



## Mandatory Disabled Facilities Grants

This is included for context and for a small number of variable options that have been included.

The Council will award mandatory Disabled Facilities Grant (DFG) according to the governing legislation – principally the 1996 Act and subordinate Regulations and Orders as amended - and guidance issued by central Government, and which details amongst other matters the types of work that are to be funded, the maximum grant payable (currently £30,000), and the test of financial resources where applicable.

### Qualifying Criteria

All owner-occupiers and tenants, licensees or occupiers who can satisfy the criteria in sections 19-22 of the 1996 Act are eligible to *apply* for DFG, but applicants must be aged 18 or over (this does not apply to the disabled person, who may be younger). Tenants of Council and other Social Housing are also eligible to apply, but Councils and some social landlords (Registered Providers) may have parallel and equally effective systems which can be no less effective or generous than DFG. Being eligible to apply does not automatically confer approval – some cases will not meet statutory tests as described below, and others may have significant means tested contributions in excess of the cost of works. Other (private) landlords may also apply for mandatory DFG on behalf of their disabled tenants.

As a part of the application process, the Councils will require certificates relating to property ownership and future occupation, and will request permission from the owner as standard legislation does not specify owner's permission for grant aided works to tenanted property. The Council would reasonably want to ensure the tenant has the right to carry out the works and that the landlord would not object or attempt to reinstate the property and evict the client. The Council can also waive the owner's certificate requirement if it is considered 'unreasonable in the circumstances.

### Qualifying Works

Those works eligible for mandatory DFG are set out in section 23(1) of the 1996 Act, as amended. These are;

- (i) facilitating access by the disabled occupant to and from the dwelling, qualifying houseboat or qualifying park home, (now including the garden) or
- (ii) making the dwelling, qualifying houseboat or qualifying park home safe for the disabled occupant and other persons residing with him;
- (iii) facilitating access by the disabled occupant to a room used or usable as the principal family room;
- (iv) facilitating access by the disabled occupant to, or providing for the disabled occupant, a room used or usable for sleeping;



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- (v) facilitating access by the disabled occupant to, or providing for the disabled occupant, a room in which there is a lavatory, or facilitating the use by the disabled occupant of such a facility;
- (vi) facilitating access by the disabled occupant to, or providing for the disabled occupant, a room in which there is a bath or shower (or both), or facilitating the use by the disabled occupant of such a facility;
- (vii) facilitating access by the disabled occupant to, or providing for the disabled occupant, a room in which there is a wash hand basin, or facilitating the use by the disabled occupant of such a facility;
- (viii) facilitating the preparation and cooking of food by the disabled occupant;
- (ix) improving any heating system in the dwelling, qualifying houseboat or qualifying park home to meet the needs of the disabled occupant or, if there is no existing heating system or any such system is unsuitable for use by the disabled occupant, providing a heating system suitable to meet his needs;
- (x) facilitating the use by the disabled occupant 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;
- (xi) facilitating access and movement by the disabled occupant around the dwelling, qualifying houseboat or qualifying park home in order to enable him to care for a person who is normally resident and is in need of such care;
- (xii) facilitating access to and from a garden by a disabled occupant; or making access to a garden safe for a disabled occupant.

### Local enhancement to DFG in Bedford

The Councils will include as part of the mandatory DFG the cost of a maintenance agreement for a period of five (5) years (where available) from the certified date for stair lifts, through-floor lifts, Clos-o-mat type toilet, step-lifts and similar equipment installed with the assistance of that grant. Where maintenance agreements of 5 years are not available through the Manufacturer the Council will fund the maximum warranty that is available. Where installing a reconditioned stair lift, any unspent warranty will be increased to a full 5 years if possible and affordable.

Through this policy the council has decided to remove entirely the requirement for means tests in the following circumstances:

- Where the total cost of works is over £1,000 (works under £1,000 will be funded through the social care minor works budget) and the assessed contribution is less than £500 then the council has the discretion to waive the requirement to pay this – any such decision would be on a case by case basis and available funding dependent.

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- Where the adaptation is for 'removable' items only – i.e. stairlifts, modular ramps or ceiling track hoists – where these would be given on a 'loan' basis and returned to the council if no longer required.
- Where the adaptation is to facilitate palliative care and the applicant is eligible for benefits under the benefits 'Special Rules' then works up to a maximum value of £7,500 would be exempt from means testing.

It should be noted that the exclusion from the means test will only apply to 1 mandatory disabled facilities grant application per applicant in a 5-year period. Therefore, if additional works are required within 5 years of the completion of the first 'means-test exclusion' grant then the standard DFG means test would be applied.

### Necessary, Appropriate, Reasonable & Practicable

A DFG will only be made if the works are both 'necessary and appropriate' and 'reasonably practicable', where the housing authority has consulted the welfare authority or its agents. Where an applicant prefers a different scheme of works to that approved by the Councils, the Council may offer to 'offset' the value of the original scheme towards those greater works with appropriate safeguards. This is at the discretion of the Council (Home Improvement Team).

Works which have been commenced prior to the approval of an application will not be eligible for financial assistance.

Unexpected works which arise during the carrying out of eligible works will be considered for assistance if the works could not have been reasonably foreseen before commencement and if they are vital to the completion of a safe and effective scheme.

Unforeseen works carried out without prior approval of the Council will not be eligible for assistance. Approval should always be sought in writing, timed and dated with details of the extra items and costs. Where unforeseen works are necessary these will be added to the grant up to the specified maximum for mandatory DFG. Costs above the mandatory grant maximum may be supported as discretionary DDFA in accordance with this policy. Care must be taken when agreeing to schemes of works on third-party property such as tenanted accommodation, that the property owner is fully engaged with the decision process. This is also particularly important where an architect or similar is acting on the customers behalf, and where issues such as planning permission, building control and other regulation are involved. Specialist advice from a private occupational therapist may be necessary to ensure that the objectives of the original scheme are being effectively met.



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### Financial Assistance

Mandatory DFG will be subject to a means test in accordance with the regulations made under the 1996 Act, as amended. The maximum mandatory DFG award is currently £30,000 minus any contribution required by a 'means test' (test of financial resources). Successive applications may be awarded for those persons whose condition is degenerative, or they develop additional needs. If the maximum grant limit is changed by statute then the maximum available DFG award by Bedford Borough Council will reflect this.

Where successive applications are awarded, the applicants' assessed contribution to the first grant award will be taken into account if within the time period of the contribution originally calculated (10 years if owner, 5 years if tenant).

NOTE: where an applicant is in receipt of a recognised, qualifying, means tested benefit they will not be further means tested and they will have no calculated contribution to make. Where works are for the benefit of a child or young person of 19 years age or younger at the date of application – they too will be exempt a means test.

The Council's DFG award is for a sum of funding only and is not inclusive or exclusive of using particular contractors or products. Customers may specify and choose their own contractors, agent, products and design – but take responsibility for those choices which may fall outside of the remit of any HIT contractors, as long as the contractors are suitably qualified, and the result meets the Council HIT's and Occupational Therapist's requirements.

### Order of processing applications

Public and private DFG applications or recommendations will usually be processed in chronological order, in line with the approved priority system, excepting in emergency circumstances at the discretion of the Council.

### Recovery of assistance awarded

Some mandatory DFG may be recoverable in accordance with permitted values. Where the customer is an owner-occupier and not a tenant, a sum of up to £10,000 may be recovered for works in excess of £5,000. This sum would only be recovered if the property was sold or title otherwise transferred within 10 years of the certified (completion) date of works, subject to the Council's discretion to reduce or waive in the case of financial hardship. All recoverable costs would be registered as a land charge against the property.

NOTE: this is separate and different to the potential repayment of grant in the event of a breach of occupancy conditions or detected fraud. Also, Councils are entitled to recalculate grant awards in limited circumstances, such as for example if any relevant



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insurance claims are pending, and to cease making payments and to seek repayment in some cases as detailed in sections 40-42 of the 1996 Act.

The Council will also impose a standard condition that it may recover specialised equipment, such as stair lifts, where no longer required.

### Conditions relating to Contractors, Standard of Works and Invoices

In approving an application for financial assistance, the Council will require as a condition that the eligible works are carried out in accordance with any specification it has decided to impose.

An applicant must take all reasonable steps to pursue any relevant legal or insurance claim (e.g. medical negligence or accident) which can be made in relation to the eligible works and must notify the Council of the outcome of such a claim and repay the equivalent financial assistance so far as is appropriate, in the Council's view.

The eligible works must be carried out by the contractor(s) upon whose estimate the financial assistance is based, or if two estimates were submitted, by one of those contractors. The Council's consent must be obtained prior to the works if a contractor who did not submit an estimate is to carry out the works, and if an agreement is given, an estimate from the new contractor must be submitted to the Council (this does not automatically convey a difference in revised grant award – any additional costs must be separately financed by the client).

An invoice, demand or receipt will not be acceptable if it is given by the applicant or a member of the applicant's family. Where works are carried out by the applicant or a member of their family, only the cost of materials used will be eligible for financial assistance.

It is a condition of the financial assistance that the eligible works are carried out within 12 months of the date of approval of the application. This period may be extended by the Council if it thinks fit, particularly where it is satisfied that the eligible works cannot be completed for good cause – requests for additional time must be made in writing before the 12 month period ends, and approved extra time will be confirmed in writing by the Council.

The payment of the financial assistance to the applicant will be dependent upon the works being carried out to a standard that is satisfactory to the Council and upon receipt of a satisfactory invoice, demand or receipt for the works and any preliminary or ancillary services or changes.

The Council will usually make payments direct to the contractor on behalf of the client, and not usually to the applicant. Where the applicant disagrees with a payment made direct to a contractor, no payment shall be made until any dispute is resolved.



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Legislation permits the Council to make payment by delivering to the applicant an instrument of payment in a form made payable to the contractor, OR by making payment direct to the applicant in accordance with information provided prior to grant approval.

NOTE: Contractors receiving direct payment may be required to provide sufficient information to be set up on the Council's financial systems – BUT this should not frustrate the client's choice, as the mandatory DFG grant (only) is an award of funds and not an award tied to a specific contractor with additional financial conditions. Other discretionary awards and forms of assistance may allow different rules on payment in kind etc.

### Recovery of compensation

It is a condition of the grant that the applicant must take all reasonable steps to pursue any relevant claim for personal injuries which caused the applicant to apply for a DFG or related assistance, and to repay to the Council the grant or assistance, so far as is appropriate, out of the proceeds of any claim, or to use that award directly to fund the adaptations work.

### Future occupation of the dwelling

It is a condition of the grant that throughout the grant condition period (that is 5 years from the date of certification) the dwelling is occupied in accordance with the intention stated in the certificate of owner occupation or availability for letting, or intended tenancy.

NOTE: There are no provisions regarding the possible repayment of a mandatory DFG in the event of an exempt disposal of the property. No conditions apply in respect of future occupation of a dwelling where a DFG is approved for works to the common parts of a dwelling.

### Customer Own Schemes (COS)

Customers who meet the Disabled Facilities Grant (DFG) eligibility and are therefore entitled to a grant allocation may wish to 'top-up' the DFG funding. The DFG recommendation by the Occupational Therapist will be for the most cost-effective solution which will look to adapt an existing property e.g. by removing the bath and replacing with a level access shower (wet room). Customers may prefer to choose a different option and a wet room upstairs may not be the preferred washing facility. The customer will be responsible for the difference in costs between the DFG and the final cost of the works, including unforeseen costs. Written evidence of being able to afford the cost of the additional works is also required.



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The HIT team surveyor and Occupational Therapist will work with the customer, their architect and builders as applicable, to ensure that the final scheme meets the disabled person's needs and where applicable planning and building control regulations have been adhered to.

If a client pursues their own scheme, then the Council will provide a copy of all necessary documentation required for a valid and complete application to be made and will provide an information pack regarding how to proceed.

### Recovery of specialised equipment

Where a mandatory DFG is approved for the installation of a stairlift, or a through-floor lift, or other specialist equipment the applicant shall notify the Council if, and as soon as, the equipment is no longer needed within a period of 5 years after the certified date.

The Council, or its agents shall be entitled upon reasonable prior written notice given to the applicant or their representative either following the giving of notification above, or at any time during the 5-year period after the certified date, to inspect the equipment and to remove it at their discretion.

The Council agrees, within a reasonable time following an inspection of the equipment, to:

- notify the applicant in writing whether the equipment is to be removed, and
- if the equipment is to be removed, to remove it or arrange for it to be removed and forthwith make good any damage caused to the property by its removal by the Council or its agents,
- the Council agrees that where the applicant has contributed to the cost of installing equipment which the Council intends to remove, to pay him/her within a reasonable time of that removal the proportion of the reasonable current value of its original cost (residual value – at time of removal) which represents the proportion of their contribution to the cost of the installation.
- Subject to the Council giving prior written notice in accordance with the above, the applicant agrees, within their power, to give reasonable access to the property to the Council and its agents for the purposes of inspection and removal of equipment, and will not act to prevent, delay, prohibit or frustrate such activity.

For clarity – the equipment is the property and responsibility of the customer, both during and after any warranty period, but in the event it is no longer required for the customer the Council have an automatic first right to recovery for re-use, subject to the condition of the equipment and any making-good costs. Such equipment recovery, assessment, repair, refurbishment, cleaning, storage and reinstallation is at the Councils discretion, cost and risk, and not at the customers. The customer or



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their family, executor or heirs should notify the Council in such circumstances, and the Council will endeavour to provide a swift assessment and decision. The Council may also waive this recovery requirement if it considers it appropriate to do so and is not obliged to remove or dispose of unwanted equipment.

### Repayment

Where a charge (repayable grant) is due for recovery, on receipt of a written request from the responsible person the HIT Manager will consider the options to reduce or waive repayment in particular circumstances to be determined in accordance with the following criteria;

- 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;
- 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;
- whether the disposal is made for reasons connected with the physical or mental health or wellbeing of the recipient of the grant or of a disabled occupant of the premises;
- 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.

If that initial decision is not accepted and further appealed, details of that appeal will be determined by the Head of Service, together or in consultation with the appropriate Chief Officer of the Council for that address or area.

All recoverable charges will be recorded as local land charges.

The land charge will be placed in accordance with 2008 General Consent<sup>1</sup> which enabled local authorities to place a local land charge for the portion of the grant over £5,000. The charge can be up to £10,000 and applies if the owner wants to sell the property within 10 years of the certified (completion) date.

Worked examples of the charge are given below:

| <b>Total Grant Awarded</b> | <b>£12,000</b> | <b>£15,000</b> | <b>£25,000</b> |
|----------------------------|----------------|----------------|----------------|
| Exempt amount              | £5,000         | £5,000         | £5,000         |

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|                          |               |                |                |
|--------------------------|---------------|----------------|----------------|
| Remaining value of grant | £7,000        | £10,000        | £20,000        |
| <b>Charge placed</b>     | <b>£7,000</b> | <b>£10,000</b> | <b>£10,000</b> |