

Cheshire West and Chester Council

Draft Housing Assistance Policy 2023

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1. Introduction

The evidence that the quality of housing and the health of the occupants are intrinsically linked is well established. Poor quality housing, or housing that does not meet the needs of the occupants, can have an adverse effect on health and well-being, and the presence of long-term empty properties can be a blight on a neighbourhood. Cheshire West and Chester Council is committed to improving the housing conditions across the Borough, and to enable people to live safely and independently in their own homes.

The Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 equipped local authorities with wide-ranging powers to provide assistance for housing renewal, based on the principle that repairs are fundamentally the responsibility of the property owner, but that assistance should be given in particular circumstances.

Cheshire West and Chester Council offers mandatory Disabled Facilities Grants under the Housing Grants, Construction and Regeneration Act 1996, to applicants who meet the eligibility criteria. This policy makes use of the powers provided under The Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 to broaden the scope of Disabled Facilities Grants, to offer alternative forms of financial assistance for disabled, elderly, low income and other vulnerable residents in Cheshire West and Chester.

This policy sets out the grants and loans that are available from Cheshire West and Chester Council for disabled adaptations, essential home repairs and to bring empty properties back into use. The policy details the eligibility criteria and conditions of the various forms of assistance, and the process required to apply.

The aims of the Housing Assistance Policy are as follows:

- To improve living conditions and enable independent living for vulnerable individuals and families, disabled people including children with special needs, people with mental health needs and/or learning disability, older people and carers.
- To provide procedures that are transparent, fair, and efficient.
- To provide best value for public funds through the operation of customer-focused, cost-effective and efficient service delivery.

2. Strategic Context

The Housing Assistance Policy has been developed within the context of a range of local and national strategies and policies, and aims to contribute to and align with the aims and priorities within this strategic context, to achieve the best possible outcomes.

Local Level

Cheshire West and Chester Housing Strategy

The Housing Assistance Policy contributes to the Council's Housing Strategy priorities:

- Increasing and enabling delivery: more homes stable growth – empty homes
- Improving access to housing – DFGs, relocation grants
- Improving housing quality, sustainability and design – all assistance

Empty Homes Strategy 2022-27

The Council's Empty Homes Strategy 2022-27 sets out the range of measures that the Council will use to help bring empty properties back into use. This includes the financial assistance outlined in this policy. Offering financial assistance to owners of empty properties is a useful option and reflects best practice, which received widespread support in the development of the Empty Homes Strategy.

Cheshire West and Chester Council Plan 2020-24

The Housing Assistance Policy contributes to the following priorities of Cheshire West and Chester Council's Council Plan 2020-24, Play Your Part to Thrive:

- Support children and young people to make the best start in life and achieve their full potential
- Enable more adults to live longer, healthier and happier lives
- Make our neighbourhoods even better places to call home
- An efficient and empowering Council

Both mandatory Disabled Facilities Grants and the discretionary grants that are outlined in this policy, contribute towards supporting children and young people, and enabling adults to live longer, healthier lives with improved well-being. These forms of assistance, as well as the assistance available to improve poor quality housing and to bring empty properties back into use, contribute to improving neighbourhoods.

The assistance and procedures have been developed to ensure the process for accessing assistance is as efficient as possible; and enables service users and the professionals that are supporting them, to make informed choices regarding the most appropriate action to meet the identified need.

Cheshire West and Chester Place Plan

The Place Plan is the Borough's Health and Well-Being Strategy, developed in partnership with the NHS. The Housing Assistance Policy contributes to all of the Place Plan's priorities:

- Addressing climate change
- Reducing inequalities
- Improving public mental health and wellbeing
- Promoting wellbeing and self-care
- Prevention and early detection
- Integrating our health and care services
- Making it easier to navigate health, social care, and community-based services

- Anticipating the future needs of our population
- Keeping people safe
- Ensuring we make the best use of our people and financial resources – spending the 'Cheshire pound' wisely and well, whilst improving service quality

As DFG funding is now allocated through Better Care Funds, the Cheshire West and Chester Health and Well-Being Board has been fully involved in the development of this policy.

Adult Social Care and Health Plan 2023- 2024

The Housing Assistance Policy supports the councils' priorities and Occupational Therapy Services "to work with adults, children, and their families to keep them healthy and independent. Ensuring they receive advice, information and support for adaptations, and essential housing repairs in a timely way. The financial support provided by the DFG promotes creative ways of meeting individual needs, allowing people to remain in control of their lives and avoid unnecessary admissions into hospital as well as improving timely discharge from hospital" (**Council Plan 20-24**)

Children and Young People's Plan 2020-24

Through the provision of financial assistance for disabled adaptations and essential home repairs, the Housing Assistance Policy supports the vision of the Children and Young People's Plan 2020-24 "to work together to support families to keep children and young people happy, healthy and safe."

Climate Emergency

In 2019 Cheshire West and Chester Council voted unanimously to declare a climate emergency. This declaration represented a major statement of intent by the Council and, as set out in the Council Plan and the Stronger Futures Plan for Recovery and Renewal following COVID-19, climate change is an organisational priority.

Residential property makes up a substantial proportion of Cheshire West and Chester's greenhouse gas emissions, at 572,000 tons carbon dioxide equivalent per year, or 14 per cent as of 2016 based on SCATTER data⁹. This is the third largest element of the borough's emissions, following Industrial and commercial emissions and Transport. In its Climate Emergency Response Plan the Council committed to:

- Support all forms of homeowners, tenants, and occupiers to maximise access to all available funding opportunities for retrofit measures to improve homes.
- Review opportunities to support private sector landlords for whole house retrofit and other energy improvements for private rented properties that do not meet the Minimum Energy Efficiency Standard.

This Policy delivers on these two commitments to those fuel poor households during this cost-of-living crisis.

National Level

Better Care Fund

Since 2015, Disabled Facilities Grant funding has been allocated through the Better Care Fund. This is in recognition of the importance of integrating housing, health and social care at a local level, and ensuring adaptations are part of this. The primary role of the DFG funding is to provide home adaptations under the Housing Grants, Construction and Regeneration Act 1996, however, local authorities can choose to also use the funding in a number of other ways to meet local need and priorities. This policy sets out how we will use the DFG funding.

The Care Act 2014

The Housing Assistance Policy contributes to meeting the Council's obligations under the Care Act 2014 to improve people's independence and wellbeing. Under the Care Act, local authorities must provide or arrange services that help prevent people developing needs for care and support or delay people deteriorating such that they would need ongoing care and support.

Disabled Facilities Grant Guidance

In March 2022, the Government issued updated guidance for local authorities in England, on the use and delivery of Disabled Facilities Grants. The guidance advises local authorities on how they can efficiently and effectively deliver adaptations to best meet the needs of local disabled and older people. The guidance encourages local authorities to offer a range of discretionary assistance alongside the mandatory DFG.

People at the Heart of Care White Paper

The recent social care white paper sets out the Government's 10 year vision for transforming social care in England, around three objectives:

1. People have choice, control, and support to live independent lives
2. People can access outstanding quality and tailored care and support
3. People find adult social care fair and accessible

This policy contributes to these objectives by providing support to enable people to live safely and independently in their homes, and by ensuring access to the support available is as straightforward and efficient as possible.

Foundations UK

Foundations UK is the national regulatory body for home improvement agencies and the Disabled Facilities Grant. Foundations provide information, guidance, training

and support to local authorities and home improvement agencies to deliver Disabled Facilities Grants and develop effective policies. Foundations UK have provided advice and support in the development of this policy.

Energy Efficiency

In 2019 the UK government passed in to law a requirement to reduce greenhouse gas emissions to net zero by 2050. In April 2021, further legislation enshrined an ambitious target to reduce emissions by 78% by 2035 on 1990 levels. Current Government measures in support of this objective include the Home Upgrade Grant, and ECO4, both of which provide grants for energy efficiency upgrades to homes. The support outlined in this Policy does not replace these national schemes but is complimentary to them and seeks to provide additional assistance to targeted individuals who would otherwise not be able to access support e.g., in cases where a financial contribution would be required. In addition to supporting the individual concerned, this also offers the Borough an opportunity to leverage in additional national funding, with the associated benefits to the local economy.

3. Funding

The range of financial assistance set out in this policy are funded by Disabled Facilities Grant funding, allocated to Cheshire West and Chester Council through the Better Care Fund, and also the Private Housing allocation of the Housing Capital Programme, from the Council's own resources. The latter is decided on an annual basis as part of the Council's budget setting process.

4. Summary of the financial assistance available

The range of financial assistance available is as follows. Eligibility criteria, terms and conditions can be found in Sections 7, 9 and Appendix A.

- Mandatory Disabled Facilities Grants up to £30,000
- Discretionary Disabled Facilities Grants – to fund works that exceed the mandatory maximum up to £20,000
- Discretionary Relocation Grants up to £5,000
- Discretionary Urgent Works Grants up to £10,000
- Discretionary Safe and Warm Grant up to £5,000
- Discretionary Decent Homes Loan up to £30,000
- Discretionary Empty Property Grant up to £15,000
- Discretionary Conversion Grant up to £15,000
- Discretionary Private Rented Sector Energy Efficiency Top-Up Grant up to £5,000

5. Aims of this policy

The aim of the Housing Assistance Policy is to enable people to live safely and independently in decent homes which meet their needs. The financial assistance has been made available to ensure it helps those that are in need, and who would otherwise be unable to live safely and independently in their own home. The aim is

to prevent ill-health and injury, ensure people do not stay in hospital for longer than they need to, due to their home not meeting their needs, and enable people to remain in their own home for as long as possible, if that is their wish.

The policy has been developed in partnership with the Council's Occupational Therapy teams, wider Adult Social Care, the Home Improvement Agency, Health, the Health and Wellbeing Board, Regulatory Services, Foundations UK and a number of other groups and partners.

The discretionary financial assistance provided is based on a range of evidence including identified need, demographics data, Stock Condition and fuel poverty data.

6. Home Improvement Agency

Cheshire West and Chester Council has commissioned ForHousing to deliver its Home Improvement Agency (HIA) service, named HomeKey+. With the exception of empty property assistance and Landlord Grants, HomeKey+ delivers the range of financial assistance set out in this policy. The caseworkers and technical officers at HomeKey+ work with the service users, Occupational Therapists, the housing team, Registered Housing Providers and others to assist people to make applications for financial assistance. HomeKey+ oversees the process from the initial referral until payment of the completed works.

The contact details for HomeKey+ are as follows:

Tel: 0300 124 52 89

Email: contactus@homekeyplus.co.uk

7. Financial Assistance

The following section sets out the grants and loans available, which can also be found summarised in the table in Appendix A.

7.1 Mandatory Disabled Facilities Grant

Disabled Facilities Grants are awarded in accordance with the Housing Grants, Construction and Regeneration Act 1996, as amended by the Regulatory Reform (Housing Assistance) (England and Wales) order 2002.

Eligibility criteria

Applicant:

- Anyone over the age of 18 with a qualifying owner's, tenant's or occupier's interest in the property (it may not be the disabled occupant themselves).
- Subject to a Test of Resources in accordance with the Housing Grants, Construction and Regeneration Act 1996. They may have an assessed

contribution towards the works. If an assessed contribution is more than the cost of the adaptation, they would not qualify for a DFG.

- Where the disabled person is in receipt of a means-tested benefit, the Test of Resources does not apply.
- Where the adaptation is for a disabled child under the age of 16, or a young person in full-time education under the age of 20, the Test of Resources does not apply.
- The disabled person must intend to live in the property for at least five years (this can be shorter in some circumstances).
- Registered Housing Providers are expected to make reasonable budget provision to contribute towards adaptations for their tenants.
- Separate arrangements apply for the provision of disabled adaptations for council tenants. Please contact ForHousing for further details.

Property:

- The property must be in Cheshire West and Chester
- Dwellings, qualifying houseboats and caravans
- The property must be the only or main residence of the disabled person

Works:

- Must be necessary and appropriate to meet the needs of the disabled person
- Must be reasonable and practicable to carry out given the age and condition of the dwelling
- Must be the most cost-effective option and achieve best value for money
- Works to facilitate access and enable independent living:
 - Facilitate access to the home and garden
 - Making the premises safer
 - Access to the principal family room and bedroom
 - Access to a toilet, wash hand basin, bath and/or shower
 - Facilitate the preparation and cooking of food
 - Better or more appropriate heating
 - Control of power, light and heat

Grant amount

The mandatory DFG maximum is currently £30,000. The Council will fund up to an additional £20,000 for some cases which require larger scale works which exceed the mandatory grant maximum. The maximum grant funding available is £50,000. Where the cost of works is likely to exceed that amount, the applicant or landlord is expected to fund any shortfall. Where the applicant is an owner-occupier, a Decent Homes Loan can be applied for to fund their contribution towards the cost of works.

The same financial eligibility criteria applies for additional funding above the mandatory DFG maximum of £30,000, as it does for the mandatory DFG. Therefore, where the adaptation is for a disabled child under the age of 16, or a young person in full-time education under the age of 20, the Test of Resources does not apply.

Where an applicant wishes to carry out an adaptation which is not the most cost-effective option, the additional costs of the preferred option can be met by the applicant, where this does not unnecessarily and unreasonably delay the progress of the application. HomeKey+ will discuss the options with the applicant, and the proposed adaptation must be agreed by the Occupational Therapist. The maximum grant awarded is for the value of the most cost-effective option, and eligible fees, within the grant maximum.

Summary of conditions

- For statutory DFGs, a local land charge is applied on owner's applications where the amount of grant exceeds £5,000. The maximum charge is £10,000. If a dwelling is sold or disposed of within 10 years of the certified date, the Council will consider whether it is reasonable to demand repayment, or part repayment of the charge.
- Where the cost of works exceeds the mandatory grant limit of £30,000, and discretionary funding is also awarded, the full amount of discretionary funding would be repayable if the dwelling is sold or disposed of within 10 years of the certified date.
- Where discretionary funding is given to a tenant of a privately rented property, the Council will discuss nomination rights with the landlord should the tenant cease to live in the property during the grant period.

Successive applications and nil grants

For some people, further adaptations may be necessary at a later date. There is no restriction on successive applications for a DFG on the same property.

In such cases, within 5 years for tenants and 10 years for owners, any previous assessed contributions made will be deducted from any new assessed contribution, should applicant proceed with a successive application.

Where an assessed contribution exceeds the cost of the required works, the Council may still advise the applicant to proceed with an application, as the cost of works could be deducted from an assessed contribution for an application in the future.

7.2 Discretionary Relocation Grant

The Relocation Grant is offered subject to available funds, to assist with the costs of moving house, if it is more cost effective and will achieve better outcomes than adapting the existing property.

Eligibility criteria

Applicant:

- Anyone over the age of 18 with a qualifying owner's interest in the property (it may not be the disabled occupant themselves).
- Subject to a Test of Resources in accordance with the Housing Grants, Construction and Regeneration Act 1996. They may have an assessed

contribution towards the works. If an assessed contribution is more than the cost of the move, or the grant maximum, they would not qualify for a Relocation Grant.

- Where the disabled person is in receipt of a means-tested benefit, the Test of Resources does not apply.
- Where the relocation is for a disabled child under the age of 16, or a young person in full-time education under the age of 20, the Test of Resources does not apply.
- The disabled person must intend to live in the new property for at least five years (this can be shorter in some circumstances).

Property:

- The new property must be approved by an Occupational Therapist as being able to meet the long-term needs of the disabled person.
- The property must only require minimal adaptations (as confirmed by the Occupational Therapist), if any.
- The new property must be intended to be the only or main residence of the disabled person.

The Relocation Grant will fund:

- Estate Agent fees
- Solicitor fees
- Survey costs
- Removal Company costs
- Appliance reconnection costs

Grant amount:

The maximum Relocation Grant is £5,000.

Summary of conditions:

- An Occupational Therapist must confirm that a Relocation Grant to help facilitate the disabled person to move house is the most appropriate and cost-effective option, rather than adapt the existing property.
- The Occupational Therapist must confirm that the new property will meet the long-term needs of the disabled person and the wider family, and that minimal adaptations, if any, are required to the new property.
- A DFG of up to £5,000 will be available for adaptations required at the new property.
- A local land charge is secured against the property, and repayment may be requested if the property is disposed of within 10 years, depending upon the reason for the disposal.

7.3 Urgent Adaptation Grant

The Urgent Adaptation Grant is for situations where an urgent need has been identified, and the process is fast-tracked to provide the adaptation as quickly as possible. The Urgent Adaptation Grant is not means tested.

Eligibility criteria

Applicant:

- Anyone over the age of 18 with a qualifying owner's, tenant's or occupier's interest in the property (it may not be the disabled occupant themselves).
- The applicant may apply in respect of a disabled child.

Property:

- The property must be in Cheshire West and Chester
- Dwellings, qualifying houseboats and caravans
- The property must be the only or main residence of the disabled person

The Urgent Adaptation Grant can fund:

- An adaptation to facilitate hospital discharge
- An adaptation required to avoid risk of carer breakdown
- An adaptation required urgently due to life-limiting illness or rapid deterioration
- An adaptation required urgently but the applicant does not financially qualify for a DFG and can evidence that they are unable to fund the adaptation themselves
- An adaptation required urgently and the mandatory DFG procedure is therefore not appropriate
- Possible works include ramps, stair lifts, door-widening, wash/dry toilet

Grant amount

The maximum grant is £10,000.

An Urgent Works Grant is available to provide straightforward adaptations and specialist equipment to meet an urgent identified need as quickly as possible.

Summary of conditions:

- An Urgent Adaptation Grant can only be referred by an Occupational Therapist or qualified health professional.
- The referrer must submit the Urgent Adaptation Grant referral form, justifying the need for the grant, and why a mandatory DFG is not appropriate.
- A local land charge is secured against the property, and repayment may be requested if the property is disposed of within 10 years, depending upon the reason for the disposal.
- Grants will not be approved retrospectively.

7.4 Decent Homes Loan

The Decent Homes Loan is an equity loan which is available to bring a property up to the Decent Homes Standard (Appendix B).

Eligibility criteria

- Applicant has an owner's interest
- Applicant must have sufficient free equity in their property to cover the loan
- The property is non-decent or has category 2 hazards significantly above the average for the age of the property
- Applicants who, following a Test of Resources, are able to contribute less than 75% towards the eligible cost of works

Examples of works

- Remedy serious disrepair to the fabric of the dwelling
- Improve heating system and insulation
- Remove any serious hazards which could affect the health and well-being of the occupier, such as dampness, dangerous stairs or defective electrical wiring
- For a disabled adaptation where the applicant does not financially qualify for a Disabled Facilities Grant
- To fund a shortfall for a disabled adaptation where the cost of works exceeds the maximum grant available

Loan amount

- Maximum loan of £30,000 and a minimum of £1,000, subject to a test of resources, in accordance with the Housing Grants, Construction and Regeneration Act 1996.
- The Council takes a share in the property value, proportional to the cost of works, as a percentage of the property's unimproved value.
- Loan is repaid on sale or transfer.
- Voluntary early repayment may be made at any time.

Summary of conditions

- Property must be occupied by the applicant or a family member as their main residence.
- On completion, the property must meet the Decent Homes Standard, and have no significant hazards.
- Works should aim to bring the property up to an EPC rating C or higher.
- The Council's legal charge is secured on the property.
- No further financial assistance for five years from the completion date (except for a Disabled Facilities Grant).
- Property must be covered by building insurance until the loan is repaid.

7.5 Safe and Warm Grant

The Safe and Warm Grant is available to homeowners to carry out urgent repairs where there is a serious risk of harm to the occupiers.

The Safe and Warm Grant is only available where a Decent Homes Loan is not appropriate, either due to lack of available equity, or the requirement for the works to be carried out urgently.

Eligibility Criteria

- Applicant has an owner's interest
- There are Category 1 hazards present
- Subject to a Test of Resources in accordance with the Housing Grants, Construction and Regeneration Act 1996. The applicant may have an assessed contribution towards the works.
- Where the applicant is in receipt of a means-tested benefit, the Test of Resources does not apply.

Examples of eligible works (though not exhaustive)

- Serious electrical faults
- Structural collapse
- Inadequate heating

Grant amount

- Maximum £5,000, subject to a test of resources.

Summary of conditions

- The grant must be repaid if the applicant moves within five years.
- A local land charge is secured against the property.
- Applications for heating will only be approved where the applicant does not qualify for current Government funded schemes to improve heating systems, such as the Home Upgrade Grant.

7.6 Empty Property Assistance

Grants are available to help owners bring their empty property back into use by contributing towards the cost of works to improve the property to the Decent Homes Standard (Appendix B).

For example:

- Works to remedy serious disrepair
- Provide modern kitchen and bathroom facilities
- Improve heating systems and insulation
- Remove any serious hazards which could affect the well-being of the occupier such as dampness, dangerous stairs or electrical wiring

There are two forms of assistance available: Empty Property Grant and Conversion Grant.

7.7 Empty Property Grant

Eligibility criteria

- Residential property vacant for at least 12 months and must be non-decent.
- Limited to properties in council tax bands A, B, C and D.
- Applicant must have an owner's interest.
- The owner must intend to either occupy or let the property.
- An Empty Property Grant is not available to facilitate the sale of the property.

Summary of conditions

- Landlord must join the Cheshire Landlord Accreditation Scheme on completion of the works.
- Landlord must: guarantee to let at an affordable rent (Local Housing Allowance rate); issue a 12 month tenancy and allow the Council to nominate tenants for three years.
- No further grant assistance on the same property for 15 years from the completion date.
- Property must meet the Decent Homes Standard and have an EPC rating of C or higher, and be occupied before payment of grant.
- Works must be completed and property occupied within 12 months of grant approval.
- Not repayable unless a grant condition is breached.

Grant amount

50% of cost of eligible works up to a maximum of £15,000 available to private landlords who guarantee to let at an affordable rent (Local Housing Allowance rate), and allow the Council to nominate tenants for three years.

7.8 Conversion Grant

Eligibility criteria

- Dwelling or premises vacant for at least 12 months.
- Planning permission has been granted for the conversion.
- Applicant has an owner's interest.
- The new units are of a type and size identified by the Council as being required to meet local housing need.

Summary of conditions

- Landlord must join the Cheshire Landlord Accreditation Scheme on completion of the works.
- Landlord must: guarantee to let at an affordable rent (Local Housing Allowance rate); issue a 12 month tenancy and allow the Council to nominate tenants for three years.

- No further grant assistance on the same property for 15 years from the completion date.
- Property must meet the Decent Homes Standard and have an EPC rating of C or higher, and be occupied before payment of grant.
- Works must be completed and property occupied within 12 months of grant approval.
- Not repayable unless a grant condition is breached.

Grant amount

- 50% of cost of eligible works.
- Maximum of £75,000 per scheme.

7.9 Private Rented Sector Energy Efficiency Top-Up Grant

The Private Rented Sector Tenant Support Grant is offered, subject to available funds, to landlords whose tenants are eligible for the national Home Upgrade Grant or ECO scheme, where there is a shortfall in the national funding available to carry out energy efficiency improvements which increase the EPC Rating of the property to a minimum of EPC C. The grant is available to support access to either the national Home Upgrade Grant, or resources available through ECO4. Grants awarded will be paid directly to the national scheme administrator and not the applicant, and any further shortfall above the grant maximum will need to be met by the applicant.

Eligibility Criteria

Applicant:

- Applicant has an owner's interest and an eligible tenant
- Income threshold levels
 - Home Upgrade Grant
 - The tenant must be in receipt of an income related benefit (for example, Universal Credit, Pension Credit Guarantee, Council Tax Support, income-related Employment and Support Allowance, or Tax Credits)
 - Or, the tenant's total combined annual household income before tax, National Insurance and other deductions is no more than £31,000.
 - Or, the tenant's combined annual household income before tax, National Insurance and other deductions is no more than £20,000 after their housing costs have been deducted (by housing costs, we mean rent payments and Council Tax)
 - ECO4
 - The tenant must be in receipt of an income related benefit (for example, Universal Credit, Pension Credit Guarantee, Council Tax Support, income-related Employment and Support Allowance, or Tax Credits)

- Or eligible tenants must meet one of three eligibility routes for ECO Flex
 - Route 1 - Household income
 - Route 2 – proxy targeting
 - Route 3 – NHS referrals
- Landlords cannot own more than 4 rental properties.

Property:

- The property is rated EPC D or below.
- The property must be privately rented, and the tenant must possess a formal private rental agreement e.g., an Assured Shorthold Tenancy, regulated tenancy etc.

Eligible works

The Private Rented Sector Tenant Support Grant will fund the shortfall for measures identified as required to bring the property up to a minimum EPC rating of C.

Examples of eligible works (though not exhaustive)

- External / internal wall insulation
- Loft and cavity wall insulation
- Boiler upgrades
- Solar PV / Solar Thermal
- Heat Pumps

Grant amount

- Maximum £5,000

Summary of grant conditions

- The landlord or tenant must have a live application for either the Home Upgrade Grant or current ECO scheme.
- The landlord is responsible for ensuring that they fully comply with the requirements of the national scheme within which they are participating.
- The grant must be repaid if the property is sold within five years.
- A local land charge is secured against the property.
- Grants will not be approved retrospectively.

8. Application Process

How to apply for a Disabled Facilities Grant

If you have not already been contacted by an Occupational Therapist or an Occupational Therapy Assessor, you will need to request an assessment from the Community Access Team:

- Email: accesswest@cheshirewestandchester.gov.uk
- Phone: 0300 123 7034

If a need for an adaptation is identified, the OT will discuss your options with you, and will refer you to our home improvement agency, HomeKey+, who will manage the application process for you. It may be suggested that a Relocation Grant may be more appropriate. If this is the case, see the Relocation Grant process below.

HomeKey+ will:

- Check that you are financially eligible for a DFG
- Complete the application form, and relevant owner's/tenant's/occupier's certificates
- Obtain evidence of your eligibility for a DFG
- Draw up the plans for the works
- Obtain two quotations from approved contractors
- Obtain proof of ownership of the property and landlord consent where applicable
- Submit the application, quotes and supporting documents to the Council for approval
- Arrange for the works to begin
- Oversee works on site
- Sign off the completed works
- Arrange for payment of the grant direct to the contractor(s)

HomeKey+ will be the point of contact for the applicant throughout the process, and will keep the applicant as informed of the progress with their application as possible.

How to apply for a Relocation Grant

If it has been agreed with your Occupational Therapist that moving to a property that better suits your needs is more appropriate than adapting your current home, your OT will refer you for a Relocation Grant.

Once you have found a suitable property, which has also been confirmed as suitable for your needs by your OT, HomeKey+ will help you to apply for the grant.

HomeKey+ will:

- Check that you are financially eligible for a Relocation Grant
- Complete the application form, and relevant owner's/occupier's certificates

- Obtain evidence of your eligibility for a Relocation Grant
- Advise you regarding submission of eligible quotations and costs
- Obtain proof of ownership of the property
- Submit the application, quotes and supporting documents to the Council for approval
- Arrange for payment of the grant direct to the relevant companies on completion of sale

How to apply for an Urgent Works Grant

A referral for an Urgent Works Grant can only be made by an Occupational Therapist or appropriate health professional.

The referrer must complete the A1 Referral Form, selecting Urgent Works Grant, justifying the need for an Urgent Works Grant, rather than a DFG, and specifying the adaptation required.

The completed form is then submitted to both HomeKey+ and the Private Housing Team within Strategic Housing.

HomeKey+ will arrange for the adaptation to be completed as quickly as possible, and will keep the referrer informed of the progress.

How to apply for a Safe and Warm Grant

A referral for a Safe and Warm Grant can be made to HomeKey+ by a professional or a member of the public.

HomeKey+ will:

- Assess whether the applicant is eligible for the grant.
- If eligible, the property will be assessed by a Technical Officer, to determine the works required.
- Arrange for a schedule of works to be produced which will be sent to contractors for quotations.
- Work with the applicant to complete the application form and supporting documents.
- Submit the full application to the Council for approval.
- Once approved (subject to available budget), HomeKey+ will arrange for the works to be carried out. They will oversee the works on site and sign off the completed works.
- The grant will be paid directly to the contractor on completion of the works.

How to apply for a Decent Homes Loan

A referral for a Decent Homes Loan can be made to HomeKey+ by a professional or a member of the public.

HomeKey+ will:

- Assess whether the applicant is eligible for a loan (available equity and inability to fund 75% of the cost of the required works).
- Technical Officer will assess the property to determine the works required.
- Discuss the loan terms and conditions with the applicant and advise that they seek independent financial advice.
- Arrange for a schedule of works to be produced which will be sent to contractors for quotations.
- Work with the applicant to complete the application form and supporting documents.
- Submit the full application to the Council for approval.
- Once formal offer documents (produced by the Council) have been signed and returned by the applicant, HomeKey+ will arrange for the works to be carried out.
- Oversee works on site and sign off completed works.
- The Loan will be paid directly to the contractor(s) on completion of the works.

How to apply for Empty Homes Assistance

Our Empty Property Grants and Conversion Grants are delivered by the Housing Standards Team within Public Protection. To make an enquiry about these forms of assistance, or other help and advice regarding empty properties, contact the team on 0300 123 7038.

How to apply for the Private Rented Sector Energy Efficiency Top-Up Grant

Guidance about how to apply for the Home Upgrade Grant and ECO schemes can be found on the Council's website:

www.cheshirewestandchester.gov.uk/homeenergyhelp

[National support schemes | Cheshire West and Chester Council](#)

The scheme administrator will carry out eligibility checks on all eligible tenants and undertake a retrofit survey to identify which measures are best suited to a property.

Where there is a shortfall in funding to cover the cost of the installation of measures, the scheme administrator will advise of this and arrange for the landlord to apply for the top-up grant from the Council.

The scheme will be administered by the Council's Climate Change Team and Housing Strategy Team.

For further information, email **XXXX (awaiting new email address)**

9. Conditions of assistance

All forms of assistance referred to in this policy are subject to a number of general terms and conditions as detailed below.

Full terms and conditions for the specific type of assistance applied for will be provided with the application pack.

Applicants should consider the terms and conditions carefully, particularly when applying for loan assistance.

The following list is not exhaustive.

- All applications for assistance must be made on the Council's official application forms.
- All applications will be required to have their property registered with the Land Registry and may be subject to bankruptcy checks.
- A minimum of two quotes must be submitted with the application from appropriately qualified VAT registered contractors unless otherwise directed, one of whom must subsequently complete the works.
- The payment or part payment of grants and loans is conditional on the eligible works being carried out to the satisfaction of the Council and the receipt of an acceptable invoice for the works and any ancillary or professional fees. An invoice will not be acceptable if it is provided in the name of the applicant or a member of the applicant's family, unless the applicant is the director of a limited company.
- If an interim grant or loan payment has been released before the work is certified as complete and the owner disposes of the property, the owner will be required to repay the Council the full amount of the assistance paid.
- Unless stated otherwise, any grant assistance and related conditions will be secured as a local land charge against the property, where breach of the condition would require repayment of all or part of the financial assistance. This charge will not be removed until either the conditions expire or until the financial assistance is repaid.
- Costs (including maximum levels of assistance) include VAT at the applicable rate.
- Applicants for Disabled Facilities Grants, Decent Homes Loans and Safe and Warm Grants are required to submit a recent utility bill (e.g. gas, electric or water) as proof of address. In addition to the above, applicants will also be required to provide their National Insurance Number.
- For assistance subject to a test of financial resources, applicants will be required to submit the following:
 - If working and not self-employed, a certificate of earnings completed and stamped by the employer. The Council will provide the appropriate form to be completed;
 - If self-employed, income details for the 52 weeks immediately preceding the date of application, verified by a qualified accountant. Full audited accounts may be required. The Council will provide the appropriate form to be completed.

- If in receipt of a state mean-tested benefit, a copy of the payment book or relevant documentation will be required. The Council may contact the appropriate government agency to check and verify the information submitted.
- Evidence of savings or assets such as a second property.
- No assistance will be awarded for works that have commenced prior to the date of formal notification of grant or loan approval.
- Where it is ascertained that an application for assistance has been determined on the basis of inaccurate or incomplete information, the Council can withhold or demand repayment of monies from the applicant.
- If an applicant knowingly makes a false statement, in respect of any information they provide as part of an application for financial assistance or payment, including details of income and savings, the Council may refer the matter to the Police with a view to prosecution.
- In exceptional cases, where the property must be vacated in order for works to be carried out, the Council may be able to assist in finding temporary accommodation. Residents must be unable to arrange temporary accommodation privately e.g. with family or friends and will be liable for the cost of any rent, removals or furniture storage incurred. However, if the applicant would suffer undue hardship, the Council may be able to provide discretionary grant or loan assistance.

9.1 Fees and Charges

- For the purposes of this policy, professional fees and charges in respect of applications for financial assistance will include the following:
- Confirmation, if sought by the local authority, that the applicant has an owner's interest
- Initial valuation of the property (Decent Homes Loans)
- Technical and structural surveys
- Design and preparation of plans and drawings
- Preparation of schedules of relevant works
- Assistance in completing forms
- Advice on financing the cost of the relevant works which are not met by grant
- Applications for building regulations approval (including application fee and preparation of related documents)
- Applications for listed building consent (including application fee and preparation of related documents)
- Applications for conservation area consent (including application fee and preparation of related documents)
- Obtaining estimates
- Advice on contracts
- Consideration of tenders
- Supervision of relevant works
- Disconnection and reconnection of electricity, gas, water or drainage utilities where this is necessitated by the relevant work

- Payment of contractors
- Loan charge land registration fee

9.2 Requests for extension of time

It is a condition of payment of grant and loan assistance that the eligible works are carried out within 12 months from the date of approval of the application concerned. Only in exceptional circumstances will the Council agree to extend the period of time in which the approved works must be completed. Nonetheless, it is recognised that occasionally there will be valid and genuine reasons, beyond the control of the applicant, for not being able to complete the works on time.

Requests for an extension of time must be made in writing to the Council, explaining the circumstances of the case and the reasons why the works cannot be completed within the specified timescale, together with the amount of additional time being requested. The particulars of each individual case will be considered on their own merits and the applicant (or agent acting on their behalf) will be notified of the outcome in writing.

9.3 Revisions after loan or grant approval

Where, owing to circumstances beyond the control of the applicant, the eligible works cannot be completed for the estimated costs submitted with the application, we will consider written requests for additional assistance.

Requests will be considered in accordance with the following guidelines:

- Where the eligible works cannot be completed without carrying out additional unforeseen works
- Where the additional costs would help place the applicant in undue hardship
- In all cases, the re-determination of an approval will be subject to the amount of assistance not exceeding the relevant maximum level of assistance

Please note: For Decent Homes Loans, requests for additional financial support will only be considered for works in excess of £250. Below this threshold, applicants are expected to fund any unforeseen works. If an applicant's assessed contribution under the test of resources has been added to the loan, unforeseen works will only be considered if £250 in excess of their contribution.

9.4 Repayment of grants and loans

Where a property is vested in another individual's name under a will or intestacy, the death of the owner will trigger repayment, unless the property was the inheriting person's main residence at the time of application. In this case, the condition to repay the loan/grant assistance and occupy the property will transfer to the new owner.

There will be no exception to the repayment of any loan as the Council is mindful of the fact the public money is being used to fund works and would wish to maximise recycling of resources to assist others.

However, it is recognised that there will be certain situations where it would be inappropriate or unreasonable for the owner to be required to repay other grant assistance monies on disposal of the dwelling, particularly in respect of Disabled Facilities Grants.

A written request for a repayment waiver must be made to the Council, explaining the circumstances of the case and the reasons why repayment of the grant would cause undue hardship. The particulars of each individual case will be considered on their own merits by a management panel and the applicant (or agent acting on their behalf) will be notified of the outcome.

9.5 Additional conditions where the Council has nomination rights

Tenancies are to be 12 months assured shorthold tenancies.

The rent level is to be set at the Local Housing Allowance (LHA) rate for the area for the full 3-year grant condition period, subject to any changes that may come into force during this period. Should any changes to the LHA have a significant adverse impact on the landlord, the landlord may write to the Strategic Housing and Commissioning department with supporting information and request to be released from the council's nomination rights. The request will be considered and will not be unreasonably withheld or delayed. Landlords are advised to check LHA rates with the Housing Benefits Team.

It is the tenant's responsibility to pay the rent. Tenants may be eligible for LHA to assist them in paying rent, however, depending on their income, they may not be eligible for LHA or may receive only a proportion of the rent due. Landlords should be aware that a tenant may experience changes to their benefit entitlement, including LHA at any point during the tenancy, for instance if they find work.

The Council's Private Landlord Service team can request direct payments to safeguard the rent payment to landlords for certain customers, for instance customers who have been homeless or are at increased risk of becoming homeless, have had a previous tenancy where they have been a month in arrears at any given time or have complex support needs. In such cases, Private Landlord Service staff will assist the tenant in applying to:

- Housing Benefit for LHA to be paid directly to the landlord / agent (where a tenant is eligible for LHA) LHA direct payments to landlords are paid on a 4 weekly payment cycle from Housing Benefit. Direct payments to landlords are governed by LHA regulations and will be reviewed by the Housing Benefit Team at intervals in the tenancy or;
- For tenants claiming Universal Credit, assistance will be provided to the tenant to apply for direct payment to the landlord via the completion of an assisted payment arrangement form.

If changes to benefit entitlement have an adverse financial impact on tenants and they are unable to pay the rent due, in the first instance, the Private Landlord Service will work with the tenant and the landlord in seeking a resolution to this issue. If any shortfall in rent due cannot be met by the tenant, the Landlord may consider their options and end the tenancy through service of the appropriate legal notice.

No administration or referencing fees are to be charged to prospective tenants nominated by the council.

A bond is available from the Council if required. Details of the bond are available from the Council's Private Landlord Service. The bond is set out with full terms and conditions in the 'Bond Agreement' document which all parties sign prior to the commencement of the tenancy.

Guarantor provision is not undertaken by the council. A potential tenant not being able to provide a guarantor is not an acceptable reason for a landlord to be released from nomination rights.

Nomination rights will be provided to the council for the full 5 years grant condition period. Tenants will be put forward by the Cheshire West Housing Options team within 28 days of certified practical completion, or from notification that a previous tenancy will be ending. Should suitable tenants not be found within 28 days from either the commencement of the grant condition period, or the termination of a previous tenancy during the grant condition period, the landlord will be released from nomination rights. However, if any subsequent private market tenancy ends within the 5 years grant condition period, the Council will again assume nomination rights to that property. The landlord must advise the Private Landlord Service in writing of any such vacancy at the earliest opportunity.

Cheshire West Housing Options will offer the landlord up to three prospective tenants. The landlord must accept one of these offers. Failure to do so will require immediate repayment of Grant.

It is a condition that if at any time within the grant condition period the council serves notice on the owners of the premises requiring them to do so, they will supply the council with a statement showing how the condition of providing council nominated tenants is being fulfilled.

10. Private Tenants

The maintenance of privately rented properties is the responsibility of the landlord, however, Cheshire West and Chester Council offers advice and support for private tenants and landlords regarding the standard of their properties, their rights and responsibilities.

The Private Rented Sector Energy Efficiency Top-Up Grant is offered to enable eligible tenants to benefit from the national Home Upgrade Grant at ECO schemes to improve the EPC rating of their home.

To address issues relating to damp and mould in privately rented properties, the Council is developing a scheme to offer Positive Input Ventilation systems and technology such as smart thermostats and humidity sensors to eligible tenants.

11. Equality and Diversity

This policy produces significant positive outcomes for vulnerable groups, particularly older people and those with disabilities. It reduces inequalities experienced by these groups in respect of health, housing and income. An equality analysis has been carried out as part of the development of this policy and is available upon request. The Council aims to continuously improve the quality of our services for our residents and are committed to giving an equal service to all members of the public regardless of their race, colour, nationality, ethnic origin, gender, gender reassignment, marital status, sexual orientation, disability, age, religion/belief, social or economic status, or political beliefs.

The Council has arrangements in place to help people who may have difficulty accessing our services. The council can help with translation, interpretation and provide information in a variety of formats such as large print, braille and audio.

12. Appeals and applications for assistance outside the policy

Although this policy will be the primary consideration in determining applications for assistance, all such applications shall be dealt with on an individual basis, based on the merits of each particular case. The council will not refuse to consider an application that falls outside this policy. It is recognised that there will always be exceptional circumstances and these cases will be considered by a management panel.

Any person wishing to request a review of a decision made under this policy, or make an application for assistance outside this policy, should initially write with full details to the:

Housing Policy and Strategy Manager,
Strategic Housing and Commissioning,
The Portal,
Wellington Road,
Ellesmere Port,
Cheshire,
CH65 0BE.

13. Comments, compliments and complaints

The Council is committed to providing high quality and accessible services and welcomes any queries or suggestions about this policy. You can detail any

comments in writing using the above address or you can email:

privatehousing@cheshirewestandchester.gov.uk

The Council's "Comments, Compliments and Complaints" scheme sets out how customer feedback will be dealt with. Where you believe the Council has failed to provide the level of service expected, a complaint can be made through this procedure via the councils website www.cheshirewestandchester.gov.uk

Or you can contact the Council by letter or telephone at:

Cheshire West and Chester Council

Solutions Team

The Portal

Wellington Road

Ellesmere Port

CH65 0BZ

Tel: 0300 123 8123

Appendix A

Financial Assistance Summary Table

Type of assistance	Eligibility	Type of works	Conditions	Funding Pot
Mandatory DFG (£30,000 statutory duty)	Means-tested OT referral All tenures	Works eligible under Housing Grants, Construction & Regeneration Act 1996 Works over £1,000	As stated in Housing Grants, Construction & Regeneration Act 1996	DFG
Discretionary DFG added to mandatory DFG (£20,000 max)	As above	As above	As above Local land charge	DFG
Urgent works grant (£10,000 max)	OT, Health professional referral Non-means-tested All tenures	Urgently required adaptation to facilitate hospital discharge/end of life care/manage carer breakdown	Must be referred by an OT or recognised health professional Local land charge	DFG
Relocation Grant (£5,000 max)	Means-tested OT referral All tenures	Removal company Solicitor fees Survey costs Estate agent fees	OT must confirm that new property is suitable. New property must require minimal adaptation if any. DFG up to £5,000 available for adaptation to new property Local land charge	DFG
Safe and Warm Grant (£5,000 max)	Means-tested Owner Occupiers	Works to eliminate category 1 and 2 hazards	Owner occupiers Local land charge	PSH
Decent Homes Loan (£30k max)	Available equity required Owner Occupiers	Works to eliminate category 1 and 2 hazards	Local land charge Must be repaid when property is sold or transferred.	PSH

Empty Homes Grant (£15,000 max, 50% match-funded by landlord)	Property must have been empty for 12 months.	Works to bring the property up to the Decent Homes Standard	Council has nomination rights for three years. Must join Landlord Accreditation Scheme	PSH
Conversion Grant (£15,000 per unit, £75,000 per scheme, 50% match-funded by landlord)	Change of use Property must have been empty for 12 months Must have planning permission	To convert a non-residential building into residential	Council has nomination rights for three years. Must join the Landlord Accreditation Scheme	PSH
Private Rented Sector Energy Efficiency Top-Up Grant (£5,000 max)	Private tenants Tenant must be eligible for the current Home Upgrade Grant or ECO scheme	Measures to improve the EPC rating to at least C, where the cost of works exceeds the national grant available	Local land charge Grant must be repaid if property is sold within 5 years Landlord must comply with the national scheme requirements	PSH

Appendix B

Decent Homes Standard

A property is considered a decent home if it is:

- a. Free from Category one hazards under the Housing Health and Safety Rating System (HHSRS)
- b. In reasonable repair
Dwellings which fail to meet this criterion are those where either:
 - One or more of the key components are old and, because of their condition, need replacing or major repair, or
 - Two or more of the other building components are old and, because of their conditions, need replacing or major repair
- c. Has modern facilities

Dwellings which fail to meet this criterion are those which lack three or more of the following:

- A reasonably modern kitchen (20 years old or less)
- A kitchen with adequate space and layout
- A reasonably modern bathroom (30 years old or less)
- An appropriately located bathroom and WC
- Adequate insulation against external noise (where external noise is a problem)
- Adequate size and layout of common areas for blocks of flats

A home lacking two or fewer of the above is still classed as decent, therefore it is not necessary to modernise kitchens and bathrooms if a home meets the remaining criteria.

- d. Is thermally comfortable
This criterion requires dwellings to have both effective insulation and efficient heating. It should be noted that, whilst dwellings meeting criteria b, c and d are likely also to meet criterion a, some Category 1 hazards may remain to be addressed. For example, a dwelling meeting criterion d may still contain a Category 1 damp or cold hazard.

The Government is currently reviewing the Decent Homes Standard, and therefore the definition of a decent home is likely to change during the lifetime of this policy.

Appendix C

Works eligible for Disabled Facilities Grant

Section 23 Housing Grants, Construction and Regeneration Act 1996 sets out the purposes for which a grant must be approved, which can be summarised as follows:

- a) facilitating access to the home;
- b) making the home safe;
- c) facilitating access to a room used or usable as the principal family room;
- d) facilitating access to, or providing for, a room used or usable for sleeping;
- e) facilitating access to, or providing for, a lavatory, or facilitating the use of a lavatory;
- f) facilitating access to, or providing for, a bath or shower (or both), or facilitating the use of such;
- g) facilitating access to, or providing for, a room in which there is a washbasin, or facilitating the use of such;
- h) facilitating the preparation and cooking of food by the disabled occupant;
- i) improving any heating system in the home to meet the needs of the disabled occupant or, if there is no existing heating system in the dwelling, or any such system is unsuitable for use by the disabled occupant, providing a heating system suitable to meet their needs;
- j) facilitating the use of a source of power, light or heat by altering the position of one or more means of access to or control of that source or by providing additional means of control;
- k) facilitating access and movement by the disabled occupant around the home in order to enable them to care for a person who is normally resident there and is in need of such care; and
- l) such other purposes as may be specified by order of the secretary of state.
- m) Local authorities are also required to fund works which facilitate a disabled occupant's access to and from a garden or works which make access to a garden safe for a disabled occupant.

Appendix D

Definition of a disabled person

The primary legislation for the Disabled Facilities Grant is set out in the Housing Grants, Construction and Regeneration Act 1996.

For the purposes of a DFG application, a person is disabled if:

- Their sight, hearing or speech is substantially impaired,
- They have a mental disorder or impairment of any kind,
- They are physically substantially disabled by illness, injury or impairment

And a person over 18 is taken to be disabled if:

- They are an adult who is or could be registered under section 77 of the Care Act 2014
- They are an adult who is or could be registered under section 18(5) of the Social Services and Well-being (Wales) Act 2014
- They are a child or young person registered under paragraph 2 of Schedule 2 to the Children Act 1989
- They are a disabled child as defined by s.17 of the Children Act 1989

Appendix E

Glossary of terms

Category 1 Hazard: under the Housing Health and Safety Rating System, scores in excess of 1000 are banded A, B or C and are classified as category 1 hazards. The council has a duty to take action to remove or reduce the risks for category 1 hazards. Hazards scoring 999 or less are classified as category 2 hazards and the council has the discretion to take action in such cases.

Cheshire Landlord Accreditation Scheme: A voluntary scheme operated by the council and partner authorities available to private landlords and letting agents which recognises good management practices and encourages professionalism and improvement of property standards in the private rented sector.

Decent Homes Standard: The Government's target standard for housing in England. See Appendix B for details.

Disabled Facilities Grants (DFGs): A grant to fund alterations to a person's home to improve access and help them to move around within their home more independently and safely. Also, to assist them to use essential facilities such as kitchens and bathrooms and services within the home, so that occupants with disabilities can manage as independently as possible. Adaptations of a minor nature (e.g. provision of a handrail, flashing doorbell, ramp etc.) are dealt with outside of this policy. Works costing in excess of £1,000 are classed as a major adaptation and can be processed as a Disabled Facilities Grant. If you consider you need a disabled adaptation, we will ask an Occupational Therapist from Adult Social Care to assess whether or not you meet the criteria for a DFG and ensure that the proposed works will meet your needs.

Empty Home definition: A home is classified as being empty when it is no longer a person's primary residence, is unfurnished and has been verified as being empty using council tax data.

Equity Loan: The council lends homeowners money for property repairs/improvements in exchange for a share in the value of the property (Decent Homes Loan). There are no regular repayments or interest added to the loan. The council recovers its money when the property is sold or transferred to a new owner. Example: if the unimproved value of the property is £100,000 and the cost of works required is £10,000, the council will take a 10% share in the value of the property (although not a "share" of ownership), repayable when the property is sold.

Housing Health and Safety Rating System (HHSRS): Introduced by the Housing Act 2004. This is the primary method of assessing housing conditions. A dwelling is assessed for hazards that may present potential harm to occupants and visitors across 29 categories. Individual hazards are given a score by reference to a prescribed method of calculation to indicate their severity.

Home Improvement Agency (HIA): an organisation that works in partnership with the council to provide advice and assistance with adaptations, improvements and repairs for older and vulnerable people.

House in Multiple Occupation (HMO): covers most types of accommodation where there are groups of people living in a property who do not constitute a family and where these people share amenities.

Loan Assessment: By law, to enable you to decide whether the offer of a loan is suitable for you, the council must give you certain information about the loan and relevant procedures. This information is included in the 'customer information document'.

Occupational Therapist (OT): assesses a client's needs to disabled adaptations.

Owner's interest: owners of the freehold of the property or having it on a tenancy of which not less than five years remain unexpired at the date of application.