



Scottish Social  
Services Council

Resources Committee  
28 February 2018  
Agenda item: 07  
Report no: 09/2018  
Appendix E

# **Scottish Social Services Council**

## **REVISED DRAFT**

### **Third Party Funding Guidance**

**January 2018**

## **Third Party Funding Guidance**

### **1.0 Introduction**

The SSSC may, within the powers available to it under the Regulation of Care (Scotland) Act 2001 ('the 2001 Act'), make certain disbursements to other organisations to provide the third party organisation with funding in order to perform activities either on behalf of the SSSC or activities that are linked with the objectives of the SSSC. This protocol is concerned with the award of funding under the 2001 Act.

The principles of openness, integrity and accountability that are applied to spending decisions made by the SSSC are applied to funds or other resources which the SSSC transfers to third party organisations such as universities, companies, voluntary bodies and trusts. This guidance is intended to ensure proper accountability and that the principles of regularity and probity are not circumvented.

All third party funding that is not covered by commercial contractual relationships must have a funding agreement. The value or scale of the funds/resource transferred to the third party and whether or not funding is "one-off" or recurring will have a bearing on the extent of the requirements and monitoring arrangements contained within the funding agreement.

Please note when considering the transfer of resources to third party organisations the main consideration is likely to be monetary but non-cash support needs to be considered as part of our overall approach. Non-cash support would include things such as free or low-cost use of SSSC property, equipment or facilities.

This guidance provides an overview on risk, obtaining approval and what needs to be included in funding agreements. This overview is supplemented by detailed guidance notes. These guidance notes are currently being developed by the Workforce Development and Planning team.

### **2.0 Consideration of Risk**

Although overall expenditure directed towards third party organisations outwith straightforward contractual relationships is likely to be a small proportion of the SSSC's total expenditure, it inherently presents more risk than expenditure directly controlled by our own internal policies and procedures.

Prior to making any commitment to fund a third party organisation the risk must be assessed. The risk assessment will inform the funding agreement and in particular the scrutiny required of finance and performance.

The risk assessment should consider:

- Whether the SSSC has the legal powers necessary to provide the funding in the particular circumstances
- The value of funding to be provided
- The size of the third party organisation
- The proportion of SSSC funding to the organisation's total funding
- The legal constitution of the third party organisation
- The management arrangements of the third party organisation
- If the proposal is likely to be considered novel, contentious or repercussive as per the Executive Framework,

**Deleted:** MSFM.

A formal risk assessment documenting all of the above is needed for all grants or loans with an annual value in excess of £20k per annum. Formal risk assessments of higher value and higher risk proposals are likely to require the following documents to be obtained where relevant or appropriate:

- Constitution
- Deeds of Trust
- Last audited accounts
- Memorandum and Articles of Association
- Signed undertakings from members of management committees.

The above to be used to confirm the legal framework, undertake an assessment of the third party organisation's management arrangements and financial position.

Legal advice should be sought on the documentation referred to above from the SSSC solicitor ('relevant solicitor') responsible for advising the department which is considering the award of the funding.

### 3.0 Approval

The EMT must approve all grant proposals. The EMT has the final decision as to whether or not a grant proposal is to be submitted to the Sponsor department for approval.

To obtain EMT approval they must be presented with the following information: risk assessment, purpose/reason for award, award value, duration and proposed monitoring arrangements. The proposed funding agreement must be included as an appendix to the report. Use Appendix A "Third Party funding Approval Pro-forma".

**Deleted:** Where a new funding arrangement is entered into, a report may be required to be submitted to the relevant Committee for approval. Sponsor Department approval is also likely to be required. ¶

¶ The relevant solicitor should be consulted for legal advice on the terms of the funding agreement and the formalities required for signature of the document.

### 3.1 Sponsor Department Approval

The SSSC's Executive Framework (section 50) states:

Unless covered by a specific delegated authority the Council shall not,

**Deleted:** Management Statement and Financial Memorandum (A6.4)

without the Scottish Government's prior agreement, provide grant funding to a third party.

To obtain this approval, details of the proposal (value and proposed funding agreement) must be sent to the Sponsor Department for their consideration.

### 3.2

## 4.0 Funding Agreement

The following sections (4.1 to 4.8) provide details of the headings and an indication of the content that may be included under each heading. **The content and detail under each heading should be proportionate to the assessed risk of the funding proposal.**

### 4.1 Purpose of Funding

A general statement is required here that addresses the following:

It is important the SSSC is clear about the reason for transferring funds to an external organisation and the objectives the funding is facilitating. The objectives of the funding must be clearly and specifically linked to the SSSC's corporate objectives.

The statement should summarize the aims and goals of the external organisation and how these fit with the purpose of the funding.

Funding will only be provided where the relevant solicitor has advised that the funding is within the SSSC's legal powers.

### 4.2 Targets and Timescales

This section should set out specific targets and be clear about when the external organisation must achieve these targets. There must be a clear and unambiguous mechanism stated for deciding whether or not a target has been achieved (see section 4.7).

### 4.3 Value and Duration of Funding

- Total value of funds to be transferred.
- Analysis of value of funds to be transferred per financial year (1 April to 31 March)
- Commencement date of funding arrangement
- Funding arrangement review date.

**Deleted:** A6.4.1 Unless covered by a delegated authority, all proposals to make a grant or loan\* to a third party, whether one-off or under a scheme, shall be subject to prior approval by the Department, together with the terms and conditions under which such grant or loan is made. ¶

¶ The SSSC has delegated authority to award grants or loans\* up to the value of £10,000 per annum if the loan or grant is associated with training of social service workers. There is no delegated authority to award grants or loans\* for purposes other than training of social service workers. ¶

¶ Therefore Sponsor Department approval must be given prior to any commitment to award a grant or loan\* for: ¶

¶ <#>training of social service workers in excess of £10,000 per annum, or ¶

¶ <#>a loan\* or grant of any value for purposes other than social service worker training ¶

**Deleted: Committee Approval** ¶

¶ The Finance and Resources Committee must approve all grants and loans to third party organisations that have an annual value in excess of £20k per annum. It may be appropriate to request Committee approval for lower value grants or loans if the risk assessment suggests this is warranted. ¶

¶ To obtain Committee approval a report is required summarizing the purpose/reason for the award, the value, duration and monitoring arrangements. The proposed funding agreement must be ...

**Deleted: 3.3**

**Deleted: EMT Approval** ¶

¶ The EMT must consider all loan\* or grant proposals. The EMT has the final decision as to whether or not a loan\* or grant proposal is to be submitted to the Sponsor Department or Finance and Resources Committee. ¶

¶ The EMT must approve loan\* and grant funding proposals that are not to be submitted to the Spon...

**Deleted:** \*The specific advice of the relevant solicitor must be sought on any proposal that the SSSC make a loan. ¶

Please note funding arrangements should not be entered into where a commitment to supply funding extends beyond the current Comprehensive Spending Review (CSR) period. However, a funding review date can be provided and it is at this point that a decision may be made to extend into the subsequent CSR period.

#### 4.4 Specific Conditions

This section should detail any specific conditions that are to be attached to the funding. These could include:

- Restrictions on the use of funding (e.g. whether capital assets may be purchased)
- Policy regarding equality
- Policy regarding the environment and sustainability
- Reporting suspicions of fraud or irregularity
- Recruitment and selection policy and procedures
- Policies regarding conditions of employment
- Expectations on procurement procedures
- Expectations on insurance arrangements
- Procedures for the SSSC to obtain information in respect of complaints made to the external organisation

#### 4.5 Financial Regime

This section should include the following:

- The nature of the financial relationship e.g. grant
- Criteria for making and receiving payments. It is SSSC policy that payments should be made upon satisfactory completion of agreed targets or milestones. At the commencement of the agreement the payment schedule showing the value of payments due on the completion of specific targets should be agreed.
- If any element of payment in advance of completion of targets or milestones is proposed (e.g. start up funding) then the nature and value of this payment needs to be set out clearly here in the funding agreement. This also needs to be highlighted in the summary report seeking approval from EMT and Sponsor as appropriate.
- Details of any transfer of assets and destination of such assets. Requirements with respect to assets purchased by the external organisation which SSSC has fully or partially funded. Assets will be considered property, plant or equipment with a purchase value in excess of £5k (excluding VAT). The need for the external organisation to maintain an asset register.
- Arrangements for obtaining SSSC consent to dispose of grant financed assets and the subsequent utilisation and distribution of the proceeds from the disposal of assets.
- Arrangements for repayment of grant if assets created by grants made by the SSSC cease to be used for the intended purpose or if

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the grant conditions are breached.

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- Accounting and reporting procedures to be adopted.
- Identification of any non cash support.
- The SSSC's entitlement to any financial return.
- Arrangements for carrying forward funds from one financial year to the next.

#### **4.6 Accounting, Reporting and Audit Requirements**

This section should set out the following:

- Minimum standard of management arrangements and accounts required by the SSSC.
- Responsibility and accountability of the Management Committee of the body.
- Access to records and accounts of the body by SSSC representatives.
- Access to records and accounts of the body by the SSSC's internal and external auditors.
- Access to records and accounts of the body by members of the Sponsor Department or any other nominated representatives of Scottish Ministers.
- Arrangements for SSSC representatives, internal and external auditors accessing the External Auditor of the body.

#### **4.7 Financial and Performance Monitoring Requirements**

This section should include the following:

- Proposed methods for the measurement of the external organisation's performance. This will include detail on the specific criteria used to determine if payment targets or milestones have been achieved.
- Frequency of monitoring reports on financial and operational performance such as progress towards achieving targets, actual spend vs budget.
- The need for annual report and accounts from the external organisation.
- Whether there is a need for grant expenditure to be independently certified by accountants/auditors.
- Methodology for the reporting of future plans of the external organisation.
- Notification requirements of events or criteria which may trigger a review or reappraisal of the funding agreement. For example, a change of lead personnel in the external organisation.
- Procedures to alert the SSSC should any significant problem arise between formal monitoring stages.
- Action that can/will be taken when shortfalls in performance are identified.
- Post project appraisal to evaluate the success of the funded work.
- Details of reporting requirements to EMT and SSSC Committees.

Note:

An SSSC officer must have been given delegated responsibility to act as the funding agreement monitoring officer. This officer must be briefed on the expectations of this role and the specific monitoring requirements attached to the funding agreement they have responsibility for.

#### **4.8 Arrangements for Dispute Resolution and Termination of Funding Agreement**

The funding agreement must contain provision for dispute resolution and a clear exit strategy for the SSSC. This includes setting out circumstances that would trigger a review of the agreement and specific events that could lead to the termination of the agreement and protection of the SSSC's financial interest. The position with respect to recurring liabilities should be clear.

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#### **5.0 Register of Grants and Loans**

Finance will maintain a register of all grant or loan agreements with external organisations. It is therefore essential that Finance is supplied with a copy of the funding agreement as soon as it is agreed.

A copy of the register is attached as Appendix A.

#### **6.0 Supplementary Guidance**

Detailed guidance is being developed by the Workforce Planning and Development team.

#### **References:**

**Scottish Public Finance Manual – Framework for the Financial Control of Third Party Grants**

**SSSC Executive Framework**

**Accounts Commission for Scotland – Code of Guidance on Funding External Bodies and Following the Public Pound**

**Audit Scotland - Following the Public Pound – Controller of Audit's Report and Accounts Commission's Findings (March 2004)**

**Audit Scotland – Following the Public Pound – A Follow up Report (December 2005)**

Deleted: Management Statement and Financial Memorandum