) (England and Wales) Order 2002, which came into force on 18 July 2002 and the changes introduced by the Housing Act 2004 in April 2006. High Peak Borough Council retains its own Housing Stock and as such property interventions in council properties are carried out through other mechanisms within the local authority.
- The Regulatory Reform Order repealed much of the previous prescriptive range of home improvement grants, together with the associated detailed rules, procedures and conditions. The exception to this is the system of Mandatory Disabled Facilities Grants (DFG's).
- DFG's are mandatory grants and when an eligible person applies the authority has a statutory duty to award a DFG where the qualifying criteria are met. The legislative changes identified in the *National Strategy for Housing in an Ageing Society* and subsequent government publications have allowed the Council a degree of policy flexibility in relation to the provision of disabled facilities.
- Instead of the previous prescriptive grant system, the Council has a general power to provide grants, loans, advice, and materials or to directly carry out works, for the purpose of repairing, improving, extending, converting or adapting housing accommodation. The Council has discretion to decide on the availability and rates of grant, grant conditions and all other such issues.
- The Housing Act 2004 introduced new methods of assessing housing standards through the Housing Health and Safety Rating System (HHSRS), a single housing

standards enforcement framework and the mandatory licensing of certain types of houses in multiple occupation.

- This represented a fundamental change in the nature of the Council's involvement with private sector housing renewal. It is set within a wider context, including
  - The Council's overarching housing strategies
  - The Council's Corporate Plan
  - The aspiration for decent housing
  - The modernisation agenda and organisational change, for example, Home Improvement Agencies delivering a one-stop holistic advice and assistance service to vulnerable and elderly residents

## **2.0 LINKS TO NATIONAL, REGIONAL AND CORPORATE OBJECTIVES AND STRATEGIES**

- In line with Government guidance the Council has aligned its Housing Renewal Policy with wider strategic objectives; working with local partners; evidence based strategies and policies. In addition, the Council has determined appropriate priorities, for example, client based and area based approaches.
- This Housing Renewal Policy forms an integral part of the Council's wider housing strategy and through it, links with corporate objectives.

### **2.1. The Corporate Plan**

The Corporate Plan sets out the vision for the High Peak and all its citizens.

The plans aims and priorities lie at the heart of all the Council's work and are a constant theme running through the development and implementation of the Housing Renewal Assistance Policy. The principal aims relating to the Renewal Assistance Policy include the provision of quality services in partnership with communities and to protect and improve the environment.

### **2.2. Housing Strategy**

The overarching housing strategy principles set out to address the key priorities for housing in High Peak:

The Council will endeavour to work with stakeholder partners to deliver the following objectives:

- New housing that meets the needs of local people, that is both affordable and of an appropriate design to secure the long term flexibility of the housing stock
- Provide in association with specialist providers, supported housing schemes that reflect the expressed need of the local population
- Good quality and variety of accommodation across all tenures of the housing stock
- Provide assistance, advice and other services for individuals and families to access housing appropriate to their needs, circumstances and aspirations
- Ensure that older and vulnerable people receive targeted assistance to ensure that they benefit from the above and in particular can access services linked to their particular needs.

### **2.3. Other local strategic initiatives**

Within the Borough, the Housing Renewal Assistance Policy has been developed within the context of:

- The Community Strategy
- The Corporate Plan.

- Other related Housing Strategies and Plans.
- The Local Development Framework

## **2.4. Regional Strategic context**

Within the regional context the Housing Renewal Assistance Policy has been specifically informed by the Regional Housing Strategy and the East Midlands Regional Planning Guidance, both of which place emphasis on urban and rural renaissance and identify the key policy issues for housing as being:

- Housing Market Renewal
- Economic development
- House conditions
- Housing choice
- Local housing need

## **2.5. National Strategic context**

The Housing Green Paper “Quality and Choice - A Decent Home for All” was published in April 2000. This formed the basis of the subsequent consultation paper on the reform of housing renewal legislation, and outlined several priorities including:

- Making it work locally - the importance of local delivery of housing policies tailored to local circumstances.
- Encouraging sustainable home ownership - developing a framework where owners can afford the commitments of ownership in the long term.
- Promoting a healthy private rented sector - encouraging new investment and tackling problems at the bottom end of the sector.

The consultation resulted in the Regulatory Reform (Housing Assistance) (England and Wales) Order 2002, which introduced a new general power enabling local authorities to provide assistance for housing renewal, and required a published policy to be in place in order to provide assistance after 18<sup>th</sup> July 2003.

The Order introduced a wide discretionary power to allow local authorities to provide a range of financial and other assistance for repairs, improvements and adaptations. The new powers also allow assistance to be given to enable homeowners to move to more suitable accommodation if it is not cost-effective to renovate the existing property. The intention was to allow greater flexibility and discretion in delivering housing renewal to address local needs.

The Government’s view is that the responsibility for maintaining privately owned property should rest primarily with the homeowner. In some circumstances however, help in the form of grants or loans may be needed to assist in carrying out essential repairs or improvements. The new legislation allows local authorities to target help to those who need it most, and to encourage more effective use of resources.

The Housing Act 2004 came into force in April 2006, and the Housing Renewals Assistance Policy takes account of the Council's powers and duties under the Act. These include:

- A Housing Health and Safety Rating System to replace the housing fitness standard, which involves a assessment of the risk and severity of a range of hazards, taking into account vulnerable occupants.
- Licensing of Houses in Multiple Occupation (HMOs) with mandatory licensing for larger, higher-risk HMOs and discretionary powers to license smaller, multiple-occupied properties.
- Powers to selectively license private landlords to tackle low housing demand and the difficulties of anti-social behaviour.
- Powers to apply for an Interim Empty Dwelling Management Order where a dwelling has been vacant long-term, which can be considered as part of the Councils Empty Property Strategy.

More recently, the government has introduced new legislation to address specific electrical and energy efficiency issues within the PRS.

The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020

- These Regulations impose duties on private landlords of residential premises in England in respect of electrical safety standards. The duties do not apply to landlords of social housing. The Regulations require local housing authorities to enforce the duties, and include a power to arrange remedial action. the main aim is to ensure that electrical systems are maintained in a safe and efficient condition for the benefit of tenants.

The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015

- came into force on 1st October 2016, and applies to domestic private rented property, and to non-domestic private rented property (that is property which is let under a tenancy and is not a dwelling). It prescribes a minimum level of energy

efficiency for private rented properties: that is, an energy performance indicator (evidenced on the energy performance certificate for the property) of band E. The main aim is to improve the standard of energy efficiency and performance in the PRS.

Additional key national issues underpinning and influencing the policy are:

- Housing Market Renewal
- The Supporting People Initiative
- Planning Policy Guidance for Housing
- The UK Fuel Poverty Strategy.



### **3.0 WORKING IN PARTNERSHIP**

- Since April 2003, local authority housing services and social services have been required to work in partnership with other stakeholders to address the needs of vulnerable people.
- Through the Council's Home Improvement Agency service provider and in partnership with Derbyshire County Council, a wide range of advice, support and assistance is provided to elderly, disabled and vulnerable people who privately rent or who own their property, enabling them to remain living independently in their homes.
- Working in partnership with Derbyshire Fire and Rescue Service to ensure good and safe standards in privately rented accommodation within the private rented sector (PRS).
- Working in partnership with the University of Derby and Leek College to promote good and safe standards in privately rented student accommodation.
- Disabled Facilities Grants are, in the main, a mandatory entitlement and their administration requires a joint approach between the Council and Derbyshire County Council's Adult Care and Children's Services and the Disability and Design Team.

## 4.0 CONSULTATION

The first Renewal Policy was originally produced in discussion with the neighbouring local authorities. This was to take into account the common characteristics and problems of the sub-region. It also enabled the sharing of costs and expertise in developing new policy tools. However, for ease of approval and adoption, each local authority area has adopted its own policy, albeit offering similar and complementary forms of assistance.

As well as neighbouring local authorities, the policy has been developed in consultation with local Home Improvement Agencies, has gone through the consultation process with the Local Strategic Partnership, and has been approved by the political process.

This process will be ongoing and will therefore allow the policy to be reviewed and updated periodically to take account of changing circumstances, and new forms of assistance to be incorporated.

Consultation has also been carried out with the following specific stakeholders prior to seeking the approval of the Executive for the adoption of this revised policy:

- Members of the Alliance Management Team
- Heads of Service
- Community Safety and Climate Change Manager
- Executive Member for Housing
- Derbyshire County Council
- Clinical Commissioning Group
- Derbyshire District and Borough Councils

Consultation was also carried out with other external stakeholders, including Foundations and Care and Repair England.

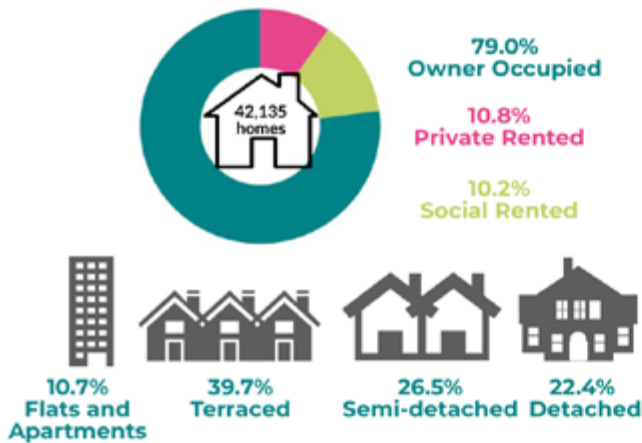
A draft of this revised policy was also placed on the Council's website for public consultation.

## 5.0 PRINCIPLES AND PRIORITIES OF THE POLICY

- The Government has made it clear that responsibility to maintain private property rests firmly with the owner. Therefore it is not desirable for the Council to seek to offer assistance for all private sector housing problems. In addition the current public expenditure on private sector housing renewal does not in itself address the problem of disrepair. Owners need to take more responsibility for maintaining their homes.
- The Council does recognise that the private sector housing stock is a major local asset. For this reason the Council will seek to offer assistance as a form of investment for long-term public benefit as well as to directly assist vulnerable groups to remain in their own homes.
- The current legislation gives the Council the opportunity to develop a framework for providing housing assistance for homeowners to improve or repair living accommodation.
- The total amount of assistance that can be offered is directly related to the levels of funding that are available. The Council will work to ensure that it levers in the maximum amount of finance from all sectors to make the best improvement in private sector housing conditions that it can. To this end the Housing Renewal Policy will be reviewed regularly to report on and reflect the kind of funding that is available.
- Within the High Peak, there are no large-scale areas of housing disrepair. Properties in poor repair tend to be scattered around the district, either individually or in small pockets. The Government's current criteria for identifying renewal areas are prohibitive in terms of the Council being able to target grant aid through 'group repairs' and other improvement approaches. A Policy that is based on large-scale area renewal approach is therefore inappropriate.
- The Council is committed to the collection of housing data through the commissioning of local house condition surveys from time-to-time. The most recent inspection-based survey was completed in 2009, and highlighted the following principle issues that provided a background for the policy:
  - A significant number of vacant properties.
  - A significant number of residents requiring adaptations to their homes.
  - There are no areas of concentration of non-decent housing in the borough.

A recent partnership between the Derbyshire Local Authorities and Derby City Council resulted in a desktop Stock Condition Survey for High Peak which reported in 2019. The principal findings are shown in the following tables;

### Type and Tenure of Homes in High Peak



### Age of Homes in High Peak



### Cost to Improve Homes



The median cost per property to bring it up to meet the decent homes standard is

**£3,894**

The total cost to bring every private sector home in High Peak up to the decent homes standard would be

**£43.1 million**

### Living in a Non Decent Home



Approx. **3 in 10** families living in the private sector in High Peak are living in a non decent home

**11,070**

Homes in High Peak do not meet the decent homes standard.



### Cold and Damp Homes

**2,830**

Approximately 2,830 private sector homes in High Peak have a HHSRS category 1 hazard for cold and or damp.



Increased risk of respiratory diseases, including Asthma and Chronic Obstructive Pulmonary Disease (COPD)



Negative impact on circulatory disease which can lead to increased risk of heart attack and stroke.



Living in a cold home can have a significant impact on mental health. People may also become socially isolated



Children living in cold homes are more susceptible to respiratory conditions and are more likely to have poor mental health.



### Trips and Falls in the Home

**4,993**

Approximately 4,993 private sector homes in High Peak have a HHSRS category 1 hazard for falls in the home



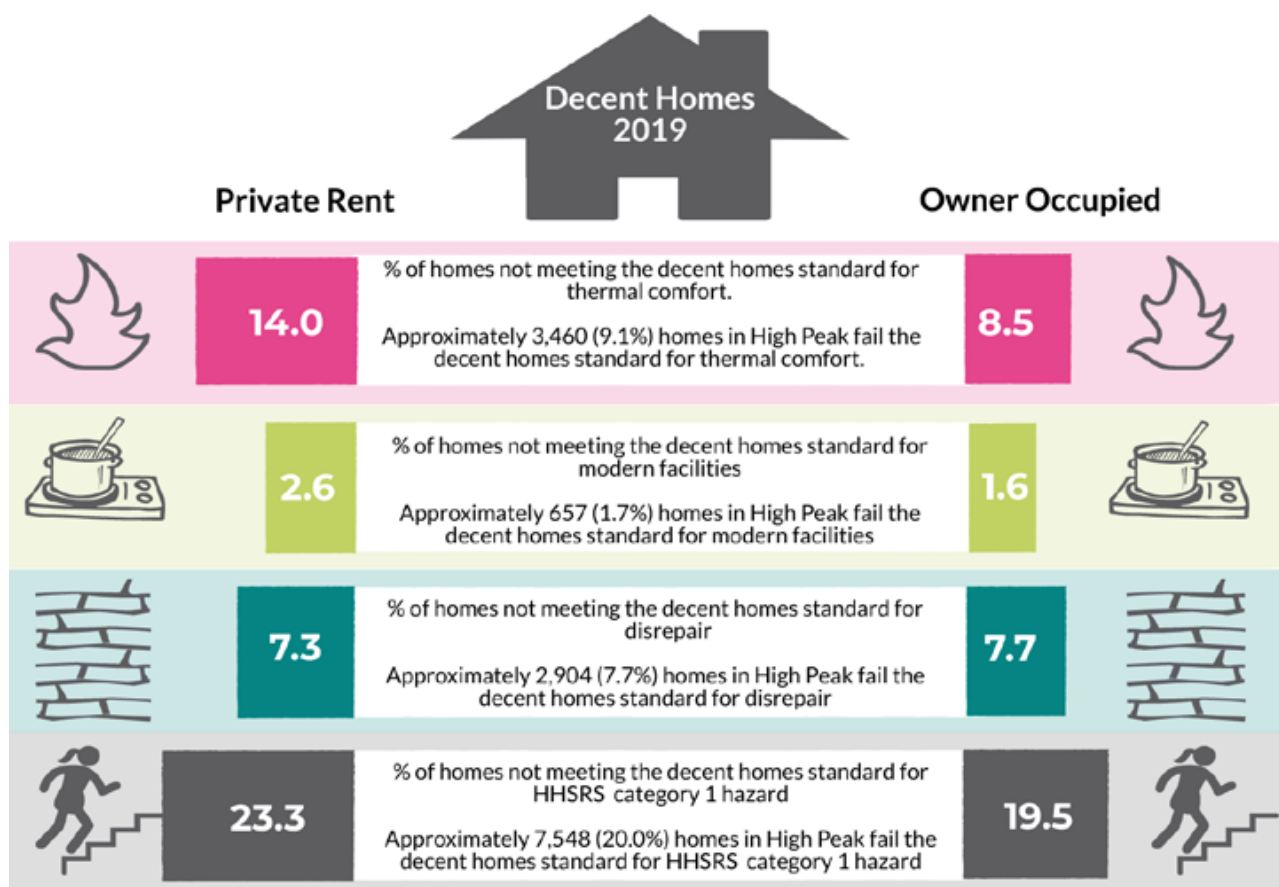
Unaddressed falls in the home are estimated to cost the NHS £435 million annually.



Older people are most vulnerable to accidents in the home. 30% of people age 65+ and 50% of people aged 80+ fall at least ones per year.



Everyday 45 children in England are admitted to hospital following a fall. Children are most at risk from falls between level for example a fall from a window or balcony.



To complement and inform the local housing data, information from the English Housing Surveys covering the national housing picture is also taken into account to provide context.

The most recent English Housing Survey was conducted in 2019-20 and the headline report shows the following trends in private and social sector housing;

- While owner occupation rates did not increase between 2018-19 and 2019-20, rates are up from 2016-17.
- The proportion of households in the private rented sector has decreased since 2016-17 but did not change between 2018-19 and 2019-20. In 2019-20, the private rented sector accounted for 4.4 million or 19% of households in England, unchanged from 2018-19, but lower than in 2016-17 (20%). This is largely explained by a decrease in the proportion of households in the private rented sector from its peak of 19% in 2016-17 to 17% in 2019-20.
- The proportion of households in the social rented sector has not changed for more than a decade.
- Overcrowding remains at the highest rate seen in the social rented sector and has reached its highest level in the private rented sector. In 2019-20, 9% of social renters and 7% of private renters lived in overcrowded accommodation. Overcrowding is less prevalent among owner occupiers, 1% of whom live in overcrowded accommodation.

- Over the last 20 years, under-occupation – i.e. having two or more spare bedrooms – increased for owner occupiers and declined for renters. However, under-occupation has increased in the social rented sector in recent years.
- In general, social renters have lower levels of well-being and are more likely to be lonely than home owners and private renters.
- On average, owner occupied homes are larger and are more likely to have outside space than rented homes.
- There remains a lower proportion of non-decent homes in the social sector than in the private rented and owner occupied sectors.
- Over the last decade, the proportion of homes with HHSRS Category 1 hazards has declined across all tenures. In 2019, 10% of the housing stock had a HHSRS Category 1 hazard, down from 21% in 2009. Such hazards are more prevalent in the private rented sector (13%) than the owner occupied (10%) or social rented sectors (5%).
- The energy efficiency of the English housing stock has continued to improve. In 2019, the average SAP rating of English dwellings was 65 points, up from 63 points in 2009. This was evident in all tenures apart from local authority dwellings, where there was no significant increase.

On this basis our current priorities for the deployment of assistance have been devised as follows:

### **5.1 Property-based priorities**

There will be some particular property types where specific assistance may need to be directed because of their particular characteristics. Examples of these are (but not exclusively) the properties set out below:-

- Certain system-built properties;
- Privately owned properties situated within social housing estates;
- Empty residential or commercial properties;
- Accommodation above shops where conversion would provide residential accommodation.

### **5.2 Tenure-based priorities**

Within the overarching area-based priority system, the priority tenure for any financial assistance will in the main be the owner-occupier. This is because other tenures have other sources of funding, and private landlords would generally be expected to invest in their properties from their own resources. Exceptions to this, subject to resources, would be properties in areas defined in need of significant help through refurbishment where the priority would be to improve whole blocks of properties, irrespective of tenure.

Additionally, subject to resources, as part of a programme to enforce good standards of landlord practice, assistance may be available in certain circumstances to encourage landlords to carry out improvements to upgrade the heating, security and fire safety of their properties. Also specific assistance may be directed toward improving the quality of privately rented accommodation by encouraging the conversion of bed-sit accommodation into self-contained flats.

### **5.3 Needs-based priorities**

Irrespective of area-based priorities, there will always be a need to ensure that the most vulnerable households are living in safe accommodation. The Policy therefore includes for the potential provision of limited repairs for those who are unable to carry out essential work to their homes, assistance for those in need of disabled facilities, work to facilitate hospital discharge and provision of additional thermal comfort.

Disabled Facilities Grants will continue to be provided to adapt the homes of disabled people so that their needs are met. Typical works include the installation of stair lifts and bathroom adaptations. The Council works closely with our partner agencies in the public and private sector in order to ensure that the best possible service is offered. Full details are provided in Appendix A.

The priorities for assistance set out in this Policy have been informed by previous renewal approaches. It must be noted that there is no obligation on the Council to provide any capital funding for assistance outside of the mandatory DFG process, and so all references to financial assistance are dependent on the availability of resources and any assistance is at the discretion of the local authority.

In addition to the priorities relating to capital assistance, the Council has also set several enforcement priorities in order to balance private sector growth with decent standards of accommodation for tenants and other householders.

### **5.4 Addressing Category 1 Hazards**

The Housing Act 2004 changed the way in which local authorities enforce housing standards. The long-established fitness standard was replaced by a system called the Housing Health and Safety Rating System (HHSRS). Under this system any housing defects have to be considered in relation to 29 separate hazards and a process undertaken to determine how likely the hazards are to result in harm. A score is allocated and action may be taken depending upon which category the hazard falls into. Some form of enforcement action must be taken for category 1 hazards, whereas enforcement action is discretionary for category 2 hazards.

High Peak Borough Council will use the full range of enforcement tools to ensure that hazards are remedied in the most appropriate manner, in line with the specific private sector housing enforcement policy set out in Appendix C.

### **5.5 Empty Properties**

Empty properties often attract vandalism, crime, and rubbish dumping and can easily become detrimental to the amenity of an area. They are also a waste of valuable housing accommodation. Within the District there are approximately 300 long-term empty properties going to waste every year (long-term is defined as empty for more than 6 consecutive months). Their re-use can reduce pressure for development on Greenfield

sites and contribute towards sustainable development. In order to deal with these issues as effectively as possible, the Council will assess all reported empty properties to determine the type of intervention that would be appropriate, and where enforcement action is required will use the full range of enforcement tools to try and secure the re-use of empty property, including the provision of advice, the use of Empty Dwelling Management Orders and, where appropriate, the use of compulsory purchase powers. All activities will be informed by the Council's Empty Property Strategy 2017.

### **5.6 Dealing with local Housing issues such as Radon**

Radon in housing is a particular problem in the High Peak with much of the southern part of the District being declared a radon affected area, meaning that 20% or more of properties can be expected to have radon levels above the action level of 200Bq/m<sup>3</sup>. In some of these areas more than 40% of properties are affected in this way. New radon maps have also highlighted potential radon issues scattered throughout the High Peak.

Whilst a large number of properties have been tested for radon it has proved difficult to persuade householders to carry out remedial works to proof their properties against the gas. The Council will use a combination of advice and enforcement powers in order to encourage householders to undertake these works where there is an identifiable health risk to occupants, particularly those living in long term rented accommodation.

### **5.7 Enabling Decent Homes for Vulnerable Households**

The Decent Homes Standard was an aspirational standard originally introduced to assist local authorities and registered social landlords in targeting resources in respect of their own stocks. A target was set to ensure that all social housing met the Standard by 2010. This target was extended in 2002 to include the aim of increasing the proportion of private housing in decent condition occupied by vulnerable groups. In this case a vulnerable household is defined as one that is in receipt of one or more of the principal means-tested or disability related benefits.

In 2009, the Council's Stock Condition Survey found that over 80% of private homes in the borough met the decent homes target, and the Decent Homes Grant scheme had made a significant contribution based on the previous Stock Condition Survey findings in 2003 that only 63% of private homes in the High Peak met the standard. As a result of using government grant funding to target non-decent vulnerable housing between 2009 - 2010 the Government's target that 70% of vulnerable households in the private sector should live in decent housing by 2010 was met.

The English Housing Survey 2019-20 shows that in 2019, 17% or 4.1 million homes failed to meet the Decent Homes Standard, down from 30% or 6.7 million homes in 2009. Private rented dwellings had the highest proportion of non-decent homes (23%) while the social rented sector had the lowest (12%). Among owner occupied homes, 16% failed to meet the Decent Homes Standard in 2019.

The High Peak Stock Condition Survey 2019 showed that in High Peak the number of private sector homes not meeting the Decent Homes Standard is estimated to be approximately 11,070 (29.3% of all private sector homes). This is greater than the national figure but suggests that on average, High Peak homes still achieve an overall level of decency in over 70% of the private sector stock. However, this means that levels of non-decency in the High Peak have increased in the last decade and that around 30% of



households still live in non-decent housing, and this will include significant number of vulnerable households in both privately owned and privately rented accommodation.

The distribution of non-decent homes throughout the district, as might be expected is not uniform, instead being more concentrated in the wards of Limestone Peak (43.1%), Sett (39.6%), St John's (39.4%) and Buxton Central (38.8%). This are also the wards with the greatest proportion of older homes built before 1918, and this is in large part the reason for the increase in non-decency – older, harder to heat homes with increasing elements of disrepair over time.

In order to meet the Decent Homes Standard a property must:

- Be free of Category 1 Hazards under the Housing Health and Safety Rating System
- Be in a reasonable state of repair;
- Have reasonably modern facilities and services;
- Provide a reasonable degree of thermal comfort.

A mixture of tools will be used to meet this priority. Enforcement action will be used in accordance with the Housing Enforcement Policy to remedy any category 1 hazards found under the HHSRS. Enforcement action will also be considered where category 2 hazards are found, depending on the individual circumstances of the case.

The Council will also use any available housing assistance resources to remedy the private sector homes of vulnerable households that do not meet the Decent Homes Standard. In the main it is expected that this will be by remedying items of disrepair, although financial assistance may also be made available to help householders whose homes contain category 1 hazards under the HHSRS. It must be noted that there is no obligation on the Council to provide any capital funding for home repair assistance and so all references to financial assistance are dependent on the availability of resources and any assistance is at the discretion of the local authority.

This Policy sets out the mechanisms by which the Council will achieve these priorities and outlines the general procedures to be followed. The detailed procedures and conditions are contained in the appendices to this Policy. In this way it will be easier to add, amend and remove mechanisms as they are developed or taken out of use.

In addition the Council will respond to other local housing problems as appropriate and amend this Policy to ensure that its actions are effective in tackling them as they emerge.

## **6.0 REVIEWING THE POLICY**

- This Policy will be reviewed formally every five years to ensure that it remains responsive to local needs and makes best use of any funding that might become available. However, the Policy is a 'live' document and it is intended that the mechanisms by which the Council offers assistance will be under development throughout the life of the Policy. The modular nature of the appendices will enable the removal and addition of ways of offering assistance as new mechanisms become available and are tested and as such revisions may be made at any time, subject to consultation and publication.

## 7.0 HOUSING INTERVENTIONS AND INITIATIVES

### GRANT ASSISTANCE

#### DISABLED FACILITIES GRANT

- Disabled Facilities Grants (DFGs) are available to assist with the cost of adaptations for disabled people residing in private sector housing and those resident within Housing Association/Registered Social Landlord property. In the main, the grants are a mandatory entitlement and their administration requires a joint approach between the Council, Derbyshire County Council's Adult Care and Children's Services and Disability and Design Team. Full details are given in Appendix A.
- High Peak Borough Council maintains its own Housing Stock, and so adaptations for tenants of council-owned properties are funded from a different local authority capital programme. Government regulation of the mandatory disabled facilities grant fund does not permit local authorities to use the government's mandatory funding to adapt their own properties.
- The level of grant aid provided and the scale of adaptation works undertaken vary widely from case to case. Typically, grant aid can range from as little as £1000 for works such as the provision of ramped access to external entrances to a maximum of £35,000 for building extensions or making major changes to bathrooms and bedrooms.

#### Current Position

- The Council has benefited from a growth in the allocation of funding from the Better Care Fund for DFGs over recent years. In the last 5 years, the High Peak funding allocation has almost doubled.
- The steady increase in the funding available has meant that the Council has been able to respond very quickly once Social Services' assessments are in place, and customers have expressed a high degree of satisfaction with all aspects of the service received. This has also been confirmed by our service provider's Best Value Surveys of customers receiving adaptations to their homes. Within High Peak the private sector adaptations programme is managed such that there is currently no waiting list for adult applicants once a full application is submitted to the Council for approval. Children's cases, however, are often significantly more complex and the County Council are experiencing a backlog of cases as a result.
- In 2020/21, we helped 39 people to remain living independently in their own homes through the provision of DFGs.
- In early 2022, the Council will introduce a suite of discretionary adaptation grant options to complement its work in providing mandatory DFG's. In partnership with its supporting agencies the Council will pursue the extension of adaptation funding to a much wider section of the disabled community, including community-run premises that work to assist and support those living with disability. Details of the discretionary grant options are given in Appendix A.

#### DECENT HOMES

Decent Homes Grants were originally introduced in 2006 with central government funding, and were intended to assist specified groups of vulnerable householders in the private sector to maintain their homes in line with the Decent Homes Standard. They were used to ensure that homes do not contain category 1 hazards, are in a reasonable state of repair and contain reasonably modern facilities and services.

In 2009, the Council's Stock Condition Survey found that just under 80% of private homes in the borough met the decent homes target, and the Decent Homes Grant scheme had made a significant contribution based on the previous Stock Condition Survey findings in 2003 that only 63% of private homes in the High Peak met the standard. The Government concluded the Decent Homes programme in 2010, and as a consequence the High Peak Scheme was closed.

The Council continues to take an interest in the condition of its private sector stock, and the Decent Homes Standard is still an aspirational standard. It is unlikely that the government will introduce further funding for grants aimed at improving properties given that no funding has been made available for the last 10 years, and so the Decent Homes Grant option has been removed from this version of the Housing Renewal Policy.

## HOME REPAIRS ASSISTANCE GRANT

The aim of this type of assistance is to ensure that the most vulnerable householders living in the worst conditions receive help to ensure that their homes are safe to live in.

Examples of qualifying works are as follows:

- General items of essential repair;
- Replacement of lead water pipes;
- Radon remedial works;
- Energy efficiency works (see below).

Grants are offered subject to the availability of funding and resources, and at the discretion of the Council. Full details of the grant, eligibility and conditions are given at Appendix B

## HOUSING RENEWAL

### SLUM CLEARANCE (INCLUDING DEMOLITION AND CLOSING ORDERS)

- In exceptional circumstances it may be necessary to take enforcement action. In such circumstances the Council must have regard to the provisions of the Housing Act 1985 and the Housing Act 2004 in deciding whether the most satisfactory course of action in respect of premises that have been identified as unsuitable for human habitation is:
- **Closure** – making of a Prohibition order in accordance with section 20 of the Housing Act 2004: or
- **Demolition** – making of a demolition order in accordance with subsection (1) or (2) of Section 265 of the Housing Act 1985 as amended by the Housing Act 2004

- **Clearance** – the declaration of the area in which the premises are situated to be a clearance area in accordance with Section 289 of the Housing Act 1985 as amended by the Housing Act 2004

## **RENEWAL AREAS**

- The Government's current criteria for declaring renewal areas have been prohibitive in terms of the Council being able to target grant aid through group repair and other area improvement approaches.
- The High Peak does not suffer from well-defined, large-scale areas of housing disrepair. Properties in poor repair tend to be scattered around the district, either individually or in small pockets. For this reason it is difficult to adopt a Policy that is based on a large-scale area renewal approach (which is not to say that small 'group repair' schemes would not be appropriate in certain circumstances). The Council is committed to the collection of housing data through the commissioning of local house condition surveys from time-to-time. The last local inspection-based survey was completed in 2009 and the most up to date Housing data is provided by the desktop Stock Condition Survey for High Peak in 2019 and the English Housing Survey last completed in 2019-20 This Policy has been reviewed in light of the findings of all such surveys, particularly in relation to the absence of an area-based approach.

**Within the private rented sector, where the co-operation of landlords is not forthcoming, it may be necessary to take appropriate enforcement action under Part 1 of the Housing Act 2004, in accordance with the provisions of the HHSRS and the Enforcement Policy set out in Appendix C of this document.**

## **PRIVATE SECTOR HOUSING ASSISTANCE AND INITIATIVES**

### **1. Home Improvement Agency Service**

The Council works with Derbyshire County Council and Metropolitan Care and Repair to provide a comprehensive advice and assistance service to low income families, elderly and disabled people who wish to undertake improvements to their homes or who require adaptations to their homes to maintain their independence.

As part of the Service, staff can:

- Visit people in their own homes.
- Listen to the problems they have concerning their homes.
- Advise on options to address those problems.
- Check people's entitlement to social security benefits.
- Seek out any available finance to pay for any building works.
- Help find reliable, tried and tested builders.
- Oversee the building work from start to finish to ensure that it is of a good standard.
- Provide practical and moral support to the householder throughout the process.
- Liaise with other professionals, e.g. occupational therapists, building control officers, health and social workers.

The partnership helps to maintain people's quality of life, and through enabling people to remain living in their own home for longer, it also helps reduce costs and pressures on the National Health Service and Social Services Departments.

**High Peak Borough Council will continue to explore new and better ways of working as opportunities present themselves during the operational period of this Policy.**

### **2. Houses in Multiple Occupation (HMO)**

- There are estimated to be around 4,500 households living in the private rented sector in High Peak and approximately 290 properties classed as Houses in Multiple Occupation (HMOs). Since the mandatory HMO Licensing requirements came into force in 2006, the Council has licensed a total of 65 HMO's under the provisions of the Housing Act 2004.
- Through its Environmental Health Service, High Peak Borough Council operates a statutory licensing scheme for houses in multiple occupation (HMOs), in accordance with Part 2 of the Housing Act 2004. At present only those HMOs that require mandatory licensing are covered by the scheme, for which a fee is payable.

The categories of HMO covered by mandatory licensing are those:

- Occupied by 5 or more persons forming more than one household AND

- With shared facilities such as bathrooms, WCs or kitchens.
- Details of all known HMOs are held on a Council database and scored on the basis of actual and perceived risks to tenants. The latter determines the frequency of inspection. All active HMOs are subject to regular systematic checks on a rolling programme. One-off inspections are also undertaken pursuant to the receipt of representations from landlords, tenants or neighbours.
- The Housing Act 2004 also introduced two other forms of licensing for private sector rented accommodation;
  - Additional Licensing – the introduction of licensing for all HMO's within the Borough that fall outside the criteria for mandatory licensing, and
  - Selective Licensing – the introduction of licensing for all types of private rented accommodation in the Borough, or in a specified area of the Borough, based on criteria around low housing demand or anti-social behaviour.

The Council has identified and inspected most HMO's in the District, and is satisfied that sufficient existing controls are available to monitor these types of property without the need for additional licensing.

In terms of Selective Licensing, the Council will work with its internal and external partners to identify any areas within the District that might be blighted by low housing demand or anti-social behaviour, and to put forward for consideration by Councillors any targeted scheme of Selective Licensing that will address the issues identified. As part of its statutory obligations, any proposed scheme of Selective Licensing will be published locally and all potentially affected parties will be consulted.

### **3. Student Accommodation**

- The University of Derby and Leek College Campus operate their own voluntary Student Landlord Accreditation Scheme. Landlords letting to students sign up to a set of standards that provide good quality, safe and secure accommodation for the residential student population.

### **4. Landlord Accreditation**

- The Council until recently operated a free-to-join self-assessment Landlord Accreditation Scheme (whereby landlords assess their properties against a range of conditions and management criteria). The trigger for this was the sudden increase in HMO provision for students, and the Scheme was initially developed in partnership with the University of Derby and then subsequently rolled out to all private landlords. In 2018, the University of Derby developed their own Accreditation Scheme in association with Derby City Council, and as a result all of the student landlords operating HMO's decanted to the University Scheme.
- Despite significant publicity and the establishment of a dedicated grant to help landlords improve their properties, the Scheme thereafter attracted little interest from other private landlords and all but 6 of the remaining accredited landlords dropped out of the local Scheme, which made the on-going maintenance of the Scheme untenable. The decision was taken at Community Select Committee in September 2019 to

discontinue the local Scheme and the funding was withdrawn. High Peak landlords are now directed to the East Midlands Landlord Accreditation Scheme

## 5. Landlords Forum

- In order to overcome potential problems, it is desirable that all interested parties – Council officers (Environmental Health, Housing, Benefits, Planning, Conservation, Building Control), the Fire Service and Police, as well as landlords and private sector tenant groups – meet regularly as a Landlords Forum.
- Initially, there might be some benefit in operating the Forum in partnership with Staffordshire Moorlands District Council. Such a move makes sense in terms of exploring initial levels of interest amongst landlords, and from a perspective of inter-authority working. It is also more cost-effective. There has been some success in running an occasional joint Housing Benefit forum across the two Councils, and it may be that Housing Benefits and Environmental Health can together offer an interesting programme that might attract local landlords. The use of virtual technology has shown to make a positive contribution to landlord access to local authority meetings, and we will continue to use this technology to expand the means of access to Council services.
- It is also essential that every effort be made to engage rural landlords in any Forum, i.e. farmers and country landowners. In this regard, the Council intends to work closely with any Rural Housing Enabler operating in Derbyshire.

## 6. Empty Properties

- The problem of empty properties is not unique to High Peak. It is a national problem. In areas of high housing demand they are a waste, they deny people a home and increase development pressure on edge of town and greenfield sites. In areas of low demand, they create areas of dereliction and decay, attracting crime and anti-social behaviour and devaluing surrounding properties.
- The Government no longer require Councils to report on empty properties brought back into use, and the Council does not employ a dedicated Empty Property Officer, but to support its work in this area, the Council undertake to:
  - Assess the impact of reported empty properties on the local community, and take commensurate action to monitor the condition, require improvements or bring the property back into use.
  - Link activity to the Council's [Empty Property Strategy 2017 \[490KB\]](#) and the work of the Empty Property Steering Group.
  - Enable and encourage Registered Social Landlords to acquire and repair empty properties for letting at affordable rents. The Council also works with enablers such as Epic Housing Association to develop purchase and repair schemes to acquire, improve and subsequently rent or sell empty properties.
  - Work with Parish Councils and the Rural Housing Enabler to identify empty properties in rural towns and villages. This is intended to counter the impact that just one or two empty properties can have on the look and feel of a small, rural village.



- To provide assistance when available to homeowners, private developers and landlords, in line with this policy.
- To add value to conservation-led initiatives.

## HOME Energy Efficiency and AFFORDABLE WARMTH

- It was estimated in the 2009 Stock Condition Survey that only 9% of High Peak residents were living in fuel poverty. Fuel Poverty is where a household spends more than 10% of its income on fuel. The 2019 Survey indicated that this number had fallen slightly, to 8.5%
- High Peak dwellings have an average SAP rating of 54. SAP (Standard Assessment Procedure) is a calculation based on the analysis of various energy parameters to give a rating on the energy efficiency of a dwelling. This performs well against the national average SAP rating of 65 as given in the English Housing Survey 2019.
- 30.4% of all homes in High Peak have an EPC (Energy Performance Certificate) rating of E, F or G. This compares to 20.4% of all homes in England who have an EPC below band E (but note that this national figure does not include Band E premises, so comparative analysis is difficult). In 2017 34.1% of all fuel poor families nationally were living in a home with an EPC band of E, F or G.
- The energy efficiency of the English housing stock overall continues to improve. The English Housing Survey 2019-20 shows that In 2019, the average SAP rating of English dwellings was 65 points, up from 45 points in 1996. This longer term upward trend was evident in all tenures. The average SAP rating of English dwellings increased from 63 in 2018 to 65 in 2019. This was evident in all tenures apart from local authority dwellings where there was no significant increase.
- The proportion of dwellings in the highest SAP energy efficiency rating (EER) bands A to C increased considerably between 2009 and 2019, from 12% to 40%. Over the same period, the proportion of dwellings in the lowest F and G bands fell from 12% to 3%. In 2019, the majority of dwellings (85%) were in EER bands C or D, compared with 56% in 2009.

An Energy Performance Certificate (EPC) rating is a review of a dwelling's energy efficiency, rated from A to G with A representing the best performance. To ensure that homes provide a reasonable level of energy efficiency and thermal comfort for tenants. The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015

came into force on 1st October 2016, and applies to domestic private rented property, and to non-domestic private rented property (that is property which is let under a tenancy and is not a dwelling). It prescribes a minimum level of energy efficiency for private rented properties: that is, an energy performance indicator (evidenced on the energy performance certificate for the property) of band E. The main aim is to improve the standard of energy efficiency and performance in the PRS. The requirement has applied since April 2018 to new tenancies and since April 2020 has applied to all privately rented properties (including existing tenancies where there has been no change in tenancy arrangements).

Landlords of F & G rated homes are required to invest in improving energy performance to EPC Band E, with investment requirement capped at up to £3500 inc VAT. A limited

number of temporary exemptions for properties with EPC ratings of F or G exist to protect landlords, where it is not technically advisable or financially feasible to bring a property to EPC Band E. Exemptions must be registered on a self-certification basis on the PRS Exemptions Register and may be valid for a period of up to 5 years.

The PRS accounts for a disproportionate number of fuel poor households (18% of PRS households are in fuel poverty, compared to 8% of owner-occupied households and 9% of social housing households). The government introduced the Fuel Poverty (England) Regulations 2014 target requiring as many fuel poor homes as reasonably practicable achieve a minimum energy efficiency rating of Band C by the end of 2030. The 2015 Fuel Poverty Strategy also set out interim targets of raising as many fuel poor homes as reasonably practicable to Band E by 2020, and as many fuel poor homes as is reasonably practicable to Band D by 2025.

Improving energy performance measures in the PRS, such as insulation and low carbon heating, delivers a wide range of benefits. As well as reducing emissions from homes, energy performance is an investment in health and well-being. By contrast uninsulated homes, with excess cold, damp and mould have higher direct costs in relation to emissions, energy bills, health and NHS treatments. In order to contribute to the Council's Climate Change agenda, targeted advice and enforcement based on information resources such as the Landmark Register of EPC's will be carried out in order to seek out low performance homes and encourage or require improvements. Energy efficiency measures will also be a feature of all private sector housing inspection and enforcement visits.

Recent Department for Business, Energy and Industry (BEIS) consultation sets out several policy proposals to improve the energy performance of private rented homes. Key elements are:

- Raise the minimum energy efficiency standard to EPC Band C for new tenancies from 2025 and all tenancies from 2028; relevant spend counted from 2023
- Raise the maximum spend cap to £10,000 (or to £15,000 in a more stretching low cost + low carbon option)
- Encouraging compliance: only advertise and let compliant properties; raising fines for offences; introducing a property compliance and exemptions database
- Assisting enforcement: enabling authorities to inspect properties; increasing the maximum penalty per property, and per breach, to £30,000; giving tenants more powers.

The Alliance authorities have declared climate emergencies and Corporate Plans (2020) pledge to work to achieve carbon neutrality by 2030. and HPBC Climate Change working group have developed work programmes, and a Climate Change Strategy and Action Plan is being formulated.

The Council has appointed a specialist Officer dedicated to the climate change and sustainability agenda. Partnership work and Government supported initiatives can also offer assistance with specific projects, access to technical expertise and cost savings. HPBC are part of the Derbyshire and Nottinghamshire wide 'Local Authorities Energy Partnership' (LAEP).

The Council secures access to free and impartial affordable warmth energy advice services for residents, and inward investment, through established organisations. DCC Healthy Homes provide services for High Peak. This project (working with GPs, social services, hospital discharge teams, care coordinators), provides targeted assistance to High Peak residents in fuel poverty living with long term health conditions (cardiovascular disease; respiratory failure; mobility issues; mental health problems and people with suppressed immune systems) made worse by living in a cold home. These residents are at a significantly higher risk of illness and death as a result of cold weather than the rest of the population and place a significant burden on the NHS and Adult Care.

**The Green Homes Grant (GHG) voucher scheme launched 31st Sept 2020, offered homeowners and landlords vouchers to fund at least two thirds of the cost of hiring tradespeople to upgrade the energy performance of their homes up to a contribution of £5,000, recently scrapped amid administrative problems. However the government is instead allocating funding to local authorities with continuation of the Green Homes Grant (GHG) Local Authority Delivery (LAD) scheme. In GHG LAD Phase 2, funding has been ring fenced for each authority to retrofit domestic properties at scale and speed.**

## 8.0 ENFORCEMENT

The Housing Act 2004 introduced the new statutory system for the assessment of housing conditions called the Housing Health and Safety Rating System. This system works by assigning housing defects to one or more of 29 separate hazards and by then assigning scores to the hazards based on the risks they present to the potential occupants of the house. These scores are then divided them into categories 1 and 2.

Where a hazard falls into category 1 the Council has a duty to take some form of enforcement action and where it falls into category 2 the Council may take enforcement action at its discretion. In circumstances where the property presents Category 2 hazards alone, emergency measures cannot be used and authorities cannot make demolition orders or declare clearance areas.

The actions available to the Council are:

- Improvement Notice;
- Prohibition Order;
- Hazard Awareness Notice;
- Emergency Remedial Action\*;
- Emergency Prohibition Order\*;
- Demolition Order\*;
- Clearance Area\*.

(\* not available where a property contains category 2 hazards only).

**High Peak Borough Council is committed to dealing with housing hazards within its area and intends to use the whole range of enforcement options where appropriate. In the main it is expected that enforcement action will be centred on the private rented sector. All decisions on enforcement action will be taken in accordance with the Private Sector Housing Enforcement Policy shown in Appendix C.**

## 9.0 ADVICE

High Peak Borough Council offers a comprehensive range of advice through its Environmental Health Service and other partners.

The Environmental Health Service offers advice on private sector renewal (that is: grants and enforcement in the private sector).

The Housing Advice service offers housing and homelessness advice and assistance. The authority is committed to homelessness prevention at the earliest opportunity.

In partnership with Derby City Council, a free of charge 'Call B4 You Serve' service has been commissioned specifically to support landlords. The dedicated service is available to help and assist landlords, and resolve difficulties they may experience with tenants so they do not need to serve a notice.

Email: [CB4YS@derby.gov.uk](mailto:CB4YS@derby.gov.uk) Tel: 01332 641408

For more information, visit

<https://www.highpeak.gov.uk/article/4400/Private-rented-homes>

The Council is committed to working with landlords and tenants to maintain and improve housing standards in the private rented sector, including houses in multiple occupation, and will take reasonable steps to consult with landlords and tenants on housing initiatives and policies.

The Environmental Health Service maintains a website section relating to all aspects of the Private Sector Housing service. It is intended that all internet-capable residents and landlords will be able to access all the information they need online, to enable quicker access to services and a faster response to enquiries. The information can be accessed at the Council's website, [www.highpeak.gov.uk](http://www.highpeak.gov.uk). The site also contains advice and web site links on matters relating to energy efficiency and fuel poverty, trusted traders, care and repair etc.

## 10.0 COMMENTS AND COMPLAINTS ABOUT THE POLICY

- The Council welcomes any comments, complaints, queries or suggestions about this Policy. Any such matters should be made in writing to the following address:

Head of Regulatory Services, Environmental Health Service, High Peak Borough Council, Market Place, Buxton, High Peak, SK17 6EL

You can also contact us via:

Telephone: 01298 28400 / 0345 129 7777

Or on-line at: <https://www.highpeak.gov.uk/article/906/Feedback>

The Council's comments, compliments and complaints procedure can also be accessed online, by selecting the following link:

<https://www.highpeak.gov.uk/article/907/Complaints-procedure>

All comments will be carefully considered and will receive a reply. Where appropriate the Council may contact the complainant to discuss the views expressed.

## 11.0 APPEALS

- Appeals about how the Policy is operated in individual cases will be considered initially by a Review Panel consisting of three elected members. The purpose of the panel is to ensure consistency of decisions and to provide a forum for the consideration of the merits of each individual appeal.
- Appeals must be set out in writing and must include the specific grounds on which the appeal is based. Appeals will only be considered on the following grounds:
  - That the Policy has been incorrectly applied in the case in question; or
  - That the case in question is exceptional in some way that justifies an exception to the general policy.
  - Appeals will not be considered on the grounds that the appellant disagrees with the Policy. Any such comments should be dealt with in accordance with the Comments, Complaints and Compliments Procedure.
  - A written response will be given in all cases where an appeal is heard. The reasons for the decision reached by the Review panel will be fully explained in the written response.
  - **All appeals will be carefully reviewed to ensure that any lessons that are learned are incorporated into this Policy.**

## APPENDIX A :

### DISABLED FACILITIES GRANTS

#### MANDATORY DISABLED FACILITIES GRANTS

Mandatory Disabled Facilities Grants (DFG's) are provided under the terms of the Housing Grants, Construction and Regeneration Act 1996, to adapt the homes of eligible disabled people to meet their needs. The need for the adaptation is determined by an occupational therapist (OT). Applications for grant will only be considered following a recommendation from an OT. All such applications will be assessed by the Council's service provider, to ensure that the work is necessary and appropriate.

#### Purpose of Disabled Facilities Grants

The main purpose of disabled facilities grants is to adapt the dwellings of disabled people so that it is possible for them to continue to live safely and independently in their homes. This may mean enabling disabled people to be more able to care for themselves or making it easier for carers to look after disabled people.

*The Good Practice Guide ('Home Adaptations for Disabled People – A Detailed Guide to related Legislation, Guidance and Good Practice' Home Adaptations Consortium/Care and Repair England 2015)* specifies the types of works that fall into the scheme as follows:

- **Facilitating access and provision** – these include works to remove or overcome any obstacles that prevent a disabled person moving freely into and around the dwelling and enjoying its use. The presumption is that a disabled person should have reasonable access into and out of their home, to its main habitable rooms including the principal family room, and to the bathroom or shower room. Grants for stair lifts are given under this section;
- **Making a dwelling or building safe** – It is considered inappropriate to be prescriptive on the particular works that might be carried out under this section, as the specification will depend on circumstances. However, they may include improving a lighting system, providing an enhanced alarm system or adapting the dwelling to minimise the risk of danger where a disabled person has behavioural problems which occasionally cause the person to act in a boisterous or violent manner damaging the dwelling, resulting in self harm or harm to other people;
- **Room usable for sleeping** – the provision of a room usable for sleeping may be considered if the adaptation of an existing room or the access to that room is unsuitable;
- **Bathroom** – a disabled person should have access to a wash-hand basin, a WC and a shower or a bath (or if appropriate, a shower and a bath). This section may be used to provide these facilities and/or to facilitate their use;
- **Preparation and cooking of food** – this section allows the Council to offer disabled facilities grant to adapt kitchens to enable a disabled person to cater independently. It should be noted that where most of the cooking and preparation is done by another family member it will not normally be appropriate to carry out full adaptation of the kitchen;



- **Heating, lighting and power** – this section provides for the provision or improvement of a heating system to meet a disabled person's needs. Heating will not normally be provided in rooms that the disabled person does not use and the installation of a full central heating system should only be considered where the well-being and mobility of the disabled person would otherwise be affected. In addition this section allows for the adaptation of heating, lighting and power controls to make them suitable for use by a disabled person;
- **Dependent residents** – disabled facilities grant may be given for works to enable a disabled occupant better access and movement around the dwelling in order to care for another person who normally resides there;
- **Common parts** – disabled facilities grant may be given for works to facilitate access to a dwelling through the common parts of a building.
- **Access to gardens and outside areas** – disabled facilities grant may be given to provide for access to a garden or outside area (adjacent to the persons main living accommodation).

## Eligibility

- In all cases DFG's are available subject to Capital resource allocations. Whilst an eligible client cannot be refused mandatory grant assistance on the grounds of a lack of funding, the Council may defer an approval for up to 6 months following the receipt of a completed application, or may defer payment of grant funding for a period of up to 12 months.
- In all cases it is necessary that the works specified in a disabled facilities grant scheme will meet the needs of the disabled person. For this reason it is essential that close liaison is maintained with the social services authority. The Good Practice Guide sets out the exact roles that both Social Services, Environmental Health or agencies acting on their behalf should take, but in general terms Social Services will determine the needs of a disabled person and environmental health and it's service provider will determine whether it is reasonable and practicable to carry out the proposed works.
- In practice this means that grant applications will normally be accompanied by an Occupational Therapist Assessment Report provided by the County Council or by another agency or a private OT, and in these latter cases it is expected that the Council's service provider will also liaise with Social Services.
- Disabled facilities grants under the government funded mandatory scheme are available for owner-occupiers, and for private sector and social housing. Adaptations for tenants of council-owned properties are funded from a different local authority capital programme. The circumstances in which applicants may be eligible for a mandatory grant are set out in the Housing Grants, Construction and Regeneration Act 1996 and supporting Government guidance. This section summarises these rules but in any situation where there is doubt as to eligibility reference must be made to the two main documents.
  - **Owner-occupiers** – may apply for disabled facilities grants subject to a test of financial resources. There is no prior qualification period and the property does not have to have been a dwelling for 10 years, as is the case with discretionary grants.

An 'owner's certificate' must be provided. DFG's are available to the owners of dwelling houses and also residential caravans on approved sites.

- **Tenants** – may also apply for disabled facilities grants subject to the conditions above and the provision of a 'tenant's certificate'. In addition the landlord of the dwelling should provide an 'owner's certificate' unless it is considered to be unreasonable to require him to do so. As a general rule, the grant is awarded to the disabled applicant, and in the case of tenants it is the tenant who is awarded the grant, not the landlord. As the tenant does not have control over the sale of the property and has no legal interest in it, then the grant is not registerable as a charge unless the landlord/owner has completed an Owners Certificate which commits him/her to the grant conditions. This would also stand for parents occupying a property owned by their children, where the children don't live with them and there is a form of tenancy agreement in place. In cases where the landlord refuses to sign the Certificate on the basis that he/she was not prepared to accept the charge on the property, then provided the landlord is prepared to give permission for the works to be carried out, the Council will not deny any eligible tenant their right to a grant. In cases where the footprint of the premises is extended, the owner/landlord must sign an Owners Certificate so that the charge can be registered, as this potentially adds value to the property. In the case of parents living with their adult children in their children's home, the situation is less clear - they are not necessarily 'tenants' and in these cases the owners should sign an Owners Certificate to ensure that any charge is registerable.

### **Amount of Grant**

- The amount of grant offered to applicants, with the exception of people under the age of 18 years, will depend on the result of their test of financial resources calculation but is subject to a maximum of £45,000 per application. Persons of under the age of 18 years are not means tested and are eligible to receive full funding up to a maximum of £45,000.
- Occasionally applications are received from disabled persons whose conditions are degenerative and in these cases it may be anticipated that further adaptations may be required in the future. The 1996 Act provides for this situation by allowing Councils to reduce the amount of applicants' contributions by the amount that was contributed to a previous adaptation. This means that if the second application is made during the period of the notional loan assumed for the first application (10 years for owners and 5 years for tenants), then the amount of the second contribution should be reduced by the amount that the applicant contributed to the first adaptation. Thus if an applicant contributed £8,000 towards an adaptation and then made an application for further works towards which his contribution was £10,000 the second contribution would be reduced by the amount of the first, leaving a contribution of £2,000.

### **Test of Resources**

All DFG applications for persons of 18 years of age have traditionally been subject to a test of the financial resources of the grant applicant. The form of this test is prescribed in legislation and is not under the control of the Council, but the local authority may make provision in their Private Sector Housing Policy to waive the means test in certain circumstances. The discretionary Adapted Home Grant has therefore been introduced to waive the means test for certain adaptations and for simple adaptations under £5,000. For

applications. For other, more complex adaptations the means test will still be applicable, but for eligible applicants other forms of discretionary assistance may be available. Applicants subject to means testing will be screened using a 'cut-down' preliminary test of financial resources where appropriate, before progressing to a full test at the time of formal application, in order to simplify the process for applicants.

Applicants for disabled facilities grants are tested in a different manner to applicants for renovation grants. The full details are given in the Government Guidance but can be summarised as follows:

- The relevant person for the purposes of a disabled facilities grant is:
  - the disabled occupant for whom the works are to be undertaken; and
  - his/her spouse or partner; or
  - the parent(s) of the disabled occupant who is less than 18 years of age.
- This definition of a relevant person recognises that other members of the household do not benefit from the provision of adaptations for a disabled occupant.
- Persons of under 18 years who are eligible for a disabled facilities grant are not means tested and are eligible to receive up to a maximum of £45,000.

### **Grant Conditions and Repayment**

- DFG will be provided for the only or main residence of an applicant.
- Where —
  - (a) the Council approves an application for a grant under Part 1 of the Act,
  - (b) the grant is for a sum exceeding £1,000; and
  - (c) the applicant (“the recipient”) has a qualifying owner’s interest in the premises on which the relevant works are to be carried out,

the Council may impose the conditions (or conditions to like effect) contained in paragraph (2) below.

  - (2) The Council may demand the repayment by the recipient of such part of the grant that exceeds £5000 (but may not demand an amount in excess of £10,000) if—
    - (a) the recipient disposes (whether by sale, assignment, transfer or otherwise) of the premises in respect of which the grant was given within 10 years of the certified date; and
    - (b) the Council, having considered—
      - (i) the extent to which the recipient of the grant would suffer financial hardship were he to be required to repay all or any of the grant;

(ii) whether the disposal of the premises is to enable the recipient of the grant to take up employment, or to change the location of his employment;

(iii) whether the disposal is made for reasons connected with the physical or mental health or well being of the recipient of the grant or of a disabled occupant of the premises; and

(iv) whether the disposal is made to enable the recipient of the grant to live with, or near, any person who is disabled or infirm and in need of care, which the recipient of the grant is intending to provide, or who is intending to provide care of which the recipient of the grant is in need by reason of disability or infirmity, is satisfied that it is reasonable in all the circumstances to require the repayment.

### **Mechanism for Council to Review Applications for Discretionary Powers to be waived**

- Applications for the Council to waive its discretionary powers in individual cases will be considered initially by a Review Panel consisting of three Elected Members. The purpose of the panel is to ensure consistency of decisions and to provide a forum for the consideration of the merits of each individual application.
- Applications must be set out in writing and must include the specific grounds on which the application is based. Applications will only be considered on the following grounds:
  - That the Policy has been incorrectly applied in the case in question; or
  - That the case in question is exceptional in some way that justifies an exception to the general policy.
  - Applications for a review will not be considered on the grounds that the appellant disagrees with the general policy of the Council to use its discretionary powers and place a charge on relevant properties. Any such comments should be dealt with in accordance with the Comments, Complaints and Compliments Procedure.
  - A written response will be given in all cases where an application review is carried out. The reasons for the decision reached by the Review panel will be fully explained in the written response.

**All applications will be carefully reviewed to ensure that any lessons that are learned are incorporated into this Policy.**

## **DISCRETIONARY ASSISTANCE FOR DISABLED FACILITIES AND ADAPTATIONS**

Article 3 of the Regulatory Reform Order enables local authorities to give discretionary assistance in any form for adaptations or to help the occupant to move to alternative living accommodation.

Discretionary DFGs may be provided, to assist disabled people to move to a more suitable property where this is more cost effective than adapting their current properties. Discretionary funding may also be used in cases where the statutory means test is waived for certain types of adaptation, and in exceptional cases where works are essential for the need of the client but currently fall outside the remit of the mandatory scheme. Discretionary funding may also be applied to community-based adaptation schemes, where the adaptation is for the benefit of the wider community of people living with disability.

All discretionary grants are subject to the availability of sufficient capital resources over and above that required to meet and deliver the mandatory grant programme. The Council will limit discretionary funding on this basis and may withdraw some or all of its discretionary funding assistance at any time should resources dictate.

The following sections provide details of the discretionary adaptation funding that is available, subject to the limitations described in the preceding paragraph.

### **1 THE ADAPTED HOME GRANT**

#### **CONSIDERATION OF CASES TO BE EXCLUDED FROM THE STATUTORY TEST OF RESOURCES – THE ‘MEANS TEST’**

The provisions governing mandatory Disabled Facilities Grant (DFG) are principally laid out in the Housing Grants, Construction and Regeneration Act 1996 (“the 1996 Act”), as amended by the Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 (“the RRO”).

The 1996 Regulations set out the basis for the DFG test of resources but the details of allowances, premiums and other factors are updated periodically by Statutory Instrument. The test parameters are set by central government and are essentially applied to the disabled occupant, their spouse or partner. Where the disabled occupant is a child or qualifying young person there is no means test.

The flexibility of the powers of the RRO has allowed the creation of adaptations policies that best meet local needs and priorities and to be more responsive to the needs of individuals. These have included funding arrangements in excess of the mandatory grant limit, and funding adaptations outside of the DFG system.

One of the ways to consider adaptation funding outside the traditional mandatory grant is to offer a separate grant to those persons who meet the eligibility criteria for a mandatory grant but who have been assessed as having a contribution to make to the cost of the adaptation under the mandatory scheme test of resources. In many cases, the assessment of resources is arbitrary and often identifies a contribution significantly at odds with the client’s ability to pay simply by virtue of the assets that are taken into account during the assessment process. The vast majority of cases that do not proceed to approval are those where the client has an assessed contribution but cannot practically pay it. Similarly, a number of drop-

outs occur when clients faced with a contribution decide that they would rather use the money they do have to pay for essential care or services now rather than invest in an adaptation for their future needs.

By introducing an Adapted Homes Grant, the Council could effectively offer to pay for adaptations up to a defined level without a means test so that the adaptation could go ahead where it might otherwise fail.

There are two distinct types of Adapted Homes Grant:

1. The Council will pay for the installation of a Stairlift or a Level Access Shower without the need for a client contribution. This does not set a financial level on the cost of the adaptation, but is instead restricted to type. Stairlifts and level access showers account for over 80% of adaptations in any one year, so this offers a good opportunity to fast-track these applications and satisfy demand. Typically, Stairlifts cost around £3-5k depending on the level of customisation required and the stairway layout; level access showers can cost between £5-6k on average but costs can vary outside of this range for specific property layouts.
2. The Council has determined that for other non-complex adaptation cases - for example ramps, or hoists - the level of non-means tested funding offered will be a maximum of £5,000. This fits in with the Council's ability to recover the costs of adaptations if the property is subsequently sold – currently, the Council can only register a local land charge on DFGs of over £5k, so there are no recovery implications for grants up to this value.

In both these scenarios, there is the issue of agency fees and VAT to consider. Most adaptation work is VAT exempt, but not all. In providing the adaptation, our service provider will charge a fee for managing the project on the part of the client from application to conclusion, and this could take the total cost of the grant above £5k even though the work itself is less than £5k. To clarify, the level of funding is set at a maximum of £5k for the works themselves, exclusive of fees. In cases where the grant is paid by type of adaptation rather than a monetary ceiling, then the eligible works are defined as a stairlift or level access shower. In cases where the funding is for other non-complex adaptations, then the client's entitlement will be to receive a full grant to cover the costs of the eligible works up to £5,000.

Any person over the age of 18 who is registered or registerable as disabled (i.e. the person is eligible under the definition of disabled as defined in section 6(1) of the Equality Act) would be eligible for the Adapted Homes Grant in the same way as they would have an entitlement to the mandatory DFG. The grant will not be restricted by tenure.

Only 1 application per year per person can be made for the Adapted Homes Grant.

Owner applicants will need to complete a certificate stating that they intend to occupy the premises as their main residence for at least the next 5 years. Joint owners will need to obtain the written consent of the other owners for the adaptation work to be carried out. Tenant applicants will need the written consent of their landlord for the adaptation work to be carried out.

Any grant eligible works (within the meaning of the Housing Grants, Construction and Regeneration Act 1996) paid for under this grant will not be subject to a 'means test' of the financial resources of the disabled client. The disabled client will be entitled to receive a full

Adapted Homes Grant to cover the costs of the eligible works up to either the cost of the specified adaptation or a maximum of £5,000 for other non-complex cases. Combined adaptations will not qualify for this discretionary grant.

When considering the eligible works, the Council will seek the advice of a suitably qualified professional. The works must be necessary and appropriate to meet the needs of the client and it must be reasonable and practicable to carry out the eligible works having regard to the age and condition of the dwelling.

This Grant will be re-payable in full in the event that the property is sold on the open market within 10 years of the grant completion date.

## **THE RELOCATION GRANT**

### **ASSISTANCE FOR ELIGIBLE APPLICANTS TO MOVE HOME**

There are numerous cases where on assessment, the applicant's existing premises cannot be adequately adapted to meet their needs, or where the level of cost of carrying out the necessary adaptations at their current premises is unreasonable and/or impractical. In these circumstances, the Local Authority can offer a discretionary grant to help eligible applicants move to a more suitable home that is already adapted or which can be more easily adapted to meet their needs at a much more reasonable cost.

In the event that the applicant identified a suitable property outside the area in which they currently live, the discretionary assistance would still be of benefit to them and should still be available in these cases.

To qualify for relocation assistance, a person must be:

- Someone who would otherwise qualify for a mandatory DFG were it possible to carry out the works, and whose contribution towards the cost of the works would, using the standard test of resources, be less than £5,000.00.
- An owner/occupier whose main or only residence is within the High Peak area.

The Council must be satisfied that:

- It is not practicable to carry out necessary, appropriate or reasonable works at the client's current property; or
- The new property shall provide a long term sustainable home for the eligible person in that either further adaptation is not necessary or any new adaptation is significantly smaller than the original DFG assessment. The total cost incurred in the eligible relocation expenses at the 'new' property should not be greater than the estimated cost of adapting the applicant's current property.
- The Council will pay any reasonable costs, subject to satisfactory evidence that the expenditure has been incurred including:
  - o Stamp Duty;
  - o Mortgage arrangement fees;
  - o Estate Agents fees;

- o Furniture removal costs;
- o Utility connection costs;
- o Conveyancing costs; and
- o Any other costs deemed by the Council to be essential to effect the move.
- Subject to a maximum total level of assistance of £15,000 per applicant, made as a single payment upon completion of the move and upon receipt of suitable evidence of expenditure.

## **THE ADAPTATION GRANT**

### **DISCRETIONARY FUNDING FOR EXCEPTIONAL CASES**

High Peak Borough Council will give such discretionary assistance in the form of grants according to the financial resources available to the Council at the time of the application. Works that may qualify for discretionary Adaptation Grants include:

(1) Adaptation Grant:

- Particularly expensive works costing above the normal maximum of £45,000, where the applicant cannot fund the additional costs by any other reasonable means. The Council will consider additional funding to top-up the mandatory grant in order to facilitate the works.
- Providing a safe play area for a disabled child.
- Adapting or providing a room or space to allow disabled occupants to receive specialised care or medical treatment in their own homes.
- Adapting or providing a room to be used by a disabled person who is housebound but is able to work from home.
- Providing more satisfactory internal living arrangements for a disabled occupant where the works are of direct benefit to the disabled occupant but also will be of benefit to other members of the household who provide care for the occupant. Such works might include extending or enlarging a dwelling that is already suitable for the disabled person in all other respects. It could include cases where the care of the disabled applicant is provided across more than one property – current mandatory assistance will only allow the main residence to be adapted.
- Other exceptional or unique works to provide a solution for vulnerable and disabled applicant's needs that are not currently covered in the statutory criteria for eligible DFG works. This would include, for example, work to assist dementia clients to remain active in their own homes.

This grant will be subject to the client having a 'nil contribution' from the mandatory DFG Test of Resources and will be subject to a maximum of £20,000 per application. In cases of significant hardship, the Head of Environmental Health may consider an application for a greater sum based on the individual circumstances of the client.



Owner applicants will need to complete a certificate stating that they intend to occupy the premises as their main residence for at least the next 5 years. Joint owners will need to obtain the written consent of the other owners for the adaptation work to be carried out. Tenant applicants will need the written consent of their landlord for the adaptation work to be carried out.

This grant is available as a stand-alone grant or as a supplement to a Mandatory DFG.

(2) Safe and Secure Grant:

Where additional work is necessary that is not currently grant eligible but would provide a safe and secure home. This might include re-wiring of the property, replacement of an unsafe appliance, replacing lead water pipes or works to eliminate dampness and excess cold, or any other minor adaptations or small repairs to;

- Reduce trips, slips, falls and accidents around the home;
- Promote independent living;
- Assist with hospital discharge or prevent hospital admission;
- Improve security (e.g. replacement of insecure windows and doors);
- Breakdown of primary sources of heating or hot water;
- Protect public safety (e.g. an unsafe chimney or roof slates);
- Reduce internal risks to health and safety (e.g. rotten flooring or dangerous staircase);
- Remedy a structural element that is so defective that further significant damage may be caused to the property or a neighbouring property if not dealt with (e.g. a leaking roof or defective guttering or downspout);
- Improve the thermal and energy efficiency of properties with a low Standard Assessment Procedure (SAP) Rating.

This grant will be subject to the client having a 'nil contribution' from the mandatory DFG Test of Resources and will be subject to a maximum of £10,000 per application. Any number of applications per client to a cumulative value of £10,000 in any three year period may be made. This grant is available as a stand-alone grant or as a supplement to a Mandatory DFG.

This Grant will be re-payable in full in the event that the property is sold on the open market within 10 years of the grant completion date.

## **COMMUNITY ADAPTATION GRANT**

### **DISCRETIONARY FUNDING FOR COMMUNITY-BASED ADAPTATION PROJECTS**

The Better Care Fund guidance specifically encourages projects which address the Social Model of Disability, and the terms of the DFG Determination each year state that any money paid under the grant determination must only be used for the specific purpose of providing adaptations for disabled people who qualify under the scheme or any other social care

capital projects in accordance with a Better Care Fund (BCF) joint spending plan agreed between the grant authority and the fund holder.

In High Peak, the level of the DFG settlement in recent years provides an excellent opportunity to consider options for the wider use of the DFG funding beyond the mandatory regime, with a particular focus on supporting community projects, community groups and other facilities or providers who are able to demonstrate that investment of discretionary funding will have a positive impact on improving access and facilities for the disabled community residing in or visiting their area.

There are a number of avenues that High Peak Borough Council would like to explore in identifying and developing creative and innovative use of the DFG Allocation, and we would want to work in partnership with our service provider in promoting access to discretionary funding and assessing the value to the local community of any proposals that come forward, whether that be along traditional lines that deal with physical disability or more innovative, unique projects around mental health, with a particular focus on dementia and autism.

Some basic considerations for the funding include:

1. Provide funding for existing or new projects to include disabled facilities that would otherwise not progress or would fall short of meeting a disability standard or assessed need.
2. Benefit as wide an area of the disabled community as possible, and as many people as possible.
3. Afford access to facilities, or encourage use of facilities or services that disabled people might not otherwise consider using.

This is based on the premise that whilst providing assistance to disabled residents to enable them to remain living independently in their own homes is essential, it is equally important to enable people with physical or mental disabilities to access community facilities and services.

Potential opportunities might include:

- The provision of 'Changing Places' facility within the district that are accessible to residents and visitors to the area.
- Upgrading of facilities at local leisure centres, swimming pools and other leisure facilities to include adapted toilet, bathing, washing and changing facilities.
- Working with property developers to look at building in adapted facilities at the start of housing projects so that properties that are provided for affordable rent as part of development schemes are prepared for disabled access during the build.
- Discussions with local schools with disabled students about ensuring that the facilities are suitable for their needs.
- Support for local community groups and partnerships who are striving to provide equality of access to services and the premises that they are provided in for the benefit of the wider community. Many community groups do excellent work in fund raising and seeking funds from other sources like the National Lottery, but often there

is a shortfall between the funds raised and the delivery of the project and it is this gap that better use of the DFG funding can bridge in order to make the proposal a reality.

- Exploring the opportunity for funding dementia-friendly schemes for community buildings or care homes that will help residents to recognise their surroundings and engage with local services.

This is not an exhaustive list by any means, but it is indicative of how we might engage more widely with the local community in providing better access to facilities and services in their local area. The funding would not be available for commercial or retail outlets, or for public buildings where the authority have their own obligations under equalities legislation. It may be available, however, for public buildings where the management and maintenance of the building is contracted out to a third party provider or is provided by a community or voluntary group.

In principle the proposals must:

- Relate to a capital project that adapts, upgrades or improves access to a premises that serves the local community;
- Be made by a community or voluntary group, a community facility service provider, a care provider, or a charitable, philanthropical or not-for-profit organisation;
- Address either a physical disability or a defined mental health disability;
- Be built on a sound business case;
- Ideally complement existing fund-raising, grant applications or capital investment by the applicant;
- Be limited to a level of contribution commensurate with the expected local impact – a ‘value for money’ assessment, in other words.

**In looking at offering wider funding opportunities, the Council will of course ensure that there is always sufficient funding to meet its statutory obligations to mandatory applicants. Discretionary funding will only be available as and when the Better Care Fund allocation for the District affords it, and no commitment to provide ongoing funding year on year can be provided.**

## **APPENDIX B :**

### **HOME REPAIRS ASSISTANCE GRANT**

#### **Purpose of Home Repair Assistance**

The aim of this type of assistance is to ensure that the most vulnerable householders living in the worst conditions receive help to ensure that their homes are safe to live in. It is also designed to help people bring an empty property back into use.

Examples of qualifying works are as follows:

- General items of essential repair;
- Replacement of lead water pipes;
- Radon remedial works;
- Energy efficiency works.
- Top-up of funding where the costs associated with adaptation work exceeds the DFG Maximum limit.

#### **Eligibility**

- This is a discretionary grant and is only available subject to Capital resource allocations in each financial year.
- These grants are targeted at vulnerable people, i.e. those who are elderly, low-income households or disabled persons. The grant can also be claimed by persons who are in need assistance to bring an empty property back into long-term use for owner-occupation or rental.

#### **Amount of Funding**

- The maximum funding that can be offered is £2,000.00 per property over a 2 year period. Where the works are substantial in nature or will otherwise require a greater level of funding, a determination will be made by the Head of Service as to whether there is sufficient justification to approve a grant in excess of this amount on a case by case basis.

#### **Grant Conditions and Repayment**

- The property should be a minimum of 10 years old.
- The applicant must be 'vulnerable' or 'in need' according to the definition above
- The applicant must be living in the property at the time of application, or must intend to occupy or rent out the property on completion of the funded works.
- The applicant must undertake to complete the specified works (see definitions) within 6 months of grant approval.

- If the total value of assistance is less than £2,000, subsequent applications for assistance for different specified works may be approved, providing the total assistance within a 2-year period does not exceed £2,000.
- In any case where the applicant, without reasonable excuse, fails to comply with a condition requiring the completion of the specified works within a stated time, the council will have the right to withhold payment of the assistance until the works are completed. In such cases the Council will not be liable for the payment of any works instigated by the applicant as a result of the grant of assistance.
- Once this type of assistance has been paid there will be a requirement for the applicant or a member of his family (see definitions) to live in the property or rent the property out for a period of 5 years following the certified completion of the works (the Grant Repayment Period)

Failure to comply with any of these conditions will render the grant repayable in full plus compound interest to the date that the breach of conditions occurred.

This grant is registered as a local land charge and the conditions are binding on any person who is for the time being an owner of the dwelling. If the property is sold on the open market or otherwise disposed of within the grant repayment period then the full value of the grant will be recovered from the vendor on completion of sale of the property.

However in any case where consideration is being given to any repayment the Council will have regard to the applicant's ability to make repayments. Any determination on repayment will be subject to a right of appeal by the applicant against that determination.

Examples of exceptional circumstances where repayment of the grant may be waived within the 5 year period are:

- when the person who has received the grant has to move for reasons connected with his/her physical or mental health.
- when the person who received the grant has died, unless the property is subsequently offered for sale on the open market.
- when the person who has received the grant has to move for employment reasons.
- when the person who has received the grant would suffer extreme financial hardship because of repayment.

## **APPENDIX C : PRIVATE SECTOR HOUSING ENFORCEMENT POLICY**

### **PART 1: HOUSING ACT 2004 – HOUSING CONDITIONS**

Enforcement Guidance is given to local housing authorities in England by the Secretary of State under section 9 of the Housing Act 2004. Councils are required to have regard to it in exercising their duties and powers under Part 1 of the Act.

The guidance should be read in conjunction with the Housing Health and Safety Rating System (England) Regulations 2005 (SI 2005 No. 3208) (“the Regulations”), and the Housing Health and Safety Rating System Operating Guidance, made under section 9(1)(a) of the Act.

The housing fitness enforcement powers set out in the Housing Act 1985 (referred to in this guidance as “the 1985 Act”), including the separate provisions for Houses in Multiple Occupation (HMOs), have been replaced or (in the case of demolition and clearance) modified by the system set out in Part 1 of the Housing Act 2004. The system is structured around an evidence based risk assessment procedure, the Housing Health and Safety Rating System (HHSRS), on which local authorities must base their decisions on the action to take to deal with poor housing conditions.

The HHSRS, and the enforcement powers available to local authorities, applies to all types of residential premises, including HMOs, purpose built blocks of flats and buildings comprising converted flats. Although local authorities cannot take statutory enforcement action against themselves in respect of their own stock they will be expected to use HHSRS to assess the condition of their stock and to ensure their housing meets the Decent Home Standard.

#### **Local authority duties and powers**

The 2004 Act gives local authorities powers to intervene where they consider housing conditions to be unacceptable, on the basis of the impact of hazards on the health or safety of the most vulnerable potential occupant. Before taking formal enforcement action High Peak Borough Council will follow the principles of the Environmental Health Service general enforcement policy.

The Act puts the Council under a general duty to take appropriate action in relation to a category 1 hazard. Where they have a general duty to act, they must take the most appropriate of the following courses of action:

- serve an improvement notice in accordance with section 11;
- make a prohibition order in accordance with section 20;
- serve a hazard awareness notice in accordance with section 28;
- take emergency remedial action under section 40 or make an emergency prohibition order under section 43;
- make a demolition order under section 265 of the Housing Act 1985 as amended;
- declare a clearance area by virtue of section 289 of the 1985 Act as amended.

Authorities cannot simultaneously take more than one of these actions – for example make a prohibition order and serve an improvement notice dealing with the same hazard in the same premises. The authority must therefore ensure they have thoroughly considered the most appropriate action. However, the authority can take a different course of action, or the same course again, if the action already taken has not proved satisfactory. Emergency measures are the exception. Emergency remedial action followed by an improvement notice or a prohibition order is a single course of action.

Authorities have similar powers to deal with category 2 hazards (see section 7 of the Act). However, emergency measures cannot be used in respect of category 2 hazards, and authorities cannot make a demolition order, or declare a clearance area in response to a category 2 hazard unless the circumstances are such as have been prescribed in regulations. No such Regulations have been made in England at this time.

It is for the Council to decide which course of action is the best in all the circumstances – the ‘most satisfactory course of action’. The Council will also consider whether it would be appropriate for them or other enforcement agencies to act under other legislation.

## **Reasons for decision**

Section 8 of the Act places a duty on local authorities to give a statement of reasons for their decision to take a particular course of enforcement action. This provision is designed to meet concerns that the absence of a duty on local authorities to give reasons might fail to comply with Article 6 of the European Convention on Human Rights – the right to a fair hearing.

Authorities must prepare a statement of their reasons for their decision and provide a copy of that statement to accompany the notices, copies of notices, and copies of orders which they are required to serve under Part 1 and relevant provisions of the 1985 Act. There is no requirement for authorities to provide a copy of their inspection report with the statement but there is nothing to prevent them from doing so if they consider that it would be helpful.

The requirement to give a statement extends to the declaration of a clearance area. In these cases the statement of reasons must be published as soon as possible after the passing of the resolution declaring that the area be defined as a clearance area under section 289 of the 1985 Act, and in such manner as the authority consider appropriate.

## **Enforcement Options**

The Act provides authorities with a range of enforcement options to address hazards:

- improvement notices;
- prohibition orders;
- hazard awareness notices;
- emergency remedial action or emergency prohibition orders (not available for category 2 hazards);
- demolition orders (not available for category 2 hazards);

- clearance areas (not available for category 2 hazards).

The first three enforcement options are available for both category 1 and category 2 hazards. There may be circumstances when, given similar conditions in different dwellings, the authority might decide to respond differently to similar hazards or in a similar way towards different types of hazard. An authority might respond to a category 1 hazard in some dwellings by requiring works of improvement while in another by prohibiting occupation (or by suspending action). The action authorities choose to take must be the most appropriate course of action in relation to the hazard in all the circumstances.

The Council will consider the enforcement options available, and will take into account the circumstances as described in the following table. These circumstances are for guidance only, and the final decision will rest with the enforcement Officer.

<b>Housing Act 2004</b>	<b>Circumstances whereby this Notice can be served by the Council</b>
Improvement Notices relating to Category 1 hazards  Section 11	When a Category 1 hazard exists on any residential premises. The Notice may relate to more than one Category 1 hazard.
Improvement Notices relating to Category 2 hazards  Section 12	When a category 2 hazard or hazards exists on any residential premises, and where the investigating officer considers that it is severe enough to warrant the service of an enforcement notice OR where there has been no improvement in the condition of the premises following service of a Hazard Awareness Notice.
Prohibition Orders relating to Category 1 hazards  Section 20  Prohibition Orders relating to Category 2 hazards  Section 21	When a Category 1 or 2 hazard exists on any residential premises, and the Officer is satisfied that the deficiency is so serious as to require the closure of part or all of the premises, or to prohibit the occupation of the property by a particular number or description of persons.
Hazard Awareness Notice relating to Category 1 Hazards  Section 28	The Council is unlikely to serve a HAN for a Category 1 hazard. The Council will normally serve an Improvement Notice as a minimum in response to Category 1 hazards, unless <ol style="list-style-type: none"> <li>a. the Officer is satisfied that an assurance has been given by the responsible person to carry out the specified works to remove the</li> </ol>



	<p>Category 1 hazard and prevent a recurrence, OR</p> <p>b. Improvement or prohibition is not practicable or reasonable.</p>
<p>Hazard Awareness Notice relating to Category 2 hazards</p> <p>Section 29</p>	<p>The Council will normally serve a HAN for Category 2 hazards where the specified hazards are of a less serious nature, and/or to give the person responsible for the premises the opportunity to make representations regarding the nature of the deficiency or the remedial action identified.</p> <p>Where the investigating officer considers that the category 2 hazard is severe enough to warrant the service of an enforcement notice, and Improvement Notice under section 12 will be served.</p>

<b>Emergency Measures Housing Act 2004</b>	<b>Circumstances whereby this action can be taken by the Council</b>
<p>Emergency Remedial Action</p> <p>Section 40</p>	<p>Where a Category 1 hazard exists on any residential premises,</p> <p>AND</p> <p>The Officer is satisfied that the hazard involves an imminent risk of serious harm to the health or safety of the occupiers of those or any other residential premises,</p> <p>AND</p> <p>No management order is in force under Chapter 1 or 2 of Part 4 of the Act.</p> <p>Action may be taken in respect of more than one category 1 hazard on the same premises, or in the same building containing one or more flats.</p>
<p>Emergency Prohibition Orders</p> <p>Section 43</p>	<p>Where a Category 1 hazard exists on any residential premises,</p> <p>AND</p> <p>The Officer is satisfied that the hazard involves an imminent risk of serious harm</p>

	<p>to the health or safety of the occupiers of those or any other residential premises,</p> <p>AND</p> <p>The Officer is of the opinion that the premises or part(s) thereof are not suitable for the continued occupation by those occupiers whilst the hazard exists,</p> <p>AND</p> <p>No management order is in force under Chapter 1 or 2 of Part 4 of the Act.</p> <p>Action may be taken in respect of more than one category 1 hazard on the same premises, or in the same building containing one or more flats.</p>
<p>Demolition Orders</p> <p>Section 265 Housing Act 1985 as amended by Section 46 Housing Act 2004</p>	<p>1. When a Category 1 hazard exists in a dwelling house or HMO which is not a flat,</p> <p>AND</p> <p>A management order is not in force;</p> <p>OR</p> <p>When a Category 1 hazard exists in one or more of the flats in a building, or in the common parts of a building containing one or more flats.</p> <p>2. When a Category 2 hazard exists in a property as described above,</p> <p>AND</p> <p>The circumstances of the case are circumstances specified or described in an Order made by the Secretary of State.</p>
<p>Clearance Areas</p> <p>Section 289 Housing Act 1985 as amended by Section 47 Housing Act 2004</p>	<p>1. When the Environmental Health Service is satisfied that each of the residential buildings in the proposed clearance area contains a Category 1 hazard,</p> <p>AND</p> <p>That the other buildings (if any) in the area are dangerous or harmful to the health or safety of the inhabitants of the area;</p>

	<p>OR</p> <p>2. When the Environmental Health Service is satisfied that the residential buildings in the proposed area are dangerous or harmful to the health or safety of the inhabitants of the area as a result of their</p> <ul style="list-style-type: none"> <li>a. bad arrangement, or</li> <li>b. the narrowness or bad arrangement of the street,</li> </ul> <p>AND</p> <p>That the other buildings (if any) in the area are dangerous or harmful to the health or safety of the inhabitants of the area,</p> <p>OR</p> <p>3. When the Environmental Health Service is satisfied that each of the residential buildings in the proposed area contains a Category 2 hazard,</p> <p>AND</p> <p>That the other buildings (if any) in the area are dangerous or harmful to the health or safety of the inhabitants of the area,</p> <p>AND</p> <p>The circumstances of the case are circumstances specified or described in an Order made by the Secretary of State.</p>
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Full details of the Enforcement Options, and the manner in which decisions are made in determining the most appropriate course of action in respect of the particular hazards, can be found in the publication

‘HOUSING HEALTH AND SAFETY RATING SYSTEM – ENFORCEMENT GUIDANCE  
HOUSING ACT 2004 PART 1: HOUSING CONDITIONS’

Feb 2006: Department for Communities and Local Government

ISBN 13: 978 185112 847 1

ISBN 10: 1 85112 847 6

[Housing Health and Safety Rating System: Enforcement Guidance: Housing Act 2004 Part 1: Housing Conditions - Housing - Communities and Local Government](#)

Information on the Housing Health and Safety Rating System, including the 29 Hazards and actions in relation to Category 1 and Category 2 hazards, can be found in the publication

‘HOUSING HEALTH AND SAFETY RATING SYSTEM (HHSRS): GUIDANCE FOR LANDLORDS AND PROPERTY-RELATED PROFESSIONALS’

Guidance for non-specialists, particularly private landlords, about the requirements under the Housing Act 2004 in relation to the HHSRS.

May 2006: Department for Levelling Up, Housing and Communities and Ministry of Housing, Communities & Local Government

<https://www.gov.uk/government/publications/housing-health-and-safety-rating-system-guidance-for-landlords-and-property-related-professionals>

**PARTS 2 - 4 HOUSING ACT 2004**

- **LICENSING OF HOUSES IN MULTIPLE OCCUPATION**
- **SELECTIVE LICENSING OF RESIDENTIAL ACCOMODATION**
- **MANAGEMENT ORDERS**
- **EMPTY DWELLING MANAGEMENT ORDERS**
- **OVERCROWDING**

Part 2 of the Housing Act 2004 contains the provisions for the mandatory licensing of certain types of houses in multiple occupation, and the discretionary licensing of other, 'lower risk' HMO's. Part 3 allows for the introduction of a scheme of selective licensing for rented accommodation in areas of low housing demand or persistent anti-social behaviour. Part 4 includes control provisions in relation to residential accommodation, comprising Interim and Final Management Orders for HMO's where the local authority replace the landlord or manager of rented accommodation, Interim and Final Empty Dwelling Management Orders as a tool for bringing empty properties back into use as rental accommodation, and paves the way for changes to the enforcement of overcrowding in residential properties.

There are a number of interventions that the Council can make in the enforcement of compliance with the above provisions, as set out in the table below;

<b>Interventions under the Housing Act 2004 Parts 2-4</b>	<b>Circumstances whereby this intervention can be made by the Council</b>
<p>Offences in relation to the Mandatory Licensing of HMO's</p> <p>Section 72</p>	<p>Operation of an HMO without a mandatory licence when one is required is an offence that attracts a fine of up to £20,000. In such circumstances the Council may;</p> <ul style="list-style-type: none"> <li>a. Prosecute the landlord or manager</li> <li>b. Serve an Interim Management Order (see below)</li> </ul> <p>Action may also be taken where a landlord or manager of a licensed HMO fails to satisfy the conditions of the licence without reasonable excuse. In such circumstances the Council may;</p> <ul style="list-style-type: none"> <li>a. Revoke the Licence and make an Interim Management Order</li> <li>b. Prosecute the landlord or manager.</li> </ul>
<p>Offences in relation to the Discretionary Licensing of HMO's</p>	<p>Operation of an HMO without a discretionary licence when one is required is an offence</p>

<p>Section 95</p>	<p>that attracts a fine of up to £20,000. In such circumstances the Council may;</p> <ul style="list-style-type: none"> <li>a. Prosecute the landlord or manager</li> <li>b. Serve an Interim Management Order (see below)</li> </ul> <p>Action may also be taken where a landlord or manager of a licensed HMO fails to satisfy the conditions of the licence without reasonable excuse. In such circumstances the Council may;</p> <ul style="list-style-type: none"> <li>a. Revoke the Licence and make an Interim Management Order</li> <li>b. Prosecute the landlord or manager.</li> </ul>
<p>Rent Repayment Order</p> <p>Section 96</p>	<p>Where a HMO is operating without a mandatory or selective licence,</p> <p>AND</p> <p>The Council have not received notification that steps are being taken whereby the HMO no longer requires a licence, The Council may make an application to the Residential Property Tribunal (RPT) for a Rent Repayment Order, which requires the person in receipt of the rent for the property to repay any housing benefit received during the period of operation without a licence.</p>
<p>Interim Management Order</p> <p>Section 102</p>	<p>The Council <b>must</b> make an Interim Management Order where</p> <ul style="list-style-type: none"> <li>a. the property is a HMO or dwelling house which is required to be licensed under Part 2 or 3 but is not so licensed AND they consider that EITHER there is no reasonable prospect of it being licensed in the near future OR the Health and Safety Condition under section 104 is satisfied;</li> <li>b. The Property is an HMO or dwelling house which is licensed under Part 2 or 3 AND the licence has been revoked but the revocation has not yet come into force AND they consider that EITHER once the revocation is in force there is no reasonable prospect of the</li> </ul>

	<p>house becoming licensed in the near future OR that once the revocation is in force the Health and Safety Condition under section 104 is satisfied.</p> <p>The Council <b>may</b> make an Interim Management Order where the property is a HMO that is not required to be licensed under Part 2 AND the Health and Safety Condition under section 104 is satisfied, AND the Council are required by the RPT to make such an Order following an application by the Council.</p>
<p>Special Interim Management Order Section 103</p>	<p>Where a house, occupied under a single tenancy or a licence, is in an area experiencing significant and persistent anti-social behaviour AND the landlords are failing to take action to remedy the problem AND the health, safety or welfare of persons occupying, visiting or in the vicinity of the house is at risk, the Council may apply to a RPT for a Special Interim Management Order.</p>
<p>Final Management Order Section 113</p>	<p>The Council must make a Final Management Order to replace an Interim Management Order EITHER</p> <ul style="list-style-type: none"> <li>a. on the date the house would be required to be licensed, OR</li> <li>b. if not required to be licensed, on the date the Interim Management Order expired,</li> </ul> <p>for the purpose of protecting the health, safety or welfare of the occupying persons.</p>
<p>Interim Empty Dwelling Management Order Section 133</p>	<p>The Council may apply to the RPT for an Interim EDMO where it is satisfied that</p> <ul style="list-style-type: none"> <li>a. the dwelling has been wholly unoccupied for a period of at least 6 months, AND</li> <li>b. There is no reasonable prospect that the property will become occupied, AND</li> <li>c. All reasonable efforts have been made to contact the owner of the property, and EITHER the owner cannot be found or discussions on alternative</li> </ul>

	<p>means of bringing the property back into use have failed.</p>
<p>Final Empty Dwelling Management Order Section 136</p>	<p>The Council may make a Final EDMO to replace an Interim EDMO or an existing Final EDMO where it is satisfied that;</p> <ol style="list-style-type: none"> <li>a. the dwelling is likely to become or remain unoccupied, AND</li> <li>b. All such steps as it was appropriate to take under the Interim or existing Final EDMO have been taken to secure the occupation of the dwelling, AND</li> <li>c. The interests of the community and the effects of the Order on the rights of the proprietor and any third parties have been taken into account.</li> </ol>
<p>Overcrowding Order Section 139</p>	<p>The Council may serve an overcrowding notice on the landlord of a HMO where it is satisfied that an excessive number of persons is being or is likely to be accommodated at the premises, having regard to the number of rooms available.</p>

**FORMAL NOTICES**

All Notices served by the Council will specify

- What is wrong
- What is required to put it right
- Why the notice has been served
- The timescale in which to put things right (except in the case of Hazard Awareness Notice, which does not require works to be carried out), and
- What will happen if the notice is not complied with.



Where a formal notice has been served there is a right of appeal against the Council's decision. Notices will include an explanation of the relevant methods of appeal.

In general, where there is a failure to comply with a properly written and served statutory notice, it is the policy of the Environmental Health Service to either;

- a. issue a formal caution or
- b. prosecute the individual, organisation or business served with the notice, or
- c. in certain circumstances, carry out works in default of the notice to put things right and recover its costs and expenses in doing so.

The decision will be made in accordance with the principles outlined in the Environmental Health Service General Enforcement Policy. As a general rule, a formal caution will usually be considered before making a decision to prosecute. The circumstances under which the Council will consider default work will depend on the nature of the hazard for which the notice is served, and the degree of risk presented by the hazard to the occupants of the property.

## **FEES AND CHARGES**

High Peak Borough Council may make such reasonable charges as they consider appropriate as a means of recovering certain administrative and other reasonable expenses incurred by them in carrying out any of the following statutory actions under the Housing Act 2004;

- a. serving an Improvement Notice under section 11 or 12
- b. making a prohibition order under section 20 or 21
- c. taking emergency remedial action under section 40
- d. making an emergency prohibition order under section 43
- e. declaring a slum clearance area under section 47
- f. taking enforcement action for offences in relation to the licensing of HMO's under section 72
- g. taking enforcement action for offences in relation to the selective licensing of HMO's under section 95
- h. applying for a rent repayment order under section 96
- i. making an interim management order under section 102
- j. making a special interim management order under section 103
- k. making a final management order under section 113
- l. making an interim empty dwelling management order under section 133
- m. making a final empty dwelling management order under section 136

- n. serving an overcrowding order under section 139, or
- o. processing a HMO Licence Application.

The decision to make a charge for enforcement action is at the discretion of the Council, and the Council may waive the enforcement charges (with the exception of the HMO Licence Fee) in an individual case after taking into account the personal circumstances of the person served with the notice or order.