



Llywodraeth Cymru
Welsh Government

GUIDANCE, DOCUMENT

Land and Buildings Development Fund 2022: guidance

How to apply for funding to develop land and buildings for public good.

First published: 15 August 2024

Last updated: 15 August 2024

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1. Introduction

Background

The Land and Buildings Development Fund (LBDF) complements the ambitions of other interventions delivered across Welsh Government and wider public sector with the aim of unlocking the potential for developing land and buildings for public good, particularly to meet the demands for social and affordable housing. The scheme is open to Local Authorities, Registered Social Landlords, other third sector organisations and bodies whose roots are embedded in social value i.e. not for profit trusts and charities. This list is not exhaustive.

LBDF concentrates on freeing up land and buildings where development has stalled or where there is a need to intervene to get a project off the ground. It is intended to enable applicants to overcome barriers to development i.e. bridge the “viability gap” and advance change. It can also be used to purchase strategic land parcels or buildings where their use will be to advance affordable homes.

Although there is an emphasis on social and affordable housing development, the programme may consider wider benefits to communities i.e. efficiency savings, better access to services and local amenities in the overall framework of land use reform.

Proposals can be up to 100% funded by the grant and in most cases be completed within two financial years. Applications to extend the offer period must be made in writing. Offer letters for funding are issued according to grant availability and can therefore be made "in principle" for long-term projects. Applicants who support proposals with their own funds, other funding streams, in kind contributions (applicant time etc), will be looked upon more favourably than those seeking 100% grant. LBDF can be used in conjunction with Social Housing Grant (SHG). SHG's viability model will not take the LBDF grant into account.

It is highly unlikely that LBDF will be awarded where market housing is developed unless the need to develop market housing forms an integral part of the funding package i.e. the land cannot be viably advanced without the income generated by such developments.

Please be mindful that this scheme has its foundations in doing the right thing for the people of Wales. LBDF should not be used to make good historical poor land/building purchase decisions i.e. the purchase of a listed structure where the listed status adds to viability issues. In such cases the applicant should contact Land Division to discuss the proposal.

The following is a list of activities that could be considered for funding. This list is not exhaustive:

- survey works
- design works
- specialist support
- masterplanning
- planning
- ecology
- adapting or enhancing existing structures for social needs
- site assembly
- land/asset assembly
- access
- site infrastructure
- flood risk mitigation
- decontamination

The Welsh Government reserves the right to award funding in a sustainable manner and may therefore award the LBDF in part or in full as a repayable grant. Repayable grants will be considered the “norm” where projects unlock substantial receipts and or savings, or where an income producing asset is being provided.

For advice and guidance on the application process please contact Land Division.

Yrls-adranTir.LandDivision@gov.wales

This document sets out qualifying criteria and provides guidance for applicants preparing a submission and covers each section of the application form. Applicants should ensure they read the entire guidance document, including the annexes, before making an application.

This guidance will be regularly reviewed and updated as necessary by the Welsh Government. It is the applicant's responsibility to ensure continued compliance with this guidance, by taking account of any amendments.

For advice and guidance on the application process please contact your nominated Programme Manager.

The Welsh Government has a legal obligation to process personal data in compliance with legislation, chiefly the General Data Protection Regulation (**GDPR**) and Data Protection Act 2018. It is however, not envisaged that the scheme will collect any personal data.

The LBDF application forms contains a Privacy Notice which sets out our position in relation to data protection legislation and the data you may provide to us in relation to your grant application. See [Welsh Government privacy notice | GOV.WALES](#)

In addition, if your application is approved the award of funding letter will set out the agreed outputs. As part of our grant monitoring processes, we will require you to report to us the project outputs achieved and you will be required to obtain and retain the evidence to verify those reported outputs, which we may from time-to-time request to see.

Our requirements relating to data collection and retention are set out in

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SCHEDULE 6 of the LBDF award letter; a copy of Schedule 6 is included at Annex 5 to this guidance.

A Legal Charge on the land/buildings will not usually be required as a condition of this grant but will be required where WG deem that its investment will need protection, i.e. a grant award to a not for profit for a land purchase. However, a strict contractual claw-back of grant will always be enforced if conditions are breached or ongoing development has not occurred.

If the applicant is a local authority and the application for LBDF relates to an asset that sits in the “General Account”, the applicant will be required to repay the LBDF in full, two years after the grant was offered.

A Local Authorities’ Housing Revenue Account (HRA) is not permitted to apply for LBDF to “purchase” assets that reside within the “General Account”. However, if the HRA purchase assets from the general account they may record such purchases as “in kind” contributions to the project. Land Division recognise that a decision to purchase assets from the general account will sometimes depend on an LBDF applications’ success. In such cases Land Division will accept an LBDF application where a purchase is LBDF dependent. However, the purchase must take place within 3 (three) months of the award being offered (not accepted by the applicant).

Application

The Welsh Government will review and assess applications as quickly as possible but this will depend on how many live applications are received.

Claw-back of grant

Unless agreed with Land Division, a full repayment of the grant will be required

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if:-

a, 2 years post final grant payment or 3 years from the date of the offer letter, the site does not support the development, as described in section 5 of the application form. i.e. if grant was awarded for decontamination prior to the construction of dwelling and those dwelling have not been started 2 years after the grant payment then the grant will be clawed back.

b, If the project description (Section 4) and/or the development described in Section 5 (outputs), differs from the LBDF application.

c, Two years after “General Account” assets are awarded LBDF. (LA only)

d, If a period of more than three months elapses where the proposed project incorporates a “General Account” purchase and that purchase has yet to occur. (LA only)

2. How to apply

The programme is managed by the Welsh Government. If the applicant commits funding to the project prior to LBDF approval then they do so at their own risk. The project application form must be completed by Local Authorities, Registered Social Landlords, other third sector organisations and bodies whose roots are embedded in social value i.e. not for profit trusts and charities. This list is not exhaustive.

The form should be completed electronically and submitted electronically.

The process chart included at **Annex 1** to this guidance sets out the assessment procedure which will be followed by the Welsh Government when it assesses an LBDF project application.

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An investment panel will consider all project applications received using the assessment criteria at **Annex 2** to this guidance.

The Investment Panel will make recommendations to the budget holder for approval within Land Division..

Projects must meet the following pre-qualifying criteria before they can be presented to the Panel:

- The land/buildings in question is in public/third sector/charity etc ownership or is intended to be
- There is an advanced plan for the land/buildings that will be realised
- That development post LBDF will need to be realised within 2 years of the final LBDF claim.

3. How to Claim

A claim form is available from Land Division. It must be accompanied by proof of expenditure (paid invoices) or extracts from the organisations finance system that clearly shows expenditure for the LBDF project.

Payments are normally made in arrears of spend but in some cases payments in advance can be made. Please contact Land Division to discuss advance payments if it is needed.

4. Project application form

Section 1: applicant and project summary

Region – please tell us in which of the four regions your project is located – select from South East Wales, South West Wales, Mid Wales or North Wales.

Lead Body and grant recipient – this is the name of the organisation that will manage any approved LBDF in relation to the project and be the responsible organisation for submitting claims, project reports etc. to the Welsh Government.

Joint partner – if you are jointly delivering this project with another partner please indicate who this is.

Project Title – please provide the unique name selected for your project.

Total Project Cost – this is the **total** cost of the project including for example Professional Fees, Feasibility Costs, Management Costs, Demolition, Construction Costs etc. The total cost figure provided here should match the total cost information provided in Section 8 of the application form.

Match Funding Non WG – this is the funding you anticipate to receive from non-Welsh Government organisations, private sector funding, and third sector funding which is clearly attributable to the project. For the avoidance of doubt staff time/fees can be included as match but must be appropriate and clearly attributable to the project and can be evidenced and claimed in the financial year in which they have been incurred.

Match Funding other WG – this is the funding you anticipate to receive from the Welsh Government, for example Social Housing Grant, Transport Grant, Local Transport Fund.

The following lists provide **examples of Welsh Government and Non Welsh Government funding** but are not exhaustive so if you have any queries regarding other funding sources not listed then please discuss this with Land Division.

Welsh Government funding examples:

Social Housing Grant

Welsh Housing Quality Standard

Business Wales grants

Tourism Investment Support Scheme

Capital development grants for museums, archives and libraries

Community Facilities Programme

Arts Council of Wales

Sport Wales

Cadw

Environment grants

Tidy Towns

Cymraeg 2050 grant scheme

Innovation Housing Fund

Non-Welsh Government funding examples:

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Public sector / third sector organisations' own funding

Lottery funding

Coastal Communities Fund

Private sector funding

WG or other loan funding

LBDF Grant Requested – please tell us how much LBDF funding you are requesting for your project and provide an explanation of how you arrived at that amount. Projects with a lower Welsh Government funding contribution will be regarded more favourably than those without.

The total funding package, including the LBDF grant requested, should match the total project cost.

Proposed Start Date – please tell us the approximate date you envisage the project/works will start.

Anticipated practical completion date – please tell us when you anticipate the project will be completed? It is accepted that financial completion, when all costs have been defrayed (including retention sums), may be later than physical completion. The project will continue to be monitored by Welsh Government until it is fully complete and all outputs have been reported.

Section 2: lead contact details

Here we require the contact details of the lead officer who will be the main contact with the Welsh Government in relation to this project.

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Section 3: joint delivery partner(s)

In this section you need to list the partner(s) involved in the delivery of this project and tell us what type of organisation(s) it is/they are. For example is it/are they private sector, local authority or third sector organisation e.g. charity, social enterprise. Please provide the details of the main contact for the project within each organisation. Provision has been made in the application form for two delivery partners but if there are more involved with the project then please insert additional rows.

Section 4: project description

4.1 Description

Please provide a detailed description of your project and what it sets out to achieve.

Please provide a location plan with photographs of the site/buildings as they appear before the commencement of any works.

Tell us about the key milestones and SMART (specific, measurable, achievable, relevant, time oriented) objectives of the project.

4.2 Ownership

Please tell us who currently owns the land/buildings and on what basis i.e. freehold or leasehold, including asset transfers. If leasehold what are the terms of the lease? How long have you owned it?

If you or your project partner does not already have ownership of the land/buildings tell us what arrangements are in place for acquisition, including the

nature of the acquisition i.e. freehold or leasehold (with details of the lease terms) and the timescale for this? This also relates to asset transfers.

If more than one acquisition is required to deliver the project please provide details for each one.

What, if any, covenants are attached to the freehold title(s) or lease(s) and how will this impact on the delivery of the proposed scheme post LBDF?

We will also require you to declare any adjacent land that could form part of any future activity post LBDF funding.

4.3 Historical funding

If you have secured other Welsh Government funding to support this application then please include details i.e. the project name, cost details and the level of funding awarded.

Section 5: benefits and impacts

Outputs and impacts

The Welsh Government is striving to help develop a vibrant Welsh economy capable of delivering strong sustainable economic growth by providing opportunities for everyone in Wales. Projects benefitting from public funding must contribute to social, economic and environmental objectives as set out in the **Well-being of Future Generations act**. The aim is to build stronger communities, reduce social exclusion and poverty and encourage the development of the economy.

Please tell us about how developing this asset will bring forward the development of land for social / affordable housing.

Section 6: strategic and regional context

6.1 Evidence of need

What evidence do you have to show the project is needed in its proposed location? Why has the land remained undeveloped? Evidence could include research data, published data, consultation exercises and/or surveys, market analysis/assessments, waiting lists for services/facilities etc. Copies of the evidence should be maintained by the lead body and provided to the Welsh Government if requested.

6.2 Has the land been fallow or is the building empty?

If the land has been fallow or the building is empty you will need to evidence as to why developing it now is in the public interest. You will need to demonstrate that development is better than looking for an alternative site with less constraints. LBDF will not be awarded to help organisations develop poor land or buildings when better alternatives are available.

6.3 List other assets in your ownership that could be advanced for social and affordable home development.

The Welsh Government is keen to identify what public land assets are available for the advancement of affordable/ social home construction. This section will enable Land Division to quantify land assets and their locality. This information may be used to inform future budget decisions. Please include all assets that are capable of delivering on the affordable/social home agenda. Please also indicate if the asset is within the LDP. As a condition of grant Land Division may require additional information of your holdings and how you intend to develop them in the future.

Section 7: delivery

In this section please set out how you propose to manage the delivery of the project and describe the structures in place to deal with day to day matters such as the management of issues and risks, making grant claims and securing appropriate consents.

7.1 Project Governance and Management

Please outline the project governance arrangements, including your governance structure, roles and responsibilities, Terms of Reference, members, strategy for dealing with stakeholders and customers etc.

Please confirm financial management of the project will be in accordance with the organisations financial regulations.

This grant is to be managed by the applicant and must not be passed from the applicant to a third party unless that is agreed by Land Division i.e. a Local Authority acting on behalf of a Community Trust. Any clawback will be instigated against the lead body and grant recipient.

7.2 Due Diligence of Partner Organisations

Due diligence needs to be undertaken in respect of non-local authority/RSL partners.

If your application has non local authority/RSL partners please confirm the lead applicant has undertaken appropriate due diligence in respect of each third party and that the outcome for each was satisfactory.

7.3 Risk Management

Please tell us about the risks and dependencies associated with this project and

indicate what measures you have identified to mitigate those risks.

Section 8: projects costs and funding package

Funding package

Please set out the funding package for this work. This is inclusive of all funding sources.

Proposed Expenditure

The following section identifies types of project costs which could be included. If you are unsure about any element of cost then please discuss this with your nominated Welsh Government contact. To secure the LBDF contribution it must be claimed in the financial year in which the cost has been incurred. LBDF cannot be claimed until a formal award of funding has been made.

Preliminary Expenditure

No costs already incurred prior to grant award will be eligible for support.

Professional Fees

Fees for external consultants are eligible, where it can be demonstrated that they have been purchased via a competitive procurement exercise. However, we do not expect consultants to be used to substitute in house services.

Applicant project management and supervision costs can be considered as long as the costs are incurred solely on the project and evidence of this can be provided. As above, this will weaken the application as we expect in house services to be given “in kind”.

Fees that have been subject to an approved tender process can be included at

the market rate resulting from that exercise, provided the exercise was not time limited.

All consultancy fees must be properly procured in accordance with public sector guidelines. If costs are occurred outside a tender process they may still be eligible if in the Welsh Government's opinion they are reasonable. Land Division would highly recommend that any costs of this nature are discussed prior to awarding works.

Redundancy and Severance

The Welsh Government will not consider eligibility for such matters within LBDF.

Purchase of Land and Property

The purchase of land and property is an eligible cost, provided that the land or property purchased is freehold and that the land is used to deliver the objectives of the Project i.e. the purchase of land an adjacent site will unlock a bigger development.

A certificate from the Valuation Office will be needed to confirm that the purchase price does not exceed the market value. If the land/buildings are being purchased at a price in excess of market value then the grant may be capped at market value. Land Division will judge each application on its merits.

Site Preparation

Eligible expenditure can include site investigation, site clearance and site servicing including preliminaries as detailed in the Bill of Quantities. Site decontamination can also be funded. Applicants must provide a rationale for the basis of costs.

Contract Works

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Eligible expenditure can include environmental works and specialist treatments. If there are extenuating circumstances to justify a request for inclusion of a particular service that is not straightforward you will need to discuss these with the Welsh Government.

Purchase of Equipment

The purchase of equipment is not eligible as match funding into the project.

Retentions

Retentions are not eligible expenditure period.

Ineligible Expenditure

The following costs are agreed as being **ineligible** for support and cannot be used as match funding:

This list is not exhaustive and will be refined from time to time:

- interest on debt
- bank charges on accounts
- costs of guarantees provided by a bank or other financial institution;
- charges for financial transactions, foreign exchange commissions and losses, and other purely financial expenses;
- loan charges;
- interest or service charges – arising on leases and hire purchase arrangements;
- costs resulting from the deferral of payments to creditors;
- costs involved in winding up a company;
- bad debts arising from loans to employees, proprietors, partners, directors, guarantors or shareholders;
- fines, financial penalties and expenses of litigation;
- staff costs that are not directly attributable to project delivery;

- training that is mandatory under statutory provision;
- payment for gifts and donations;
- entertainment costs;
- repairs and maintenance unless directly related to project delivery;
- stand-alone costs of works being carried out as a statutory requirement;
- notional costs;
- payments for activity of a direct political nature;
- dividends for shareholders;
- costs incurred by individuals in setting up and contributing towards private pension schemes, or the setting up of such schemes by organisations in receipt of structural funds;
- payments for unfunded pensions; and
- discounts

Funding

A Welsh Government LBDF award of funding may be conditional on evidence that match funding commitments have been secured.

Resources identified as match funding on the application form must be supported by a signed statement of commitment or indicative commitment from the funding body providing the resources. Where staff time is used in match funding the providing body must prioritise this resource.

For the avoidance of doubt, applicants should supply with the project application a signed confirmation from the funding body, specifying the project name, the level of funding to be contributed and a statement that the funds are readily available. If award letters from other funders are not available at the point of formal submission of your application, your application may not be considered.

Please note a Welsh Government award of funding in relation to LBDF will specify financial year allocations for the project as well as a final claim date by which the project's allocation must be drawn. LBDF grant claims against project

expenditure must be made in the financial year the expenditure is incurred. The project lead will therefore need to ensure the project can achieve the necessary annual spend to achieve the specified financial year grant allocation. Any variation to a project or its funding profile would need Welsh Government approval.

Section 9: compliance

Projects must be managed and procured in a compliant manner.

9.1 Procurement

Goods, services and consultancy, research or works necessary for the delivery of a project must be properly procured and care must be taken to ensure that all procurement exercises are fair, open and are:

- undertaken in a manner that is ethical, sustainable, accountable and compliant with procedural, legal and international obligations;
- achieve continuing improvement in value for money, based upon the whole life cost and quality of goods and services; and
- help to improve the competitiveness of suppliers;

The procurement of both specialist design services and appropriate delivery agents should be undertaken in line with your organisation's standard procurement policies and procedures.

The use of existing framework agreements is acceptable provided they were awarded appropriately.

Expenditure that is incurred on goods, services and consultancy, research or works that has not been procured in accordance with this guidance may be ineligible for support.

Lead Authorities must adopt their own compliance procedures in relation to procurement for third party/partner organisations. They must ensure that third party/partner organisations follow robust and compliant procurement processes.

Applicants will undertake the appropriate procurement exercise prior to making an application to the Welsh Government. The Welsh Government will require evidence of the procurement process during the appraisal of an application if it is appropriate.

The tender documents, including a tender report, should be submitted with your application.

9.2 Subsidy Control

(Please note the following is for guidance only and the applicant must undertake a Subsidy Control State assessment of its own and third party projects)

It is up to you to determine whether your provision of financial assistance is considered a 'subsidy'. Financial assistance will be considered a subsidy where it satisfies all four of the following 'limbs' of the test contained in the Subsidy Control Act 2022.

The four-limbed test

1. Is the financial assistance given, directly or indirectly, from public resources by a public authority?
2. Does the financial assistance confer an economic advantage on one or more enterprises?
3. Is the financial assistance specific? That is, has the economic advantage been provided to one (or more than one) enterprise, but not to others?
4. Will the financial assistance have, or is it capable of having, an effect on competition or investment within the UK, or trade or investment between the UK and another country or territory?

However, the new UK Subsidy Control system recognises that certain general interest services such as social housing, health, social care require public subsidies/funding. The new subsidy control system terms these as services of public economic interest (**SPEIs**). SPEIs are not captured by subsidy control.

Section 10: supplementary documents

This section of the application lists the documents which could be submitted with your completed application. If there are additional documents you wish to include in support of your request for funding these should be listed in this section. Please number the document, provide the document's name and indicate to which section of the application the document relates.

Section 11: signature and date

Section 151 of the Local Government Act 1972 requires local authorities to make arrangements for the proper administration of their financial affairs and appoint a Chief

Finance Officer (CFO) to have responsibility for those arrangements. The Section 151 Officer, also known as the Chief Finance Officer, is generally the Council's Director of Resources and he/she is responsible for the proper administration of the council's Finance affairs.

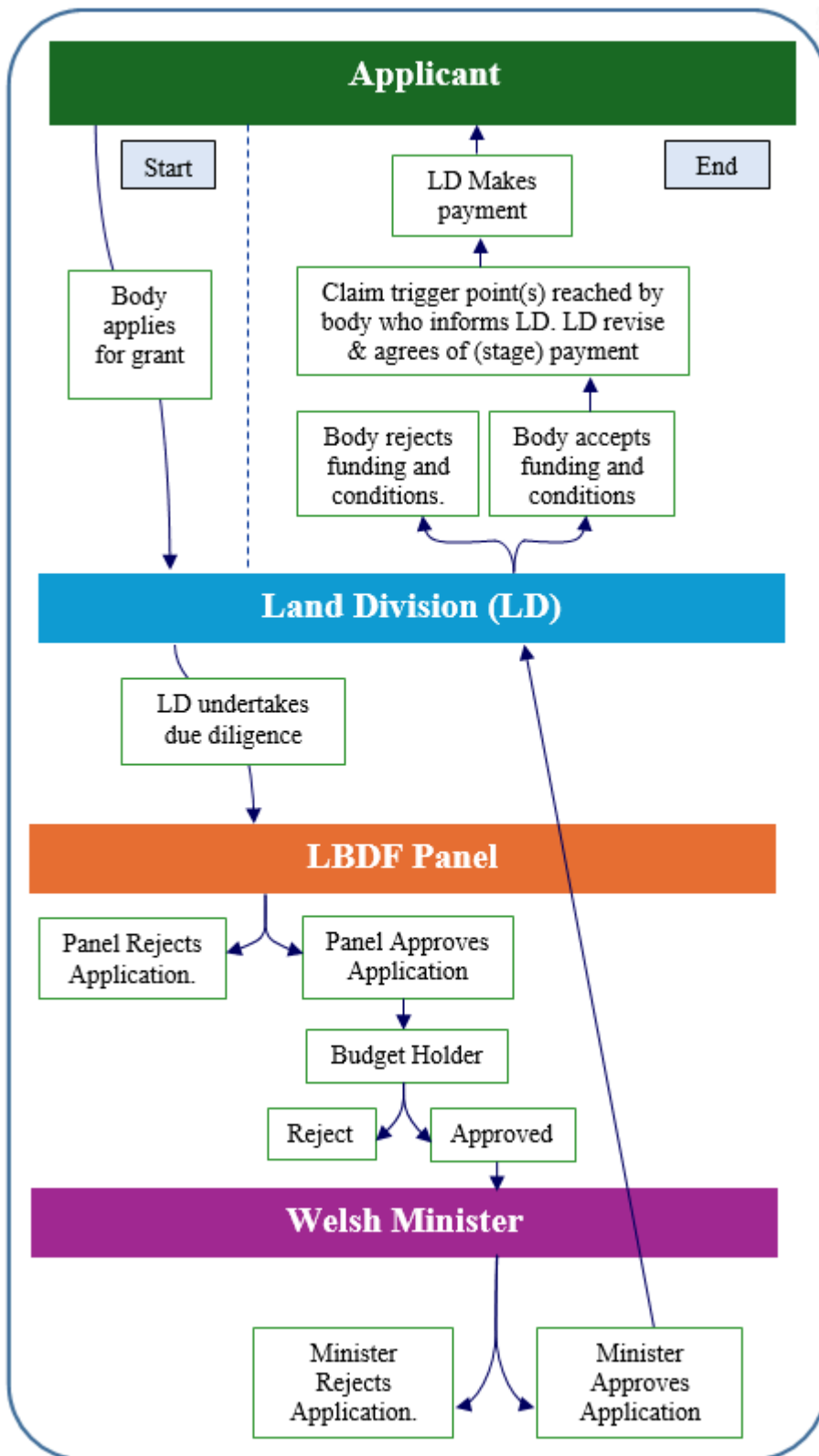
The Section 151 officer must sign the application form to confirm the information provided in the application form is accurate and also to confirm the strategic project has secured regional endorsement.

Annex 1: fund process map

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Annex 2: Land Division Investment Panel

The assessment panel will look at the project as a whole, how it addresses local needs and whether it is in line with Welsh Government policy. Quantitative outputs will be welcomed but the outcome of the proposal will carry greater value. i.e.. Applying for £ABC to develop 10 social homes in an area of low demand will carry a score of less than promotion 5 in an area of high demand.

Annex 3: Definitions of Outputs

It is expected that all LBDF-supported projects will produce outputs and outcomes as evidence of return on investment. Due to the nature of the LBDF scheme it is likely that qualitative outputs will feature highly in the application.

Annex 4: Clawback of Grant Funding

Introduction

1. This grant scheme is designed to advance development that has stalled. To that effect the applicant should only progress an application if unsticking the land will result in its development.
2. Claw-back of grant against the applicant irrespective of blame will in most cases be 100% of grant paid plus interest.

Annex 5: SCHEDULE x from LBDF award letter

Requirements of the GDPR

Part 1

Carrying out the Purposes will require the processing of personal data on our behalf. We will be the Data Controller and the table below provides details of the permitted processing to be undertaken in carrying out the Purposes.

You must comply with any further written instructions from us in respect of processing on our behalf. Any such further instructions shall be incorporated into the table:

Requirements of the GDPR

Description	Detail
Legal Basis for Processing	The relevant legal powers are: Articles 6(e) of the General Data Protection Regulations
Subject Matter Of The Processing	Output data in relation to the award of the Funding

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Duration of the Processing

From [20XX]

To [31st March 20XX]

Location of Processing

The data must be processed within the European Economic Area.

Wales

Nature of the Processing

Use of application form, collection, recording, storage, retrieval, use, disclosure, dissemination, alignment, combination, erasure and destruction

Purposes of the Processing

Evaluation of the funding and maintaining contact details

Type of Personal Data to be Processed

name, home address, business address, email addresses, telephone numbers, date of birth

Categories of Data Subjects

Local authority employees, students, pupils, trainees and contractors

Plan for the return and/or destruction of the data once the processing is complete UNLESS requirement under union or member state law to preserve that type of data

Retain personal data until 20XX and then destroyed

Retain output information but not personal data until 20XX

Part 2

1. The definitions set out below for the following terms shall be used in this Schedule 6:

GDPR definitions

Description	Definition
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Data Loss Event	means any event that results or may result in unauthorised access to Personal Data held by you under the Award of Funding , and/or actual or potential loss and/or destruction of Personal Data in breach of this Award of Funding including any Personal Data Breach (as defined in the GDPR);
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Description Definition

Data Protection Impact Assessment means an assessment by the Controller of the impact of the envisaged Processing on the protection of Personal Data;

Data Protection Legislation the GDPR, the DPA, the LED and any applicable national implementing Legislation as amended from time to time, the DPA 2018 (subject to Royal Assent) to the extent that it relates to Processing of Personal Data and privacy and all applicable laws and regulations relating to Processing of Personal Data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner;

Data Subject Access Request means a request made by or on behalf of a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data;

DPA 2018 means the Data Protection Act 2018;

GDPR means the General Data Protection Regulation (Regulation (EU) 2016/679);

LED means the Law Enforcement Directive (directive (EU) 2016/679);

Description Definition

Law means:

1. any applicable statute or proclamation or any delegated or subordinate legislation;
2. any enforceable community right within the meaning of section 2(1) European Communities Act 1972;
3. any applicable guidance, code of practice, direction or determination with which we and/or you are bound to comply to the extent that the same are published and publicly available or the existence or contents of them have been notified to you by us ; and
4. any applicable judgment or order of a relevant court of law which is a binding precedent in England and Wales,

in each case in force or applicable in both England and Wales, or in Wales only;

Party means us or you, together 'the Parties';

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Description Definition

Protective Measures means appropriate technical and organisational measures which may include pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely matter after an incident and regularly assessing and evaluating the effectiveness of the measures adopted by it;

Sub-Processor means any third party appointed to Process Personal Data on your behalf relation to the Award of Funding;

Working Days means a day other than a Saturday, a Sunday, Christmas Day, Good Friday or a bank holiday in Wales under the Banking and Financial Dealings Act 1971.

Protection of personal data

2.1 In this Schedule 6 the following terms shall have the meaning given to them in the GDPR: Controller, Processor, Data Subject, Personal Data, Process, Personal Data Breach, Data Protection Officer.

2.2 The Parties acknowledge that for the purposes of the Data Protection Legislation we are the Controller and you are the Processor.

2.3 The only Processing of Personal Data you are authorised to do is described

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in this Schedule 6 or is the subject of prior written approval by us and may not be determined by you.

2.4 You must notify us immediately if you consider that any of our instructions infringe the Data Protection Legislation.

2.5 You must provide all reasonable assistance to us in any on-going Data Protection Impact Assessment prior to and after commencing any Processing. Such assistance may, at our discretion, include:

2.5.1 a systematic description of the envisaged Processing operations and the purpose of the Processing;

2.5.2 an assessment of the necessity and proportionality of the Processing operations in relation to the Purposes;

2.5.3 an assessment of the risks to the rights and freedoms of Data Subjects; and

2.5.4 the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.

2.6 You must in relation to any Personal Data Processed in connection with your obligations under the Award of Funding:

2.6.1 process that Personal Data only in accordance with Condition 2.3 of this Schedule 6, unless you are required to do otherwise by Law. If you are so required you must promptly notify us before Processing the Personal Data unless prohibited by Law;

2.6.2 ensure that you have in place Protective Measures, which have been reviewed and approved by us as appropriate, to protect against a Data Loss Event having taken account of the:

1. nature of the data to be protected;
 - a. harm that might result from a Data Loss Event;
 - i. state of technological development; and
 - i. cost of implementing any measures;

2.6.3 you must, where you are required to notify Data Subjects of the purpose and detail of the Processing to be undertaken, cooperate with us to agree an appropriate notice which complies with the Data Protection Legislation. The notice must have our prior written approval.

2.6.4 ensure that your Personnel do not Process Personal Data except in accordance with the Award of Funding;

2.6.5 ensure that you take all reasonable steps to ensure the reliability and integrity of any of your Personnel who have access to the Personal Data and ensure that they:

(i) are aware of and comply with your obligations under the Conditions;

(ii) are subject to appropriate confidentiality undertakings with you or any Sub-Processor;

(iii) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by us or as otherwise permitted by the Award of Funding; and

(iv) have undergone adequate training in the use, care, protection and handling of Personal Data;

2.6.6 not transfer Personal Data outside of the EU unless our prior written consent has been obtained and the following conditions are fulfilled:

(i) we or you have provided appropriate safeguards in relation to the transfer

(whether in accordance with GDPR Article 46 or LED Article 37) as determined by us;

(ii) the Data Subject has enforceable rights and effective legal remedies;

(iii) you comply with your obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if you are not so bound, you must assist us in meeting our obligations); and

(iv) you comply with any reasonable instructions notified to you in advance by us with respect to the Processing of the Personal Data;

2.6.7 At our written direction, delete or return Personal Data (and any copies of it) to us on expiry of the Award of Funding unless you are required by Law to retain the Personal Data.

2.7 Subject to Condition 2.8, you must notify us immediately if in connection with the Award of Funding you:

2.7.1 receive a Data Subject Access Request (or purported Data Subject Access Request);

2.7.2 receive a request to rectify, block processing or erase any Personal Data;

2.7.3 receive any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;

2.7.4 receive any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data Processed under the Award of Funding;

2.7.5 receive a request from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or

2.7.6 become aware of a Data Loss Event.

2.8 Your obligation to notify under Condition 2.7 of this Schedule 6 includes the provision of further information to us in phases, as details become available.

2.9 Taking into account the nature of the Processing, you must provide us with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under Condition 2.7 of this Schedule 6 (and insofar as possible within the timescales reasonably required by us) including by promptly providing us with:

2.9.1 full details and copies of the complaint, communication or request;

2.9.2 such assistance as we may reasonably request to enable us to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;

2.9.3 at our request, any Personal Data you hold in relation to a Data Subject;

2.9.4 assistance as we may reasonably request following any Data Loss Event;

2.9.5 assistance as we may reasonably request with respect to any request from the Information Commissioner's Office or any consultation by us with the Information Commissioner's Office.

2.10 You must maintain complete and accurate records and information to demonstrate your compliance with this Condition 2 of this Schedule 6. This requirement does not apply where you employ fewer than 250 staff unless:

2.10.1 we determine that the Processing is not occasional;

2.10.2 we determine the Processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Articles 10 of the GDPR; and

2.10.3 we determine that the Processing is likely to result in a risk to the rights and freedoms of Data Subjects.

2.11 You must allow for audits of your Data Processing activity by us or our designated auditor.

2.12 You must designate a data protection officer if required by the Data Protection legislation.

2.13 Before allowing any Sub-Processor to Process any Personal Data related to the Award of Funding you must:

2.13.1 notify us in writing of the intended Sub-Processor and Processing;

2.13.2 obtain our prior written consent;

2.13.2 enter into a written agreement with the Sub-Processor which gives effect to the terms set out in this Condition 2 of this Schedule 6 such that they apply to the Sub-Processor; and

2.13.3 provide us with such information regarding the Sub-Processor as we may reasonably require.

2.14 You shall remain fully liable for all acts or omissions of any Sub-Processor.

2.15 You may at any time on not less than 30 Working Days notice revise this Condition 2 of this Schedule 6 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to the Award of Funding).

2.16 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. We may on not less than 30 Working Days' notice to you amend the Award of Funding to ensure that it complies with any

guidance issued by the Information Commissioner's Office.

2.17 For the avoidance of doubt, nothing in the Award of Funding shall relieve you of your own direct responsibilities and liabilities under the Data Protection Legislation.

2.18 You agree to indemnify and keep us indemnified against all claims and proceedings and all liability, loss, costs and expenses incurred in connection therewith by us as a result of any claim made or brought by any individual or other legal person in respect of any loss, damage or distress caused to that individual or other legal person as a result of your unauthorised processing, unlawful processing, destruction of and/or damage to any Personal Data process by you , your employees or agents in your performance of the Award of Funding or as otherwise agreed between the Parties.

2.19 The provisions of this Condition 2 of this Schedule 6 shall apply during the continuance of the Award of Funding and indefinitely after its expiry.

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