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## STRATEGIC HOUSING – PRIVATE SECTOR HOUSING

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### SUMMARY OF GRANT CONDITIONS

#### HOUSING GRANTS, CONSTRUCTION AND REGENERATION ACT 1996 THE REGULATORY REFORM (HOUSING ASSISTANCE) ORDER 2002

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This is a summary only of the legislation relating to the conditions applying to assistance made by the Council under the Housing Grants, Construction and Regeneration Act 1996 and The Regulatory Reform (Housing Assistance) Order 2002 and is intended as a general guide, not a complete statement of the law. For more detailed information, you should refer to the Act and/or Order and to any relevant Regulations made under the Act and/or Order.

#### **APPLICABLE TO ALL GRANTS**

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##### Carrying out and Completion of works

1. In approving an application for assistance the Council may require as a condition of the assistance that the eligible works are carried out in accordance with any specification they decide to impose.
2. It is a condition of grant that the eligible works are carried out within twelve months from the date of approval of the application. This period may, however, be extended by the Council if they think fit, particularly where they are satisfied that the eligible works cannot be, or could not have been, carried out without carrying out other works which could not have been reasonably foreseen when the application was made.

##### Availability for letting

*In a case where a certificate of intended letting accompanies the application.*

3. It is a condition of the grant that, throughout the initial period (that is five years beginning with the date on which the Council certify the eligible works to have been completed to their satisfaction) -
  - a) the dwelling will be let or available for letting as a residence, and not for a holiday, on a tenancy which is not a long tenancy (except in the case of a disabled facilities grant), by the owner for the time being of the

- a) dwelling, to a person who is not connected with him (generally speaking, this means not a member of his family), or
  - b) the dwelling will be occupied or available for occupation by a member of the agricultural population under a service contract, and otherwise than as a tenant.
4. It is also a condition of the grant that the Council may by written notice require the owner to provide within 21 days a statement showing how the property is occupied.
  5. The conditions for assistance remain in force throughout the initial period and are binding not only on the person who provides the certificate but also on any subsequent owner of the dwelling (except for a housing authority or registered housing association).
  6. In the event of a breach of the conditions, the Council may demand the repayment of any assistance with interest, but they do have the discretion either not to demand repayment, or to require payment of less than the full amount.
  7. It is a further condition of the grant that if, within the initial period, an owner makes a relevant disposal (other than an exempt disposal) of the dwelling he is obliged to repay to the Council the entire amount of any assistance. An owner is required to notify the Council forthwith in writing of his intention to make a relevant disposal and to give the Council any information reasonably requested by them in that connection.

*Notes:*

- (i) *If neither 3 (a) nor 3(b) above applies during any part of the initial period, but the dwelling is occupied by a person who is a protected occupier under the Rent (Agriculture) Act 1976 or is occupied under an assured agricultural occupancy, within the meaning of Part 1 of the Housing Act 1988, the condition will not be breached.*
- (ii) *In a case where personal representatives or trustees are the owner, the letting must not be a person who has a beneficial interest under the will, intestacy or trust, in the property or the proceeds of its sale.*
- (iii) *“Relevant disposal” means the sale of the freehold or assignment of the lease, or the grant of a long lease (one of over 21 years, otherwise than at a rack rent).*
- (iv) *“Exempt disposal” means a disposal which is:*
  - (i) *of the whole of the dwelling to the owner or one of the joint owners of the dwelling or to a wife or husband or former wife or husband of one of the joint owners, or a member of that person’s family, or, in the case of a company, to an associated company;*
  - (ii) *of the whole of the dwelling by Court order in the course of a domestic breakdown;*
  - (iii) *compulsorily, or by agreement, to a public body with compulsory purchase powers;*
  - (iv) *of land which is “included land” under section 184 of the Housing Act 1985; or*

- (v) *of a defective house under part XVI of the Housing Act 1985 and the owner is exercising his entitlement to assistance by way of repurchase.*

### **Owner-occupation**

*In a case where a certificate of owner accompanies the application,*

8. It is a condition of the grant that, where an owner makes a relevant disposal of the dwelling, other than an exempt disposal, within a period of ten years from the date on which the Council certify that the eligible works have been carried out to their satisfaction (“the certified date”), he will be required to repay the grant to the Council on demand. This condition remains in force for the whole of the relevant period and is binding not only on the person who gives the certificate, but also on any person who is for the time being an owner of the dwelling, except that where an exempt disposal is made, the conditions as to repayment cease to have effect. An owner is required to notify the Council forthwith in writing of his intention to make a relevant disposal and to give the Council any information reasonably requested by them in that connection.
9. The Council may decide not to make any demand for repayment in a case where they are satisfied that the owner is elderly or infirm and is disposing of the property with the intention of going to live in sheltered housing or a residential care home.

*Note: The meanings of “relevant disposal” and “exempt disposal” are set out in notes (iii) and (iv) above.*

### **Additional Grant Conditions Adopted By The Relevant Housing Authority**

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#### **Insurance claims**

10. The Council imposes a condition requiring the applicant to take reasonable steps to pursue any relevant claim and to repay the grant, so far as appropriate, out of the proceeds of such a claim. The claims apply to:-
- a) an insurance claim, or legal claim against another person, in respect of damage to the premises to which the grant relates, or
  - a) a legal claim for damages in which the cost of the works to premises to which the grant relates is part of the claim;
- and a claim is a relevant claim to the extent that works to make good the damage mentioned in paragraph (a), or the cost of which is claimed as mentioned in paragraph (b), are works to which the grant relates.

#### **Notices of relevant disposal**

11. The applicant shall forthwith notify the authority of his intention to make a relevant disposal of any dwelling, building or house in multiple occupation with

respect to which there is in force, as a grant condition, any condition under sections 45 to 52 of the Act and shall furnish to the authority any information reasonably requested by them in connection with such notification.

This condition shall have effect during the grant condition period.

#### Insurance for grant-aided property

12. Where the applicant has an insurable interest in the grant-aided property, he shall arrange and maintain in effect adequate insurance for the property, subject to and with the benefit of the completed works, throughout the grant condition period.

#### Repair of grant-aided property

13. Where the applicant has a duty or power to carry out works of repair to the grant-aided property, he shall ensure that, to the extent that his duty or power allows, the property remains fit for human habitation throughout the grant condition period.

#### Special Projects Grant

14. In Condition 8 above, within a period of 10 years will be substituted within a period of 20 years. The administration fee which is the cost to the Council for processing the grant application will be included as part of the landcharge. Any defects identified following completion of the work or after sign off must be reported immediately to the Council in accordance with any defects liability requirements. Not reporting defects may result in nullifying any certificates. Any defects liability requirements will be included as part of the Grant Conditions.

### **APPLICABLE TO MAJOR WORKS ASSISTANCE**

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#### Energy efficiency survey

15. Where an application for assistance under section 1(2), (3), or (5) of the Act has been approved the authority requires the applicant to have an energy efficiency survey on the grant-aided property, and to execute such works as the authority considers practical, cost effective and likely to result in significant improvement in the energy efficiency of the grant-aided property (any costs incurred for energy survey to be included in the grant calculation).

### **APPLICABLE TO LANDLORD GRANTS**

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#### Additional Grant Conditions Adopted by The Relevant Housing Authority

#### Nomination of tenants to the property

16. In the case of an application to which any of paragraph (a), (c) and (d) of section 31(1) of the Act (determination of amount of grant in case of landlord's application for Major Works Assistance, Disabled Facilities Grant or HMO grant) applies, the authority shall be entitled to nominate tenants to the property (or a relevant part of the property) throughout the grant condition period.
17. It is also a condition that the applicant agrees not to offer the property (or a relevant part of the property) for letting, and the authority agrees not to make nominations to it, in such manner (including as to timing and the terms of any offer or nomination) as would prevent this condition being, or continuing to be, operable fairly and reasonably.
18. Without prejudice to the generality of condition 16, the applicant agrees:
  - a) if the property (or part of it) is or becomes vacant on the date of approval of the application, or
  - a) if (and every time that) the property (or part of it) becomes vacant between that date and the end of the grant condition period, forthwith to hold the property (or the vacant part of it) available for letting by persons nominated by the authority and to notify the authority of its availability for that purpose and of the terms upon which it is so available.
19. Subject to the applicant's strict compliance with condition 17, this condition shall not have effect while the property (or each of its several parts) is occupied under a tenancy or tenancies satisfying the requirements of such certificate of intended letting, owner's certificate or certificate of future occupation as was submitted with the application (or, in a case where the requirement for such certificate was waived by the authority, would meet that certificate's requirements had one been so submitted)
20. Where the authority approve a conversion application for a Major Works Assistance, they may apply this condition to one or more only, or to a proportion, of the total number of dwellings to be provided by the conversion; provided that the dwellings, or the proportion of dwellings, in the house or other buildings and to which this condition is to apply shall be identified to the applicant in writing when the application is approved.
21. Where the authority approve landlord's application for a disabled facilities grant for adaptations to the common parts of a building containing one or more flats, and the application is for the benefit of more than one flat in the building, they may apply this condition to one or more only, or to a proportion, of the flats which the application is intended to benefit; provided that the flats, or the proportion of the flats, to which this condition is to apply shall be identified to the applicant in writing when the application is approved.

**Note:** *In this condition:-*

*“a relevant part of the property” means a part of the property which is or becomes vacant as described in condition 17;*

*“tenancy” includes a licence arrangement satisfying the certificate of intended letting, owner’s certificate or certificate of future occupation in question, and related expressions shall be construed accordingly.*

## **APPLICABLE TO COMMON PARTS GRANTS ONLY**

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*In a case where a landlord’s Common Parts Grant has been approved by the Council,*

22. It is a condition of the grant that if, within the initial period, (that is, a period of ten years) beginning with the date on which the Council certify that the eligible works have been carried out to their satisfaction) an owner makes a relevant disposal (other than an exempt disposal) of the building he is obliged to repay to the Council the entire amount of the grant. An owner is required to notify the Council forthwith in writing of his intention to make a relevant disposal and to give the Council any information reasonably requested by them in that connection.
23. The grant conditions remain in force throughout the initial period and are binding not only on the person who provides the certificate but also on any subsequent owner of the building (except for a housing authority or registered housing association). Any Common Parts grant condition shall cease to have effect once a demand for repayment in respect of the condition mentioned above has been satisfied.

**Note:** *The meaning of “relevant disposal” and “exempt disposal” are set out in notes (iii) and (iv) above.*

## **APPLICABLE TO DISABLED FACILITIES GRANTS ONLY**

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24. Disabled facilities grants are subject to the same general conditions regarding completion of works, insurance claims, payment and conditions of occupations as Major Works Assistance (conditions 1 to 13 above). The provisions regarding possible repayment of grant in the event of a disposal of the property do apply, however if you are a tenant of a Registered Provider (Housing) this condition does not apply. No conditions apply in respect of a disabled facilities grant for works to the common parts of a building.

### Recovery of specialised equipment of the disabled

25. Where an application for disabled facilities grant has been approved under section 23(1) or (2) (disabled facilities grant: purposes for which grant must or may be given) and the eligible works consist of or include the installation in the property of specialised equipment for the disabled occupant(s), the applicant shall notify the authority if and as the equipment is no longer needed.
26. For the purposes of this condition Section 23,

- a) The authority shall, on approving the application, specify in writing the equipment to which this condition is to apply and the period (being a reasonable condition period for the equipment in question) during which it is to apply, and shall serve on the applicant a copy of such written specification; and
  - b) the authority, or the social services authority on their behalf, shall be entitled, upon reasonable prior written notice given to the applicant either following the giving of the notification under sub-paragraph (a), to inspect the equipment and, subject to complying with sub-paragraph (3), to remove it.
27. It is also a condition that the authority agrees, within a reasonable time following an inspection of the equipment,
- a) to notify the applicant in writing whether the equipment is to be removed; and
  - b) if the equipment is to be removed, to remove it or arrange for it to be removed and forthwith to make good any damage caused to the property (whether by the authority themselves or the social services authority) by its removal.
28. The authority further agrees, where the applicant has contributed to the cost of carrying out the eligible works, to pay to him within a reasonable time of the removal of the equipment, the reasonable current values of that proportion of its original costs which represents the proportion of his contribution to the cost of carrying out the eligible works.
29. For the purpose of condition 28, the reasonable current value of the equipment shall be its value at the time of removal from the property.
30. Subject to the authority giving prior written notice in accordance with condition 27(a) or, as the case may be condition 27(b), the applicant agrees to afford, or to use his best endeavours to arrange for the affording of, reasonable access to the property to the authority or the social services authority for the purposes of inspection and removal of the equipment.
31. It is a condition on the tenant that any specialised equipment so installed within the scope of the grant is maintained by the applicant, and kept in a safe working order. This includes any further warranty or insurance that the Applicant may be required to purchase. This does not prejudice any warranty so set up within the scope of the grant. The applicant will be responsible for ensuring that any contractor who is responsible for upholding the warranty on the equipment is allowed within reasonable hours to inspect and maintain the equipment within their duty under the warranty.

Land charge Condition for Disabled Adaptations

32. All grants and loans will be placed as a land charge on the property. This is to ensure that the Council can recover the funds and/or equipment in the event that the property is sold. The recovered funds can be recycled to assist other applicants over a longer period should the Better Care Fund end. The funds will be recovered in the following proportions;
- i) Major Disabled Adaptations which include the discretionary top up; The Council will register a local land charge on properties in relation to applications for a Disabled Facilities Grant.
    - a. The charge will only apply to any home owner receiving a Disabled Facilities Grant of more than £5,000.
    - b. The charge will be the amount of grant received over £5,000 up to a maximum charge of £10,000.
    - c. The charge will be registered for 10 years.
    - d. Subject to particular exceptions the charge would have to be repaid if the property is disposed of within the 10 year period.
    - e. If the grant is less than £5,000 then there is no charge.
    - f. The Council will recover 100% of any top up grant awarded.
  - ii) Equipment such as ramps, stairlifts and through floor lifts will be recovered by the Council
  - iii) For all repair grants; 100% of the funding will be recovered including any ancillary fees/charges. This will be a 20 year land charge.
  - iii) All loans through Wessex Resolutions are subject to a charge placed by them.
  
  - v) Land charges - exceptional circumstances for Disabled Facilities Grants
    - a. When a property is disposed of, repayment of the land charge may be exempt in the following circumstances:
    - b. If a client moves to another property within the ten year period that does not require adaptations to be carried out; the new property is more appropriate to their needs (as confirmed by an occupational therapist) repayment will be waived.
    - c. If the client is moving into an enhanced or extra care accommodation.
    - d. If the client's death results in a child inheriting the whole of the property whose financial position is such that they could not raise a mortgage or a loan to repay the charge. This is intended to be a safeguard for children who have a mental impairment or who have acted as a carer for their parent.