



CODE OF PRACTICE

FUNDING EXTERNAL BODIES AND 'FOLLOWING THE PUBLIC POUND'

CONTENTS

1.	Scope and Background	3
2.	Accounting Requirements Applicable to All	4
3.	Category 1 (funding greater than £500,000)	4
4.	Category 2 (greater than £50,000 but less than £500,000)	6
5.	Payments	7
6.	Funding Agreement	7
7.	The Role of the Budget Manager	8
8.	Representation and Participation in External Bodies	8
9.	Termination	8
10.	Audit and Inspection	9

CODE OF PRACTICE FOR FUNDING EXTERNAL BODIES AND 'FOLLOWING THE PUBLIC POUND'

1.0 Scope and Background

- 1.1 This Code of Practice follows the 'Code of Guidance on Funding External Bodies and Following the Public Pound' issued by Audit Scotland with the support of the Convention of Scottish Local Authorities. The guidance sets out a framework for Councils' relationships with bodies through which they seek to carry out some of their functions and the principles that should be applied when considering any **substantial** funding to arm's length and external organisations (ALEOs). The guidance is not intended to apply to the many small revenue grants which councils make to community groups.
- 1.2 'Following the Public Pound' means ensuring that there is proper accountability for public funds used in delivering services, irrespective of the means of service delivery.
- 1.3 When agreeing to transfer funds to an external body, the Council must be clear about its reasons for doing so and proper consideration should always apply. The prime purpose of involvement with an external body should be the achievement of the Council's objectives in the most effective, efficient and economic manner, not the avoidance of controls or legal restrictions, which are designed to secure probity and regularity in the use of public funds.
- 1.4 It is the responsibility of each Service Director to ensure there is clear public accountability for public funds that are provided from their Service's budgets to external bodies. An individual officer may be identified as Lead Officer for each body in receipt of funding from the Council.
- 1.5 The concept of 'Following the Public Pound' applies when the Council decides to fund external organisations which deliver services that might otherwise be delivered by the Council itself. In these arrangements, the Council agrees to provide funds and other resources to companies and organisations for the delivery of specified services. The Council has a number of such arrangements, and these companies / charities are collectively defined as being Arm's Length External Organisations (ALEO's).
- 1.6 This Code covers all external bodies who receive **substantial** funding, including loans or loan guarantees, from the Council e.g. Live Borders, Citizen's Advice Bureaux. It does not include payments made under a straightforward contract for goods and services.
- 1.7 Potential conflicts of interest that arise when Members or officers sit on the boards or committees of external bodies funded by the Council will be removed through the use of funding agreements. These written agreements will define roles, responsibilities and liabilities and will be used to define clear and unambiguous relationships.
- 1.8 The Council will only seek representation on the board or committee of an external body where i) the body clearly contributes to the achievement of the Council's strategic aims and objectives; ii) the body is considered to be a strategic partner; or iii) it is important for the Council's commitment to be visible.
- 1.9 The Code does not apply to external bodies who receive small revenue grants from the Council e.g. Community Councils, village halls, local festival grants and projects

CODE OF PRACTICE FOR FUNDING EXTERNAL BODIES AND 'FOLLOWING THE PUBLIC POUND'

supported under the Community Fund. These funds are administered under separate guidance.

- 1.10 The Code does not apply to instances where the Council are distributing funds from a third parties.
- 1.11 In setting out the checks required, the following funding bands will be used. The Code should be applied where it is known or anticipated that payments will reach these thresholds cumulatively over the financial year :
- Cumulative annual funding or one-off funding greater than £500,000 (Category 1)
 - Cumulative annual funding or one off funding greater than £50,000 but less than £500,000 (Category 2)
- 1.12 The Council may provide assistance in kind to external bodies e.g. providing premises rent free, provision of equipment and staff time. The true cost of any assistance in kind will be taken into account in the allocation of funding.

2.0 Accounting Requirements Applicable to All

- 2.1 When agreeing to transfer funds to an external body, the Council must be clear about its reasons for doing so. The prime purpose of involvement with an external body should be the achievement of the Council's objectives.
- 2.2 The Budget Manager and budget for the payment will have been identified and agreed by the Service Director.
- 2.3 The Budget Manager will be responsible for ensuring that the Code is followed.
- 2.4 All payments to external organisations, including those made under third-party payments for services, must follow the Council's Financial Regulations.

3.0 Category 1 (Cumulative annual funding or one-off funding greater than £500,000)

- 3.1 An option appraisal must be carried out to identify the optimum means of delivery prior to entering into any funding agreement.
- 3.2 The following list determines the minimum information requirements of the Council for the whole organisation and timescales in which these are required:
- A detailed one year business plan or project plan
 - Detailed monthly cash flow estimates
 - A summary 3 –year business plan
(The above must be provided prior to entering into any agreements and annually before the last day of February).
 - Management Accounts covering the previous 6-month period; to be provided no later than 6 weeks after the period they relate to.

CODE OF PRACTICE FOR FUNDING EXTERNAL BODIES AND 'FOLLOWING THE PUBLIC POUND'

- Annual Accounts, audited by a Reporting Accountant and signed by that person; to be lodged no later than 4 months after the organisation's financial year end.
- Monitoring reports, as determined by the Budget Manager, containing information on project status, performance against pre-defined targets and any other details considered applicable.
- Minutes of Board or other governing body, meetings. Budget Manager should attend Board or Management Committee meetings in a non-participatory monitoring capacity.
- Clear evidence of an effective equalities policy covering sex discrimination, race relations, and disabilities.
- Clear evidence that the organisation is aware of its environmental responsibilities and acts accordingly.
- Confirmation that the organisation is registered with Disclosure Scotland or, if a voluntary organisation, has conducted checks for all relevant persons through a Registered Umbrella Body.

3.3 Checks to be carried out by the Council

The following list details the financial checks that must be carried out by the Budget Manager, in conjunction with their Finance Team, and timescales for completing these checks.

Annually, check that:

- The required Business Plan and Annual Accounts have been lodged
- The Business Plans have been risk assessed
- The funding is being used solely for the purposes intended
- Any conditions applied are being met, including targets and quality standards
- All milestones in the business plans that should have been met, are being met
- Any projections in the business plans are SMART (specific, measurable, achievable, realistic, and timely) based on past performance and trends
- The cash flow meets projected levels, to ensure viability
- Any necessary income from other sources has been secured
- Insurance is adequate to meet all perceived risks
- Recognised accounting procedures have been followed and standards met, e.g. in relation to depreciation of fixed assets.
- Disclosure checks have been carried out for all new employees/volunteers.

At least every 6 months, check that:

- The Management Accounts covering the previous 6-month period have been received.
- The cash flow indicates that there is enough to meet the organisation's needs for the remainder of the year.

- 3.4** If annual or 6-monthly checks give rise to any concerns, the Budget Manager should immediately advise the Service Director and Executive Director, Finance & Regulatory, to agree actions to address these concerns. If considered necessary, the Budget Manager will prepare a report for consideration by the Audit & Scrutiny Committee.

CODE OF PRACTICE FOR FUNDING EXTERNAL BODIES AND 'FOLLOWING THE PUBLIC POUND'

4.0 Category 2 (Cumulative annual funding or one-off funding greater than £50,000 but less than £500,000)

4.1 The following list determines the minimum information requirements of the Council and the timescales in which these are required:

- A detailed one year business plan or project plan.
- Annual Accounts, audited by a Reporting Accountant and signed by that person; to be lodged no later than 4 months after the organisation's financial year end.
- Monitoring reports, as determined by the Budget Manager, containing information on project status, performance against pre-defined targets and any other details considered applicable.
- Clear evidence of an effective equalities policy covering sex discrimination, race relations, and disabilities.
- Clear evidence that the organisation is aware of its environmental responsibilities and acts accordingly.
- Confirmation that the organisation is registered with Disclosure Scotland or, if a voluntary organisation, has conducted checks for all relevant persons through a Registered Umbrella Body.

The above must be provided prior to entering into any agreements and annually before the last day of February.

4.2 Checks to be carried out by the Council

The following list details the financial checks that must be carried out by the Budget Manager, in conjunction with their Finance Team, and timescales for completing these checks.

Annually, check that:

- The required Business Plan and Annual Accounts have been lodged.
- The Business Plans have been risk assessed.
- The funding is being used solely for the purposes intended.
- Any conditions applied are being met, including targets and quality standards.
- All milestones in the business plans that should have been met, are being met
- The cash flow meets projected levels, to ensure viability.
- Recognised accounting procedures have been followed and standards met, e.g. in relation to depreciation of fixed assets.
- Disclosure checks have been carried out for all new employees/volunteers.

4.3 If annual or 6-monthly checks give rise to any concerns, the Budget Manager should immediately advise the Service Director and Executive Director, Finance & Regulatory, to agree actions to address these concerns. If considered necessary, the Budget Manager will prepare a report for consideration by the Audit & Scrutiny Committee.

CODE OF PRACTICE FOR FUNDING EXTERNAL BODIES AND 'FOLLOWING THE PUBLIC POUND'

5.0 Payments

- 5.1 Payments will **not** be made to the organisation until all the required information is submitted and checked and all financial checks have been satisfactorily completed by the Budget Manager and authorised by the Service Director.
- 5.2 A schedule of payments will be agreed between the Budget Manager and the receiving organisation each financial year and tailored to meet the cash flow requirements of the receiving organisation. Payments will be made on an agreed periodic basis of at least quarterly, to minimise the Council's exposure in the event of the organisation encountering financial difficulties.
- 5.3 Prior to any payment being made to an organisation, checks must be made to ensure no sundry debts, council tax or non-domestic rates are owed by the organisation to the Council. If any such debts are due and past the first stage in the recovery process, then this debt must be deducted from the next payment to the organisation.

6.0 Funding Agreement

- 6.1 All organisations covered within the scope of this procedure must have a Funding Agreement approved by the Service Director, Executive Director, Finance & Regulatory and Chief Legal Officer.
- 6.2 Where an organisation enters into a funding agreement with Finance & Regulatory Services, the Chief Executive must approve the Funding Agreement.
- 6.3 The Funding Agreement can take different forms, e.g. Service Level Agreement (SLA) or application form and letter of approval with associated conditions. The length and detail of a Funding Agreement will vary depending upon the nature and size of the funding given. The Funding Agreement should be in place within three months of the date of the decision being taken to provide funding.
- 6.4 The agreement will include non-financial targets and information, but as a minimum the following must be included i) the purpose of the funding and the expectation of use; ii) the Council policy/strategy the funding is linked to; iii) the value of funding approved by the Council, including payment date information; iv) the period over which the funding applies; v) financial reporting requirements; vi) monitoring and reporting requirements; vii) a statement on the consequences of failure to provide reporting information to the Council, i.e. the discontinuation of further funding; viii) a statement on the ability of the Council to deduct any debts due to the Council prior to making any further awards; ix) a statement on access to the accounting records of the organisation that requires to be given to Council staff, including internal and external audit staff; x) details of Council representation of Councillors and Officers; xi) the need for the Council to be acknowledged for its support on all publicity material relating to the project/service; and xii) clarification of procedures for cancelling the Funding Agreement.
- 6.5 Monitoring officers should periodically review the SLA or other contract between the Council and the organisation. Where it is considered that a change to a provision within

CODE OF PRACTICE FOR FUNDING EXTERNAL BODIES AND ‘FOLLOWING THE PUBLIC POUND’

the original agreement is necessary, this should be agreed between the Service, Legal Services and the organisation.

7.0 The Role of the Budget Manager

- 7.1 The role of the Budget Manager for each funding arrangement is to ensure that the Council's interests are being maintained and objectives are being achieved, by a) providing advice; and b) monitoring.
- 7.2 Advisory role in general terms means to advise the funded organisation on what they must do to meet the terms of the funding. They will not provide professional advice but may draw attention to the need for such advice and where it might be obtained. The Budget Manager will i) inform the organisation of Council processes, procedures and requirements; ii) on an ongoing basis, remind the organisation of the need to meet any set criteria; iii) advise the appropriate Council officer of any issues of concern.
- 7.3 Monitoring role broadly means to monitor the terms of the Funding Agreement and to ensure that the guidelines and principles of ‘Following the Public Pound’ are adhered to. This will include i) checking that agreed criteria are being met; ii) monitoring Business Plans; iii) monitoring financial arrangements; iv) monitoring agreed performance measures; v) monitoring risks; vi) monitoring the outcomes of the funding; vii) produce monitoring reports.

8.0 Representation and Participation in External Bodies

- 8.1 It is important that the Council is clear about why it wants representation and is transparent in its decision making about which Members or Officers will be involved and why.
- 8.2 Members appointed to partner organisations are bound by the Code of Conduct for Councillors - Appointments to Partner Organisations – Sections 3.19 and 3.20 (<https://www.gov.scot/publications/code-conduct-councillors-9781787810778/>) and Registration of Interests - Sections 4 and 5. Any Elected Member who has an interest in any organisation being funded by the Council must ensure that this interest is included in the register of Members' interests as a (normally non-financial) interest and declared at any meetings where matters concerning the organisation are being discussed.
- 8.3 Council Officers are, at all times, bound by the Code of Conduct for Employees. Any Council Officer who has an interest in any organisation being funded by the Council, must ensure that this interest is included the register of employee interests.
- 8.4 The Council will retain a register of representation on external bodies in a format deemed suitable for the purpose.

9.0 Termination

- 9.1 Should any disagreement arise that cannot be resolved by the Budget Manager, then it should be referred to the Service Director and Portfolio Holder who will consult with

CODE OF PRACTICE FOR FUNDING EXTERNAL BODIES AND ‘FOLLOWING THE PUBLIC POUND’

the Executive Director, Finance & Regulatory and Chief Legal Officer and resolve the situation.

- 9.2 Where no resolution can be found, the agreement to provide financial support may be terminated on **written notice** if any of the following arise i) the organisation fails to perform any **substantial** obligation on its part; or ii) the conditions of the investment, including the provision of information requested are not met; or iii) the monitoring/evaluation of the organisation and/or its performance are deemed unsatisfactory by the Lead Officer. The termination shall become effective within 30 days after the receipt of the notice unless the organisation has remedied the identified default within this period or is able to demonstrate, to the satisfaction of the Council, that any issues can be remedied within an agreed timescale. Under these circumstances, the Council will require the return of all unused monies and retains the right to recover any debts due to the Council incurred prior to the termination date.
- 9.3 The agreement to provide financial support may be terminated with **immediate effect** where the organisation i) is unable, at any time, to satisfy the Council that sufficient cash exists to ensure its cash flow projections can be financed; or ii) passes a resolution for winding up other than for the purposes of solvent amalgamation or reconstruction where the resulting entity assumes all of the obligations of the defaulting organisation; or iii) is deemed insolvent; or iv) makes or proposes to make any arrangement with its creditors; or v) appoints a liquidator, receiver or administrator over any of the assets of the organisation. Any termination of the agreement shall not affect any rights or liabilities placed upon either party which have accrued prior to the date of termination.

10.0 Audit and Inspection

- 10.1 This Code is an important internal control to ensure compliance with the guidelines and principles of “Following the Public Pound”. Periodically, Internal Audit will carry out a compliance and assurance review across the Council with its findings and recommendations being reported to the Audit & Scrutiny Committee. In addition, the Council’s External Auditors will review, as part of their annual audit, any **substantial** funding arrangements with any concerns over issues of probity and regularity made known to the Council and Audit Scotland.