



EUROPE & SCOTLAND
European Regional Development Fund
Investing in a Smart, Sustainable and Inclusive Future



EUROPE & SCOTLAND
European Social Fund
Investing in a Smart, Sustainable and Inclusive Future

EUROPEAN STRUCTURAL AND INVESTMENT FUNDS 2014-2020 PROGRAMMES

NATIONAL RULES ON ELIGIBILITY OF EXPENDITURE



Scottish Government
Riaghaltas na h-Alba
gov.scot

Date	Issue	Status	Author
17 December 2014	1	Final	Mark Ashton
5 March 2015	2	Final	Mark Ashton – New Logos added. Amendment to 1.8
1 October 2015	3	Final	Mark Ashton – update to SCO guidance to incorporate additional use of Flat-Rate. Minor updates to 1.5, 1.12. Added in 1.16, 1.17, 1.18 and Annex A
14 March 2016	4	Final	Mark Ashton – Updates to: <ul style="list-style-type: none"> • 1.4 Match Funding. • 2.2 Flat Rate Options Table – clarification of up to 15 or 40% immediately below table. • 3.1 wage subsidy scheme added as an Actual Cost. • 4.3.1 Wage subsidies – last 3 bullet points added/clarified.
19 July 2016	5	Final	Lynda Smith – Introduction of Annex B Question and Answer on Procurement
28 February 2018	6	Final	Lynda Smith and Alison Cumming. Updates to: <ul style="list-style-type: none"> • Procurement with Match • Direct staff costs • Method for apportioning NI • Sick pay clarification • Overtime payments • Graduate Placements • Seven Hour Breakdown • Apprenticeship Levy
24 April 2019	7	Updates for EPSA	Eilidh Steele, Iain Aitchison, Cheryl Glen. Updates to: <ul style="list-style-type: none"> • Introduction (reference to Omnibus regulation) • 1.1 Roles and Responsibilities added • 1.5 - Match Funding • 1.6 – SCOs (application of standard scale of unit costs) • 1.7 – Audit Trail • 1.8 – Procurement

			<ul style="list-style-type: none"> • 1.8.1. – Procurement with Match • 1.19 – Participant Consent • 1.20 – Underperformance • 2.1 – Standard Scale of Unit Costs • 2.2 – Flat Rate Options • 4.2.1 – Staff Costs (Audit Trail, Facility Time, Pay Arrears, Back Pay) • Annex B (Question 1
12 September 2019	7	Updates for MCS Review	<p>Alison Cumming, Tracey Gillon, Lynda Smith</p> <ul style="list-style-type: none"> • 2.2.1 – Direct Costs – Adding new Template Timesheets, Delegated Act from EC & adding paragraph on possibility to claim actual costs for P/T staff • 4.2.1 – Direct Staff Costs – New examples for Back Pay Calculation & confirmation that 40% threshold for claiming staff costs is per payroll month. • 4.2.3 – Sick Pay – Link to website for sick pay template • 4.2.12 – ERDF P4&6 – Evidencing of Non-financial Support • 5.7 – Staff Related Costs – Annual Leave Buy Back added.
23 September 2019	7	Final (published)	
20 February 2020	8	Updates for MCS Review	<p>Lynda Smith</p> <ul style="list-style-type: none"> • Holiday Adjustment (Overtime) added <p>Alison McLoughlin</p> <ul style="list-style-type: none"> • Website links updated
30 March 2020	8	Final (published)	

30 July 2020	9	Update	Eilidh Steele <ul style="list-style-type: none">• Adding Covid-19 section 1.2
31 July 2020	9	Final (Published)	

Contents

INTRODUCTION.....	7
SECTION 1 – GENERAL PRINCIPLES.....	8
1.1 Responsibilities of Lead Partners and Delivery Agents	8
1.2 Geographical Flexibility	9
1.3 Fund Flexibility.....	9
1.4 Need for Structural Funds.....	9
1.5 Match Funding.....	9
1.6 Simplified Cost Options.....	10
1.7 Audit Trail.....	10
1.7.1 Evidence of Expenditure.....	10
1.7.2 Evidence of Achievements	11
1.8 Procurement	11
1.8.1 Procurement with Match	12
1.9 State Aid.....	13
1.10 Financial Instruments (FIs).....	13
1.11 Publicity	13
1.12 Income and Revenue.....	13
1.12.1 Project Income.....	13
1.12.2 Revenue Generation.....	14
1.13 Winding Up or Liquidation	14
1.14 Document Retention.....	14
1.15 VAT.....	14
1.16 Article 71 Durability of Operations	14
1.17 Approval of Operations.....	15
1.18 Challenge Funds.....	15
1.19 Participant Consent.....	15
1.20 Underperformance	15
1.21 COVID – 19.....	18
SECTION 2 – SIMPLIFIED COST OPTIONS (SCOS).....	19
2.1 Standard Scale-of-Unit Costs	19
2.2 Flat Rates.....	19
2.2.1 Direct Costs.....	21
2.2.2 Indirect Costs	22
SECTION 3 - ACTUAL COSTS	22
SECTION 4 – ELIGIBILITY OF EXPENDITURE	23
4.1 Eligible Expenditure – Capital Projects	23
4.1.1 Purchase of Land and Real Estate.....	23
4.1.2 Pre-Contract and Contract Implementation Costs.....	24
4.1.3 Public Administration Expenditure Relating to the Execution of Projects	25
4.1.4 Contingencies	25
4.1.5 Retentions	26
4.1.6 Purchase of Equipment	26
4.1.7 Moveable Infrastructure – Fixtures and Fittings	26
4.1.8 Purchase of Second-Hand Equipment.....	26
4.1.9 Marketing	26
4.2 Eligible Expenditure – Revenue Projects	27
4.2.1 Direct Staff Costs	27
4.2.2 Method for Apportioning Employers NI and Employers Superannuation.....	28
4.2.3 Sick Pay	29
4.2.4 Overtime	30
4.2.5 Holiday Pay Adjustment	31
4.2.6 Consultancy Fees and Contractors’ Charges	31
4.2.7 Project Evaluation Fees.....	31

4.2.8	Staff Travel	31
4.2.9	Premises Costs	31
4.2.10	Insurance	32
4.2.11	Marketing	32
4.2.12	Graduate Placements (ERDF).....	32
4.2.13	ERDF Priority 3 – Evidencing 1 day of non-financial support to enterprises .	32
4.2.14	Other Eligible Project Costs	33
4.2.15	Repairs and Maintenance	33
4.2.16	Depreciation	33
4.2.17	Leasing	34
4.2.18	Vehicles	34
4.3	Eligible Expenditure – ESF Participant Costs	34
4.3.1	Wage Subsidies.....	34
4.3.2	Financial Incentives	35
4.3.3	Participant Allowances	35
4.3.4	Dependent Care.....	36
SECTION 5 – INELIGIBLE COSTS		36
5.1	Financial and Other Charges and Legal Expenses	36
5.2	Equipment	36
5.3	Moveable Infrastructure.....	36
5.4	Recoverable VAT.....	37
5.5	Education Maintenance Allowances	37
5.7	Staff Related Costs	37
5.8	Other Ineligible Costs	37

INTRODUCTION

The Scottish Government as Managing Authority has developed these rules in accordance with EC Regulation 1303/2013 Article 65 Para 1, which states:

“The eligibility of expenditure shall be determined on the basis of national rules, except where specific rules are laid down in, or on the basis of, this Regulation or the Fund-specific rules.”

The rules take account of the general and respective fund regulations (as amended by the Omnibus Regulation 2018/1046 - from 18 July 2018). Principally, these are EC Regulations 1303/2013 (the Common Provisions Regulation - sometimes referred to as the General Regulation), 1301/2013 (ERDF) and 1304/2013 (ESF). They apply to all projects approved under the 2014-2020 Operational Programmes. The EC Regulations are available here:

http://ec.europa.eu/regional_policy/information/legislation/index_en.cfm

The purpose of these rules is to distinguish clearly between eligible and ineligible costs, and to ensure that only eligible activity/expenditure features in applications and ultimately claims. While every effort has been made to produce clear guidance on eligibility, there remains an onus on applicants to apply for grant responsibly and reasonably and to ensure compliance – in cases of doubt; clarification should be sought from the Scottish Government.

The rules apply to all Operations funded under the European Structural Funds and must be followed by all beneficiaries.

This guidance is structured as follows:

- Section 1 - General Principles
- Section 2 - Simplified Cost Options
- Section 3 - Actual Costs
- Section 4 - Eligibility of Expenditure
- Section 5 - Ineligible Costs

SECTION 1 – GENERAL PRINCIPLES

1.1 Responsibilities of Lead Partners and Delivery Agents

Guidance on the responsibilities of Lead Partners and Delivery Agents is available in the Roles and Responsibilities section of the Programme Guidance.

Lead Partner

The Lead Partner is responsible for the overall implementation of a Strategic Intervention and must be an organisation capable of aligning major strands of policy, guaranteeing match funding and handling the audit burden associated with EU Funding.

Lead Partners will be Scottish Government, its agencies, arms of Government, NDPBs, local authorities and the Big Lottery (an arm of Government) who will not require to be procured.

The Lead Partner must ensure that Delivery Agents are eligible organisations, in line with Article 2 of the Common Provisions Regulation, (see below under 'Delivery Agent'), with the capacity and financial standing to deliver Operations.

Delivery Agent

Delivery Agents can be the Lead Partner, where operations are delivered in-house, use a procured contractor or as a recipient of a challenge fund.

Where Delivery Agents are providing match funding, they must be eligible organisations i.e. public law bodies

Public Body

'Public law bodies' are defined by Article 2 of the Common Provisions Regulation and Article 1 of Directive 2004/18/EC, this is defined as anybody:

- (a) established for the specific purpose of meeting needs in the general interest, not having an industrial or commercial character;
- (b) having legal personality; and
- (c) financed, for the most part, by the State, regional or local authorities, or other bodies governed by public law; or subject to management supervision by those bodies; or having an administrative, managerial or supervisory board, more than half of whose members are appointed by the State, regional or local authorities, or by other bodies governed by public law.

Funded bodies are required to meet both point (a) and (b) and at least one of the three criteria at point (c).

Lead partners and potential delivery agents should note that second of the criteria – “management supervision” – includes any charities registered with the Scottish Charity Regulator (OSCR).

1.2 Geographical Flexibility

As a general rule, operations receiving grant from the Structural Funds should be located in the Programme Area. At operation level, activity outside the Programme area may be eligible if the operation would have difficulty in achieving its objectives otherwise. Additionally, participants who are employees are eligible on the basis of the location of their employer/employment.

The Common Provisions Regulation (2013/1303) refers to the total amount allocated to operations located outside the programme area. This must not exceed 15% of the support from European Structural Investment Fund (ESIF) activities.

1.3 Fund Flexibility

While there is a general presumption against using the flexibility between funds provided for in the Regulations, we will consider on a case-by-case basis applications that seek to integrate ERDF and ESF eligible activities within one project and under one fund. The 10% flexibility effectively relates to spend. At a practical level, this means that ESF (or ERDF) may, with prior agreement of the Managing Authority, be spent on what would normally be eligible ERDF (or ESF) activities. Such flexibility will be limited to a maximum of 10% of approved eligible costs of the Operation, which will be required to be monitored throughout its life.

1.4 Need for Structural Funds

The Structural Fund contribution must be the minimum amount required to allow the Operation to proceed. To this end, **additionality** must be clearly evidenced for each Operation.

1.5 Match Funding

The match funding is the amount of public funding secured from other sources (in order to deliver the Strategic Intervention or Operations. Match funding should normally be committed and evidenced at the Operation Application stage. However, if the Lead Partner has indicated annual match funding commitments, these are eligible if that is how the organisation receives its funding and will have to be reconfirmed and evidenced on an annual basis during implementation. In the case of Challenge Funds, involving funding rounds where the delivery organisation supplies match funding, the Lead Partner will have to confirm and evidence this match funding when known.

European Funding of any kind cannot be used as match funding and match funding cannot be linked to achievements of other outputs. It is the Lead Partner's responsibility to confirm this is not the case.

Match funding must be in the form of a direct cash contribution or expenditure incurred i.e. by delivering units or incurring actual costs through procured services/flat rate methodology.

Applicants must declare any other funding streams that they receive which relates to the activity being funded by ESF.

1.6 Simplified Cost Options

The 2014-2020 Programme sees a shift towards simplification, and a move away from using only actual costs. The following cost options are available:

- unit costs
- flat rate models
- actual costs (procurement and grant schemes)

See Section 2 and 3 for full details of these cost models and their practical application.

It should be noted that the Managing Authority may decide to apply a standard scale of unit costs (e.g. Delegated Regulation 2019/379, Annex VI) as the basis of declaring expenditure to the European Commission. Lead Partners will continue to claim from the Managing Authority on the basis of the cost models specified in their approved operation application(s) and/or associated offer of grant(s).

1.7 Audit Trail

Lead Partners must ensure that a full and complete audit trail related to all activity and expenditure funded is retained by both the Lead Partner and their Delivery Agents, as per the Document Retention Guidance produced by the Managing Authority in line with Article 140 of EU Regulation 1303/2013.

Further to Section 1.5, an appropriate audit trail will be required to evidence both the expenditure and achievements being claimed from the Managing Authority and any units being declared to the European Commission.

1.7.1 Evidence of Expenditure

If using actual cost or flat rate models, all expenditure must be supported by a fully transparent audit trail through to bank statements, including invoices and BACS listings. In certain circumstances, and with prior agreement of the MA, documents of equivalent probative value may be accepted. For example:

Salaries must be supported by payroll records, BACS lists and bank statements, capital works costs must be supported by works certificates issued in accordance with the provisions of the signed contracts.

Where original documentation is available only in electronic format, print offs or 'screen shots' should be retained.

Grant and Challenge Fund Managers are under an equivalent obligation to maintain a properly vouched audit trail of payments by them in respect of activities and/or investments supported by ESI Funds.

All expenditure must be incurred and defrayed (i.e. left the bank account) before it is included in any claim. Notwithstanding this requirement, payroll costs should be claimed as basic pay, employers national insurance and employers superannuation.

1.7.2 Evidence of Achievements

For all cost models, lead partners must be able to demonstrate that all outcome activity has been achieved prior to submission of a claim. For example:

- Signed registration form,
- Evidence of engagement with participant
- Certificate or other evidence of qualification
- Evidence of one full day support with SMEs (See page 24, 4.2.12)
- Evidence of support for grant payments

ESF Participant Guidance and Final Recipient Organisation Guidance in the Guidance and Forms section of our website details minimum requirements that must be adhered to.

<https://www.gov.scot/publications/european-social-fund-participant-guidance/>
<https://www.gov.scot/publications/esif-final-recipient-records-organisations/>

1.8 Procurement

Contracts must either be competitively tendered or procured in line with an organisation's standing orders and/or procurement policy to ensure value for money.

Contracting for the provision of works, materials and/or services is eligible. Applicants should pay particular regard to and comply with the thresholds for publishing invitations to tender in the Official Journal of the EU and (Scottish) national procurement rules. Each stage of the procurement process will be examined by the MA. If any deficiencies are found the MA may apply a financial correction. The EC published new guidelines for these corrections on 14 May 2019;

https://ec.europa.eu/regional_policy/sources/docgener/informat/2014/GL_corrections_pp_irregularities_EN.pdf

https://ec.europa.eu/regional_policy/sources/docgener/informat/2014/GL_corrections_pp_irregularities_annex_EN.pdf

Below are some areas in which particular care should be taken;

- Contracting Authorities must clearly define the services/works/supplies that are required in the contract notice
- Award criteria must be correctly applied in line with an organisation's Procurement Procedures/EU/National Regulations (e.g. ensuring the correct price to quality ratio is used or assessing project costs rather than quality of services)
- Invoicing conditions/Unit prices must be correctly defined – Mandatory requirement of ensuring that all invoices include the full set of elements allowing a reliable check of the unit price and the units achieved within the elements of the contract.
- Legal entities – care should be taken to ensure that contracts are legal if awarded to a partnership

- Use of single source awards (direct awards) must have prior approval by the Managing Authority.

Competitive grants are not to be treated as a procured contract.

If any modifications/variations to any contract are being considered the Lead Partner must ensure that these are done in line with National/EU Procurement Regulations.

If contracts are awarded between entities within the public sector (Teckal), the Contracting Authority must ensure the Company meets the relevant criteria i.e. the control and function tests, and the absence of direct private capital participation. These are explained fully within Article 12 of Directive 2014/24/EU and Section 13 of Public Contracts Scotland Regulations 2015. These contracts will also be subject to review by the Managing Authority.

Lead Partners should note that invoiced expenditure will be checked against pricing schedules during the claims process. Invoice descriptions must be clear and detail how the invoice amounts have been established and Lead Partners will be expected to demonstrate this as part of the verification process. Reference to the achievements being claimed should also be provided to ensure consistency between delivered services, their contractual value and actual invoice value. A sub-sample of these achievements may also be checked at audit and Lead Partners should ensure that a full audit trail is retained and made available.

Please refer to the ESIF website for further guidance:

<http://www.gov.scot/Topics/Government/Procurement>

http://ec.europa.eu/regional_policy/sources/docgener/informat/2014/guidance_public_proc_en.pdf

In addition, guidance for practitioners on the avoidance of the most common errors in public procurement of projects funded by the European Structural and Investment Funds should be followed:

https://ec.europa.eu/regional_policy/en/policy/how/improving-investment/public-procurement/guide/

1.8.1 Procurement with Match

Procurement with match is a new approach to supporting operations predicated on established arrangements for procuring services. On that basis, Section 1.8 (above) applies here, however, additionally, bidders are also confirming that they will be contributing to the cost of activities by providing 'expenditure-based or external match funding'.

In order to demonstrate the full value of activity undertaken and the amount(s) claimed,

- Invoices must always note the full value and reflect the terms of the contract.
- Each invoice must be supported by a 'Statement of Compliance' to confirm that participants are eligible, outputs/milestones have been reached and that the invoice reflects the contract arising from the successful tender.

Whilst the Managing Authority will reimburse Lead Partners who take this approach, this will not be the mechanism for the Managing Authority claiming Structural Funds back from the EC as the Commission do not view Procurement with Match as an acceptable cost model for declaring expenditure to the EC.

In line with Section 1.5, the Managing Authority will not declare any expenditure on this basis and may apply a standard scale of unit costs as the basis of declaring expenditure to the European Commission. Lead Partners must therefore ensure that appropriate staff and participant records are available to support this.

1.9 State Aid

All funding must be allocated in line with State Aid regulations. A State aid assessment should be conducted prior to allocating any funding and the four State aid tests must be applied.

Please refer to the following website for further guidance:

www.gov.scot/publications/state-aid-guidance/

1.10 Financial Instruments (FIs)

Please refer to the following website for further guidance:

https://ec.europa.eu/regional_policy/en/funding/financial-instruments/

1.11 Publicity

ESF/ERDF support must be acknowledged on all project related documentation through use of the appropriate logos and wording.

<https://www.gov.scot/publications/esif-publicity-requirements-2014-2020/>

<https://www.gov.scot/publications/european-structural-and-investment-funds-publicity-toolkit/>

<https://www.gov.scot/publications/esif-logos/>

1.12 Income and Revenue

Please see Article 65 in EC Regulation 1303/2013.

<https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex%3A32013R1303>

1.12.1 Project Income

Income can accrue immediately (ERDF and ESF) for the duration of the project (ERDF and ESF), for example from services, enrolment/tuition fees or other equivalent receipts representing income. This reduces the net cost of projects and thereby the amount of Structural Funds grant required for the project in question.

Applications must estimate income likely to be generated by the project and claims must show clearly actual income received which will be deducted from the claim.

1.12.2 Revenue Generation

ERDF capital projects have the potential to generate net revenue following completion, for example through the charging of rent. Article 61 of the Council Regulation 1303/2013 confirms the broad principles, and Chapter II, Section III of Commission Delegated Regulation (EU) No 480/2014 provides further detail on the calculation of revenue (http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2014.138.01.0005.01.ENG).

Paragraph 7 of Article 61 outlines those operations where the Article does not apply.

See link at 1.12

1.13 Winding Up or Liquidation

In the event of, or proposed, winding up or liquidation of a lead partner or delivery agent, the Managing Authority must be advised as soon as possible. Catalogued archives of project documents must be retained. Documents must not be destroyed and must be retained in line with the document retention guidelines below.

1.14 Document Retention

Document Retention guidance is available through the forms and guidance section of our website:

<https://www.gov.scot/publications/esif-forms-guidance-2014-2020-list/>

1.15 VAT

Non-recoverable VAT is eligible. A letter confirming VAT status must be provided i.e. from HMRC or accountants.

1.16 Article 71 Durability of Operations

1. An operation comprising investment in infrastructure or productive investment shall repay the contribution from the ESI Funds if within five years of the final payment to the beneficiary or within the period of time set out in State aid rules, where applicable, it is subject to any of the following:
 - (a) a cessation or relocation of a productive activity outside the programme area;
 - (b) a change in ownership of an item of infrastructure which gives to a firm or a public body an undue advantage;
 - (c) a substantial change affecting its nature, objectives or implementation conditions, which would result in undermining its original objectives.

Sums unduly paid in respect of the operation shall be recovered by the Member State in proportion to the period for which the requirements have not been fulfilled.

Member States may reduce the time limit set out in the first subparagraph to three years in cases concerning the maintenance of investments or jobs created by SMEs.

2. An operation comprising investment in infrastructure or productive investment shall repay the contribution from the ESI Funds if within 10 years of the final payment to the beneficiary the productive activity is subject to relocation outside the Union, except where the beneficiary is an SME. Where the contribution from the ESI Funds takes the form of State aid, the period of 10 years shall be replaced by the deadline applicable under State aid rules.

If your operation comprises of investment in infrastructure or productive investment and any of the above apply you must notify the Managing Authority immediately as recovery of EU Grant may apply.

1.17 Approval of Operations

An Operation that has been fully implemented/fully completed at the time of application is ineligible.

1.18 Challenge Funds

A Challenge Fund may be an appropriate method of delivering support via a competitive application process. Please refer to the separate guidance note under the Forms and Guidance section of the website.

<https://www.gov.scot/publications/esif-forms-guidance-2014-2020-list/>

1.19 Participant Consent

Lead Partner must ensure each Participant has a signed Registration Form.

Where an individual is under 16, signed consent must be obtained from their parent or legal guardian – this must be accompanied by a copy of the parent or legal guardians valid passport or photographic I.D. card (that contains the signature).

Please refer to the separate Participant Guidance on the website (<https://www.gov.scot/publications/esif-forms-guidance-2014-2020-list/>) under the 'European Social Fund: guidance, records and reports' section.

1.20 Underperformance

Lead Partners are expected to have robust arrangements in place to ensure effective capacity and capability to deliver the operation on time and within budget in line with the terms and conditions outlined in the offer of grant.

Where there are significant variances with regards to actual performance achieved against agreed targets, payment of claims may be delayed until all performance issues have been addressed.

The Managing Authority will monitor progress towards the agreed output and result indicator targets as part of the regular cycle of portfolio management and claims processing. This will identify operations that are unlikely to be able to deliver against agreed targets and allow appropriate action to be taken.

Where operations fail to deliver the required physical and financial targets and it is considered unlikely that the operation can get back on target, the Structural Funds grant may be reduced or recovered accordingly.

Lead Partners will be required to provide explanations for variances against agreed performance levels. It is recognised that for some operations, performance may be slower than expected, however robust justification will be required to support this argument.

In circumstances where normal performance management actions have been undertaken but have not led to the improvements required, the Managing Authority will require the following steps to be taken:

- Stage 1: Identification and notification of operations at risk of Structural Funds grant being reduced or recovered.
- Stage 2: Development and implementation by the Lead Partner and to be agreed by the Managing Authority of an appropriate Action Plan to improve performance or revise targets.
- Stage 3: Initiation of steps to reduce or recover the Structural Funds grant.

Stage 1: Identification and notification of operations at risk of Structural Funds grant being reduced or recovered.

The Managing Authority will analyse performance information (e.g. from claims and verification checks, portfolio visits, monitoring and audit visits etc) to identify operations that are unlikely to meet their agreed physical and/or financial targets (using the tolerance levels outlined in the table below – in line with Commission Delegated Regulation (EU) No 480/2014, Article 3(3)).

Where underperformance or potential underperformance is identified, the MA will liaise with the Lead Partner to discuss these concerns and establish:

- the reason for underperformance and whether there are any mitigating or extenuating circumstances to be considered
- whether agreed performance profiles remain appropriate
- whether output targets in the funding agreement are consistent with similar projects
- any provisional proposals made by the Lead Partner for rectifying underperformance

Lead Partners may seek formal amendments to the agreed indicator targets provided sufficient justification and rationale can be provided and appropriately evidenced.

Where it is determined that an operation is underperforming, the Managing Authority will write to inform the Lead Partner that there is a risk of Structural Funds grant being reduced or recovered should improvements not be made to a specified level and by a given date. Operations notified as being at risk of a financial correction will be closely monitored until the date for evidence of improvement has been reached.

Where improvements are made and performance becomes satisfactory no further action need be taken and normal portfolio management activity will continue.

Stage 2: Development and implementation by the Lead Partner and to be agreed by the Managing Authority of an appropriate Action Plan to improve performance or revise targets.

Lead Partners failing to show the required improvement will be provided with formal notification of a potential reduction or recovery of Structural Funds grant. This will give a clear and unequivocal notice of any potential financial correction, and offer an appropriate opportunity to redress underperformance.

Lead Partners will be required to develop an Action Plan for each operation identified as underperforming - clearly identifying how performance will be improved within the agreed timescale and how this will be reviewed and measured. The Action Plan should not be an onerous or complicated document - it should be a short concise summary of the position, required action and anticipated results.

The Action Plan will normally relate to a 3- 6 months duration and will clearly set out:

- Current performance levels against agreed targets
- The variance between current performance and agreed targets
- Proposed performance improvement actions against each target (including proposed timescales and milestones)
- Timescales for reviewing performance
- Details of the implications for the operation should performance fail to improve

Stage 3: Initiation of steps to reduce or recover the Structural Funds grant.

Where an operation fails to deliver on an agreed Performance Action Plan, the Managing Authority will make a final decision on whether the Structural Funds grant awarded should be reduced or recovered.

Financial corrections will be determined on a case-by-case basis and will be commensurate with the level of underperformance. Factors contributing to the failure to achieve the targets will be considered by the Managing Authority and may be used as justification for a lower rate of correction than set out below.

Decisions to reduce or recover grant will not be taken lightly. Having quantified the level of underperformance the Managing Authority will consider the following points before making a final decision:

- the potential impact on the Lead Partner and any organisations delivering the operation if the grant is to be reduced or withdrawn
- the impact on the achievement of outputs in the Operational Programme
- whether any outputs have been achieved that are in excess of those set out in the offer of grant
- the impact that any shortfall or delay in expenditure would have on the achievement of annual commitment and / or spend targets
- the impact on the Managing Authority's reputation if there be a reduction or recovery of grant.

Level of Financial Correction:

Where the Lead Partner is unable to demonstrate sufficient progress towards achieving agreed output targets, the Managing Authority may apply the following financial corrections:

Output Indicator	Rate of financial correction
Not less than 65% achieved	0
Below 65% but no less than 60%	5%
Below 60% but no less than 50%	10%
Below 50%	25%

(This table is based on the financial corrections applied in Commission Delegated Regulation (EU) No 480/2014, Article 3(3)).

1.21 COVID – 19

The direct and indirect effects of the COVID-19 outbreak is unprecedented and has resulted in the EC adopting exceptional measures to respond to the situation promptly and flexibly.

The Managing Authority recognises that the situation relating to COVID-19 may have an adverse impact on the ability to deliver operations as originally anticipated. Where Lead Partners are unable to deliver their projects as planned because of COVID-19, the Managing Authority will consider the situation on a case-by-case. Lead Partners are encouraged to discuss this with Portfolio & Compliance Managers in the first instance.

A COVID-19 Q&A document has been developed to address some of the most common queries and will be updated as changes occur.

Please refer to the Q&A on the website:
<https://www.gov.scot/publications/coronavirus-covid-19-european-structural-and-investment-funds/>

Lead Partners must continue to ensure that a full and complete audit trail related to all activity and expenditure funded is retained by both the Lead Partner and their Delivery Agents, in line with Section 1.7.

Please refer to the European Commission CRII regulation and CRII+ regulation for further information:

<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32020R0460&from=EN>

<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32020R0558&from=EN>

SECTION 2 – SIMPLIFIED COST OPTIONS (SCOs)

This section sets out the two simplified cost options available i.e. standard scale-of-unit costs and flat rate models.

2.1 Standard Scale-of-Unit Costs

COCOF paper 09/0025/04-EN states that Unit Costs are paid:

“...on the basis of quantified activities, outputs or results multiplied by standard scale-of-unit costs established by the Member States. The option can be used for any type of grant, project or part of project, when it is possible to define quantities related to an activity and standard scale of unit costs. Standard scales of unit costs apply typically to easily identifiable quantities, such as training hours, training days, certificates obtained, training modules finalised, consultant hours worked, hotel nights, or meals.”

Article 67, Paragraph 5(a) of EC Regulation 1303/2013 states that the calculation of unit costs must be:

a fair, equitable and verifiable calculation method based on any of the following:

- (i) statistical data, other objective information or an expert judgement;
- (ii) the verified historical data of individual beneficiaries;
- (iii) the application of the usual cost accounting practices of individual beneficiaries;'

In additional, all unit cost calculations must be agreed with the Managing Authority prior to their use.

There is no requirement for audit of underlying financial documents. All claimed outcomes will be subject to verification and must be fully evidenced.

Please note that procured activity cannot use unit cost models - tenderers can be invited to bid for contracts on a unit cost price basis but these costs cannot be predetermined please refer to the actual cost section for further information.

2.2 Flat Rates

Article 68 of EC Regulation 1303/2013 states:

“Where the implementation of an Operation gives rise to indirect costs, they may be calculated at a flat rate”

The following options are available under the 2014-2020 ERDF and ESF Scotland Operational Programmes. The option chosen should be clearly justified in the application. A full audit trail for the direct costs must be retained. Applicants should refer to the European Commission guidance on simplified cost options for additional information on the applicable models:

http://ec.europa.eu/regional_policy/sources/thefunds/fin_inst/pdf/simpl_cost_en.pdf.

FLAT RATE OPTIONS

Flat Rate / Unit Cost	Applicability from Regulations	Restrictions	Applicability in 2014-2020 Programmes
Direct <u>Staff</u> Costs + up to 15% ¹	ERDF and ESF (As per Article 67 and 68 of EC Regulation 1303/2013)	No requirement to perform calculation to determine the rate	Lead Partner of SI Management costs
			Applicable for ALL operations
Direct <u>Staff</u> Costs + up to 40% ^{1,2}	ESF only (prior to 18 July 2018: as per Article 14, Paragraph 2 of EC Regulation 1304/2013 from 18 July 2018: as per Article 68b of EC Regulation 1303/2013)()	No requirement to perform calculation to determine rate.	Please note that the direct staff plus 15% option should be used if more appropriate.
Direct <u>Staff</u> Costs + up to 40% ^{1,2}	ERDF only (as per Article 68b of EC Regulation 1303/2013)	No requirement to perform calculation to determine rate. This can only be used from 18 July 2018 as per the Omnibus Regulation.	Please note that the direct staff plus 15% option should be used if more appropriate.
Direct <u>eligible project</u> costs + 25%	ERDF and ESF where they invest in appropriate RTDI activity	Appropriate RTDI activity only. Any procured costs should be deducted from the total direct eligible project costs before applying the flat rate. Resources made available by third parties which are not used on the premises of the beneficiary, and any costs of financial support to third parties, must also be excluded prior to the application of the flat rate.	

Flat Rate / Unit Cost	Applicability from Regulations	Restrictions	Applicability in 2014-2020 Programmes
Direct Project Costs + up to 25%	ERDF and ESF (As per Article 67 and 68 of EC Regulation 1303/2013)	Requires a fair, equitable, verifiable calculation method or method applied under schemes for grants funded by a MS for similar type of operation and beneficiary	<i>Any applicant wishing to use this option should contact the Managing Authority. Evidence to justify the % flat rate is required and will require approval by the MA <u>prior to implementation.</u></i>

¹ It is expected that the majority of Operations will use 15% or 40% for indirect costs even though the Regulation states **up to**. If a Lead Partner considers that they require to use less than 15% or less than 40% they need to justify it in the cost model section of the Operation Application Form.

² Where a 40% flat rate is used on direct staff costs, this should cover all other direct and indirect costs of the operation. It should be noted that the Omnibus Regulation has modified Articles 68 (EC Regulation 1303/2013) and 14.2 (EC Regulation 1304/2013) and from 18 July 2018, when the 40% flat rate on direct staff costs is used, it is acceptable to declare salaries and allowances paid to participants as additional eligible costs.

2.2.1 Direct Costs

What is a “direct cost”?

Direct costs are those costs which are directly related to an individual activity of the entity, where the link with this individual activity can be demonstrated or is self-evident.

Direct Staff Costs - staff who work 40% to 100% on the delivery of Structural Funds activity will be eligible. This includes staff salaries claimed as grant recipient costs within a Grant Scheme. This can either be on a full-time or part-time basis. Staff do not need to be in place for the full duration of an Operation, as long as their role is justified and they are between 40% to 100% on an Operation for the period they are required. **Staff who work less than 100% must complete the timesheet provided by the Managing Authority (links below).** Allowances or salaries disbursed for the benefit of participants in ESF Operations are not considered to be staff costs. Staff costs incurred through contracts for services such as consultancy services are not eligible under these flat rate options - these would be covered under the procurement option and paid as actual costs. Unpaid voluntary work is also not eligible under direct staff costs. Staff travel should not be considered as a direct staff cost. It can be considered as an indirect cost.

Staff can be shared between more than one Operation, as long as they are wholly on Structural Funds activity. For staff costs shared between Operations but which are still 100% on European Structural Fund activity must be apportioned according to the budget splits relating to the applicable Operations.

In very limited cases it may be possible for Lead Partners to reclaim the actual costs for a part-time member of staff rather than using the MA Timesheet self-calculation to determine the eligible value.

If any LP would like to use this claim methodology, prior approval in respect of each staff post must be obtained from the MA. This should be established in advance eg, by demonstrating that the staff member has a separate contract for the ESF/ERDF supported post.

For this to be viable, the LP must be able to provide the payroll evidence which clearly identifies the value attributable to the ESF/ERDF supported post as opposed to the value attributable to the member of staff. On-costs should be calculated in line with guidance at Section 4.2.2 within the National Rules.

The staff member must still complete the MA Timesheets to prove the required minimum of 40% ESF/ERDF related activity within the payroll period, and these must be submitted with any ESF/ERDF claim.

Both single and multi-operation timesheets can be found on our website:

<https://www.gov.scot/publications/esif-eligibility-expenditure/>

2.2.2 Indirect Costs

Indirect costs on the other hand, are usually costs which are not or cannot be connected directly and exclusively to an individual activity of the entity in question. Such costs would include administrative expenses, for which it is difficult to determine precisely the amount attributable to a specific activity (for example premises costs, management costs, recruitment expenses, costs for the accountant or the cleaner, telephone, water or electricity expenses and so on).

Practical examples of calculating flat rate models are included in the Annex A to the National Rules.

Please refer to individual eligible cost guidance within Section 4 of the National Rules.

SECTION 3 - ACTUAL COSTS

3.1 Actual costs can only be utilised under the following options:

- procured costs (see section 1);
- grant schemes/grant payments;
- wage subsidy schemes;
- purchase of land (as per Article 69, Paragraph 3 of EC Regulation 1303/2013, only up to 10% of total eligible expenditure for the Operation is eligible);
- purchase of real estate (as per Article 69, Paragraph 3 of EC Regulation 1303/2013, only up to 10% of total eligible expenditure for the Operation is eligible).

Actual costs require a full and verifiable audit trail.

Expenditure paid out through procurement and grant schemes should be claimed as actual costs and should not incur any flat rate. Procured activity should also not use

unit cost models - tenderers can be invited to bid for contracts on a unit cost price basis but these costs cannot be predetermined.

Example

If a beneficiary implements a training course via public procurement, it is possible that in the call for tenders the beneficiary will ask the bidders to make a price offer on the basis of a unit cost per trainee gaining certification at the end of the course.

The terms of the contract can therefore be: one trainee certified = £1,000.
If, at the end of the course, 10 trainees are certified, the beneficiary can declare £10,000 of eligible expenditure to the managing authority.

This £10,000 will be considered as real cost based. Therefore, a control or audit of this expenditure will consist in a check of the public procurement procedure and observance of the terms of the contract (in this example, that there is proof of a trainee certified for each unit cost paid). The underlying costs of the training (renting of facilities, staff costs...) will not be checked as the contract does not provide for reimbursement on this basis.

SECTION 4 – ELIGIBILITY OF EXPENDITURE

4.1 Eligible Expenditure – Capital Projects

4.1.1 Purchase of Land and Real Estate

Article 69 of the Council Regulation 1303/2013 relates to the purchase of land not built on and real estate which is eligible for support under the following circumstances:

- there is a direct link between the land purchase and the objectives of the operation co-financed;
- the purchase cost may not represent more than 10% of the total approved eligible costs of the operation, or 15% for derelict sites or those formerly in industrial use which comprise buildings. In exceptional and duly justified cases this limit may be raised above the thresholds for operations concerning environmental conservation;
- a certificate is obtained from an independent qualified valuer or duly authorised official body confirming that the purchase cost does not exceed the market value.
- only expenditure incurred and defrayed within the eligible programme period can be taken into account in this calculation, i.e. from 1 January 2014;
- the date the land was acquired is clearly indicated and evidence of this provided as an enclosure to the application form; and
- national or community grants have not contributed towards its purchase and/or development.
- the land or real estate is used for the purpose and for the period decided by the MA in line with EC Regulation 1303/2013, Article 71.

4.1.2 Pre-Contract and Contract Implementation Costs

Pre-contract works incurred and defrayed within the eligible programme period (i.e. from 1 January 2014) including design, bills of quantity and tender preparation are eligible. **This does not include project feasibility studies, which are ineligible.**

The following costs can be included as pre-contract costs:

Site Investigation: This should take account of specialist investigations required to identify contamination and recommend particular treatments etc.

Site Decontamination: Specialist treatments to clear a site of particular contamination and dangers.

Site Preparation/Clearance: This should include demolition works and the general preparation of sites, which is not part of specialist decontamination works.

Site Servicing: This may include the following elements:

The provision of external utilities such as telecommunications, electricity and gas provision to the entire site and / or building

The provision of water and sewerage services within the site / project boundary

The construction / improvement of access roads and junctions within the site boundary

Preliminaries: As detailed in the Bill of Quantities.

Planning and Building Warrants

Main contract works incurred and defrayed within the approved lifetime of the operation are eligible.

The following costs can be included as main contract works:

Internal Services: This should include the provision of services/utilities within a building such as heating, lighting, plumbing and telecommunications.

Main Building Contract Works: This may include the following elements of work:

- External/structural refurbishment of existing premises
- Internal sub-division of existing premises
- New build premises
- External decoration and associated works as part of a larger project
- Internal decoration and associated works as part of a larger project

Main Environmental Contract Works: This may include the following elements of work:

- Hard and soft landscaping as part of a larger industrial/commercial development
- Hard and soft landscaping as part of a larger tourism/cultural development
- Hard and soft landscaping to promote environmental sustainability
- Street furniture and lighting
- Traffic management and urban centre regeneration works
- Creation and improvement of footpaths
- Creation and improvement of cycle paths

- Improvements to inland waterways

Project Management and supervision: Staff costs associated with the implementation of the project works, including Clerk of Works are eligible.

Security Provision: This should only include essential security provision, which will ensure the success of the wider project.

Signage: This should include relevant signs including those acknowledging the contribution of the Structural Funds to the project as per the Publicity Guidance.

Specialist Treatments (as part of a Larger Project): This should cover any specialist treatments not included under other headings such as:

- Stone cleaning;
- Floodlighting;
- Asbestos removal;
- Damp and rot;
- Special needs accessibility.

Applicants should specify the type of treatment(s) in an appendix. If treatments are associated with listed buildings they should be in accordance with the guidelines set down by Historic Scotland.

4.1.3 Public Administration Expenditure Relating to the Execution of Projects

The following expenditure of public administrations is eligible for co-financing if it relates to the execution of a project provided that it does not arise from the statutory responsibilities of the public authority or the authority's day-to-day management, monitoring and control tasks.

- Costs of professional services rendered by a public service in the implementation of a project. The costs must either be invoiced to a final beneficiary (public or private) or certified on the basis of documents of equivalent probative value which permit the identification of **real, actual and auditable costs** paid by the public service concerned in relation to that project.
- Costs of the implementation of the project, including the expenditure related to the provision of services, borne by a public authority that is itself the final beneficiary and which is executing a project on its own account without recourse to outside engineers or other firms. The expenditure concerned must be certified on the basis of documents which permit the identification of real costs paid by the public service concerned in relation to that project. **On-costs / charge-out rates are ineligible.**

4.1.4 Contingencies

Contingencies are an acceptable and reasonable cost at application stage. Where the contingency covers genuine, unforeseen eligible expenditure, the costs should be reported against the appropriate, approved expenditure heading with a full explanation provided as a separate attachment to the claim.

4.1.5 Retentions

The retention must be paid within the eligible expenditure period of the Programme, and defrayed no later than final claim stage.

4.1.6 Purchase of Equipment

For vocational training and research and development facilities, essential items of equipment for the sole purpose of project delivery such as information technology equipment, research equipment, some teaching furnishings, machinery for skills enhancement delivery may be considered. The eligibility of such items will be appraised on an individual project basis.

4.1.7 Moveable Infrastructure – Fixtures and Fittings

Fixtures and fittings are only eligible if they are purchased for and used specifically by the operation. Ideally, this would form part of the initial 'fit out' of eligible premises. The eligibility of such items will be appraised on an individual project basis. For example:

- for vocational training and research and development facilities essential items of equipment for the sole purpose of project delivery such as information technology equipment, research equipment, teaching furnishings, machinery for skills enhancement delivery; and
- for community development, essential fixtures and fittings directly related to the sole purpose of the project may be considered.
- for sustainable transport operations purchase of bikes may be eligible if they are a key component of the operation. Prior agreement must be obtained from the Managing Authority.

In cases where items of equipment have been purchased, an inventory or asset register must be retained for audit purposes.

4.1.8 Purchase of Second-Hand Equipment

The purchase costs of second-hand equipment are eligible for co-financing by the Structural Funds under the following conditions:

- the seller of the equipment provides a declaration stating its origin, and confirm that at no point during the previous 10 years has it been purchased with the aid of national or Community grants;
- the price of the equipment should not exceed its market value and is less than the cost of similar new equipment.

4.1.9 Marketing

Costs associated with the development and advanced marketing of the project. A copy of the marketing strategy may be required as justification.

Materials must acknowledge the contribution of the Structural Funds to the project as per the Publicity Guidance.

4.2 Eligible Expenditure – Revenue Projects

The following guidance applies to eligible direct costs for flat rate models and actual cost models where applicable (see section 2). Where the costs below are not 40% attributable to Structural Funds activity, they will be deemed indirect and may be covered by the appropriate flat rate model.

4.2.1 Direct Staff Costs

Staff 100% on Structural Fund Activity

A job description and contract or assignment letter which details that staff are solely involved in Structural Funds activity must be retained and made available for audit purposes. The evidence provided must make reference to the operation and the individual's Start Date on the operation.

Additional evidence will also be required during the auditable life of the operation to demonstrate defrayal of expenditure on salaries and employer costs. Significant changes in key personnel require prior authorisation from the Managing Authority.

For staff costs shared between operations, but which are still 100% on European Structural Fund activity, must be apportioned according to the budget splits relating to the applicable Operations. **There is no requirement to keep timesheets for staff 100% on Structural Fund activity.**

Direct staff do not need to be in place for the full duration of an operation. As long as their role is justified they can be in post to complete a specific task in relation to the project over a set period of time.

The 100% may include up to 10% 'facility time' in any claimed month / 4-week period for e.g. trades union representatives, volunteering, work on Children's Panels, First Aid etc. This 'facility time' is not eligible to be claimed and Lead Partner's will be required to provide evidence of the working time i.e. timesheets or assignment letters setting out a fixed percentage. In addition, salary costs (including National Insurance and Superannuation) must be apportioned to reflect the eligible element relating to ESF activity.

Staff at a minimum of 40% on Structural Funds Activity

While a strong presumption towards 100% remains, from 1st January 2018 and in duly justified cases, direct staff costs are eligible for personnel directly engaged in a project for a minimum of 40% of time spent within a payroll month, **provided that:**

- this overcomes an impediment to delivery (acknowledging that the flat rate models, where 15% or 40% is provided in addition to staff costs, can support shorter inputs of other staff time).
- staff claimed are included in the approved application.

- staff are demonstrably essential to implementation. This does not include chief executives/senior management who are core to the organisation (and the flat rate should accommodate).
- a job description and contract or assignment letter which details that staff are involved in Structural Funds activity must be retained and made available for audit purposes. The evidence provided must make reference to the operation and the individual's Start Date on the operation. It is good practice to ensure that these documents are in place from the start of the operation.
- a minimum of 40% time spent on the Structural Funds within a (payroll) month: i.e. based on individual pay periods, monthly or four-weekly. There should be no cumulating or averaging. *The 40% threshold calculation is based on contracted hours, but excludes Public, Annual and Sick Leave in calculating the value of total (100%) hours available for work in that period.*

In addition, it should be noted that:

- the SG standard timesheet is **mandatory**. **Failure to provide or attempts to alter the timesheet will result in the related expenditure being rejected.**
- timesheets must be completed in 'real time', with a hard copy signed by the relevant member of staff and countersigned by their immediate line manager, failing which, a more senior person (to the line manager) in the structure.
- all timesheets (scanned copies of signed and countersigned) must be submitted in support of any related expenditure claimed for the period concerned. This will allow the MA to sample and retain.

Pay Arrears / Back Pay

Where an individual has received pay arrears or back pay, salary costs must be apportioned (including NI and Superannuation) to reflect the employee's eligible time on the operation (i.e. individual's start date on the operation).

Please see an example of Back Pay calculation on the website:

<https://www.gov.scot/publications/esif-eligibility-expenditure/>

Non-Standard Working Hours

Additional payments for non-standard working hours (e.g. unsociable hours or eligible responsibility payments) must be evidenced by time sheets or assignment letters (detailing the non-standard hours) and comply with the general remuneration policy of the organisation.

4.2.2 Method for Apportioning Employers NI and Employers Superannuation

If apportioning Employers National Insurance contributions or Superannuation due to ineligible expenditure the following methodology should be used:

Total employers national insurance divided by total gross pay equals %

Total gross pay minus ineligible amount

Use % multiplied by gross pay minus ineligible amount

For example:

Gross Pay	£ 2759.79
Employers NI	£ 314.04
Ineligible Amount	£ 500.00

$£314.04 / £2759.79 = 11.38\%$

$£2759.79 - £500 = £2,259.79$

$11.38\% \times £2,259.79$

Eligible NI = £257.16

The same apportionment methodology would apply to Employers Superannuation

Please note that EUMIS will automatically recalculate the apportionment relating to the percentage uplift for Indirect Costs.

Please see ineligible staff related costs at Section 5.7

All Staff Costs

All staff costs included in a project should be in accordance with the following conditions:

- Staffing costs should include basic pay, employer's national insurance and employers superannuation contributions and any eligible island allowance (**commission and benefits in-kind – such as bonuses – are ineligible**).
- Where an employer pension scheme does not provide the other benefit commonly found in a superannuation scheme, namely life insurance, any separate, standalone, insurance policy arranged to provide a separate Death In Service insurance would be eligible, provided this is to compensate for the absence of life cover in the standard superannuation scheme, that it is open to all and does not duplicate other cover.
- Only **actual costs** can be included in claims.
- There should be a clear audit trail for staff costs through payroll records, via BACs to the bank statement.
- Consultancy fees and sub-contractor fees should **not** be included in staff costs.

4.2.3 Sick Pay

Staff costs are eligible in full during the 3 'waiting days' before Statutory Sick Pay (SSP) applies. However, from the point Statutory Sick Pay would apply (regardless of whether it is claimed from HMRC or not), staff costs for the employee(s) concerned become wholly ineligible; this should be calculated by removing the value of ineligible working days costs by calculating a 'day rate'. The 'day rate' should be calculated on the basis of the full eligible direct cost (excludes any Flat

rate % uplift) divided by the number of working days (*days an employee is normally required to work*) in that pay period.

HMRC Defines SSP as applying when:

SSP is paid when the employee is sick for at least 4 days in a row (including non-working days). Employers pay SSP from the fourth 'qualifying day' (day an employee is normally required to work). The first 3 qualifying days are called 'waiting days'.

An employer cannot count a day as a sick day if an employee has worked for a minute or more before they go home sick.

If an employee works a shift that ends the day after it started and becomes sick during the shift or after it has finished, the second day will count as a sick day.

Exceptions

An employer will not usually pay SSP for the first 3 qualifying days unless the employee has been off sick and getting SSP within the last 8 weeks.

The Managing Authority approved sick pay template must be used to evidence sick pay and the first 3 qualifying days. This is available via our website:

<https://www.gov.scot/publications/esif-eligibility-expenditure/>

4.2.4 Overtime

This is an eligible cost for staff working 100% on Structural Funds activity. Overtime must be agreed by a line manager and consistent with the organisations agreed overtime policy. The overtime can be claimed at the Lead Partner(LP)/Delivery Agent (DA) applicable rate for the hours of overtime worked; e.g. single time, time and a half or double time.

The Lead Partner/Delivery Agent must be able to evidence, for audit purposes, the reason for the overtime and line manager agreement, a record of the number of hours worked (also to be approved by a line manager), and the overtime payment being made through the payroll system. Staff cost budgets must be monitored by the LP/DA to ensure they are not being exceeded. A significant increase to staff costs due to repeated or intensive periods qualifying for overtime payments must be discussed with the MA and have no detrimental impact on the delivery of the operation outcomes.

For staff working less than 100% on Structural Funds activity, overtime will be considered eligible based on the standard hourly rate calculation; this will not account for any additional / premium payments related to that overtime. Hourly rate calculations must only ever be based on contracted hours, contracted gross salary and the relevant proportion of eligible employer costs. The eligible proportion of other employer costs can be calculated using the methodology explained at section 4.2.2

Please see an **example** of an accepted overtime work record on our website.

<https://www.gov.scot/publications/esif-eligibility-expenditure/>

4.2.5 Holiday Pay Adjustment

Holiday pay is paid as part of the basic salary. As a result of judgements in a number of separate cases brought before either the European Court of Justice (ECJ) or the Employment Appeal Tribunal (EAT), the courts concluded that holiday pay should include certain payments outside basic pay which reflect normal remuneration for an employee when taking annual leave. No employee should be no worse off financially by taking a holiday. Therefore if an employee earns commissions, claim certain allowances or works overtime these will now be considered as part of the holiday pay adjustment payment.

The holiday pay adjustment is an eligible cost which can be claimed as long as the employee spends 100% of their time on the operation.

Please refer to your organisations methodology for calculating holiday pay adjustment.

4.2.6 Consultancy Fees and Contractors' Charges

Costs for work undertaken by an independent consultant or sub-contractor will only be eligible if the work is essential to the project and the costs are reasonable.

- Consultants/Contractors must be appointed in line with relevant standing orders and public procurement rules and regulations.
- De minimis – provided any engagement is for a limited period only and charges do not exceed £500 per day. Justification of these costs will still be required.
- Mentors – only real costs associated with travel, any necessary overnight accommodation and materials are eligible
- Costs associated with payment of consultants that provide support in completion of application/claim forms and with management fees are **not** eligible.

4.2.7 Project Evaluation Fees

Costs of independent evaluations will be eligible if the work is essential to the project and/or a condition of grant (see Consultancy Fees above).

4.2.8 Staff Travel

Staff travel costs must be directly related to and essential for the effective delivery of the project. Certified travel claims must be retained. Actual costs up to a maximum of mileage at the public sector rate per mile (or comparable) or economy class travel on public transport must be claimed.

4.2.9 Premises Costs

Premises costs are only eligible where they demonstrate a real additional cost and these are fully and directly related to the delivery of Structural Funds activity. Project expenditure should be over and above existing operating costs, e.g. if you have to rent additional premises. Apportioned premises costs are not eligible unless premises are 100% used for Structural Funds activity and are shared between operations. Apportionment methodology must be agreed with the MA.

Eligible costs include the actual cost of rent, rates, heat, light, telephone/internet charges, cleaning and service charges associated with the premises.

Notional rental charges where the applicant owns the premises, or occupies premises rent-free, are ineligible.

4.2.10 Insurance

Similar principles apply. Insurance of buildings, contents and for public liability are eligible provided it can be clearly demonstrated that these directly relate to the delivery of the project and are additional. Professional indemnity is also eligible provided it is essential to the delivery of the project and additional to standard provision that organisations / individuals could be expected to hold.

4.2.11 Marketing

This may include costs related to appropriate and proportionate aspects of marketing specific to the project on, for example, design and production of marketing materials, facilitation of appropriate conferences and seminars, and targeted advertising campaigns.

To be considered eligible, any items of marketing claimed must contain the appropriate acknowledgment for ERDF/ESF in line with the Publicity Guidelines. Examples should be kept for audit purposes.

4.2.12 Graduate Placements (ERDF)

Graduate placements are eligible costs under ERDF Priority 3 so long as they can demonstrate SME growth. These costs can only be claimed after the placement has been completed for example, if a placement is for 6 months, then this cost can only be claimed after the graduate has completed the duration of this. This is to ensure the placement cost can be included as a full output. The same logic would be applied to any placement duration. The only exception to this would be where the Lead Partner has agreed interim milestones (with appropriate evidence of achievement) with the Managing Authority in advance of the placement commencing. Residential stays would be considered ineligible and any travel costs associated with these. Any additional Travel & Subsistence costs would need to be appropriately justified and agreed in advance.

4.2.13 ERDF Priority 3 – Evidencing 1 day of non-financial support to enterprises

In order that an achievement can be claimed aligned to the output indicator “Enterprise Receiving Non-Financial Support”, evidence is required that a minimum of one day of support has been provided. This would typically be for 7 hours of support and, for this achievement to be claimed, a breakdown of the activities which make up the 7 hours must be provided with the relevant dates. For example, 5 hours of one-to-one support followed by a 2 hour workshop. In order to be eligible it must be certified by the contractor/support provider.

ERDF Priority 4 & 6 – Evidencing of non-financial support for projects/ organisations/enterprises

In order that an achievement can be claimed/aligned to the output indicators “low carbon projects receiving non-financial support” and “Organisations and enterprises receiving non-financial support” evidence is required to support an equivalent of one day’s support (7 hours) for this achievement and output to be claimed. This would typically be in the form of a comprehensive report of recommendations or detailed business plan specific to the recipient or project.

4.2.14 Other Eligible Project Costs

This may include software, stationery, teaching materials, postage, photocopying consumables and other reasonable costs where it can be clearly demonstrated that these are directly related and essential to the delivery of the project.

4.2.15 Repairs and Maintenance

These costs must relate to equipment specifically included as eligible items of expenditure within the approved application and within the lifetime of the project (i.e. start and finish date). Repairs and maintenance are only eligible for Structural Fund support in the following circumstances:

- Where the equipment has been accepted as eligible for **depreciation** under the project, or
- Where the equipment has been accepted as eligible for **leasing** and the applicant is responsible for repairs and maintenance.

4.2.16 Depreciation

Please see Article 69(2) in EC Regulation 1303/2013 – specific eligibility rules for grants and repayable assistance, which gives details on depreciation.

Depreciation is eligible to be claimed for items of equipment purchased which are essential to, and solely used for, project delivery. Depreciation must be calculated in line with the organisation’s depreciation policy:

e.g. Cost of laptop £750.

Depreciation policy states IT equipment over £500 is depreciated over 3 years.

Therefore eligible depreciation cost is 68.5 p per day x no. of days in claim period.

Claims for depreciation should be based on the original purchase costs of the owned equipment (excluding any additional costs such as delivery or installation) Depreciation may be claimed on second-hand equipment.

Depreciation cannot be claimed in respect of equipment/goods, which have benefited from national or European grants at the time of their purchase.

Documentation showing how depreciation costs have been calculated must be kept for audit purposes. This will include: invoices; payments records including BACS lists and bank statements; descriptions and location of the items purchased; the method of depreciation; asset register and, where relevant, the estimated residual value.

4.2.17 Leasing

Leasing is eligible for support. This must be agreed with the MA prior to being claimed.

The key consideration must be value for money assessed over the duration of the project and the expected economic life of the equipment, including the estimated sale or scrap value when no longer needed. You do not have to choose the lowest cost option – effectiveness and efficiency are equally valid considerations.

We will reimburse costs during the project implementation period and contractual payments beyond this point will not be supported.

The EU cannot be used to reimburse finance or debt servicing costs. Therefore, any interest and finance charges on lease, hire purchase, or rental contracts are ineligible and you must therefore fund those elements in full.

4.2.18 Vehicles

The table below shows provides more details on the eligibility of costs relating to vehicles:

	Purchase	Depreciation	Leasing
Vehicle	X	✓	✓
Insurance	X	✓	✓*
Road Tax	X	✓	✓*
Breakdown Cover	X	X	X
MOT/Servicing	X	✓	✓*
Fuel	X	✓	✓
Mileage	✓*	X	X

X ineligible

✓ eligible

* personal vehicles used on official business can be paid mileage

* depends on terms of lease. Normally expect leasing costs to include these.

Leasing costs should not exceed the original value of the asset.

4.3 Eligible Expenditure – ESF Participant Costs

4.3.1 Wage Subsidies

Wages for wage subsidy schemes are eligible and include basic pay, Employers' National Insurance and Employers Superannuation costs, under the following conditions:

- Participants must be provided with a contract of employment.
- Wages must comply with minimum wage requirements. With prior approval of the MA, it may be acceptable to exceed the minimum.
- The hourly rate for the National Minimum Wage is dependent on age or whether a young person is an apprentice. An employer can choose to pay above the

apprentice NMW, but this must be at the rate for the age of the young person as per the HMRC guidelines.

<https://www.gov.uk/national-minimum-wage-rates>

- Wage subsidies may be used to support either temporary or permanent jobs but must lead to enhanced employability or stable employment, including self-employment.
- ESF cannot be used to support or substitute for permanent jobs in the public sector, e.g. local or central government, or health authorities.
- Projects delivering wage subsidy actions must be able to demonstrate an improvement in the trainee's job skills by the end of the action or project.
- A maximum of 50% of costs can be claimed. State Aid limits may also apply and must be checked.
- A wage subsidy scheme should run for no longer than 12 months.
- Documentation will be checked to final participant level.

Where the participant also receives formal training, wage subsidy payments for this period are eligible. Participants must be provided with both a contract of employment and a training agreement fully detailing the purpose, length and timescales of training.

When claiming wage subsidies, the description box on Eumis must be completed with the linked participant ID; employers NI; employers pension and net pay.

4.3.2 Financial Incentives

Financial incentives to encourage attendance and/or completion of training courses may be accepted in duly justified cases in terms of the participant.

4.3.3 Participant Allowances

Participant allowances can only be used to purchase specialist items, specifically related to delivery of the project, but not for general one-off costs (e.g. purchase of a suit to attend an interview or tools).

The eligibility of items is dependent on the employment status of the participant.

Participant travel and subsistence costs must be directly related to and essential for the effective delivery of the project. Certified travel claims must be retained. Actual costs, up to a maximum of mileage at the public sector rate per mile or economy class travel on public transport must be claimed. In duly justified cases, other means of travel may be accepted (e.g. taxi). Claims must either be submitted on the basis of actual expenditure and supported by receipts or consistent with recognised standard subsistence rates.

4.3.4 Dependent Care

Actual costs towards the provision for dependents to allow participation in operations is eligible where a full evidence trail can support the costs.

SECTION 5 – INELIGIBLE COSTS

This list is intended as a point of easy reference. Definitive guidance is to be found in earlier sections of this document.

5.1 Financial and Other Charges and Legal Expenses

- Accounting costs, preparation etc of annual accounts, year-end auditing
- Bank charges on accounts
- Costs of guarantees provided by a bank or other financial institution
- Financial charges
- Debit interest, charges for financial transactions, foreign exchange commissions and losses, and other purely financial expenses are not eligible for co-financing by the Structural Funds
- Loan charges – the nature and amounts of any loan charges included in the overall project costs should be brought to the attention of the MA
- 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
- Fines, financial penalties and expenses of litigation
- Legal fees for advice, notary fees and the costs of technical or financial expertise

Some of these costs may be eligible if they are directly linked to the operation and are necessary for its preparation or implementation or, in the case of accounting or audit costs, if they relate to requirements by the MA and **must** be agreed with the MA prior to being claimed.

5.2 Equipment

The purchase of equipment or furniture on a revenue project is ineligible.

5.3 Moveable Infrastructure

Purchase of moveable infrastructure, such as motor vehicles, ferries, is ineligible.

5.4 Recoverable VAT

Recoverable VAT is not eligible.

5.5 Education Maintenance Allowances

EMA payments which are 100% re-imbursed are not eligible for ESF support.

5.6 Apprenticeship Levy

This is an organisation charge, which is a cost borne by the organisation and **not** eligible for structural fund support.

5.7 Staff Related Costs

The following staff related costs are not eligible:

- Staff that are not involved in project delivery for a minimum 40% of their contracted hours
- Staff not directly attributable to Structural Funds Activity
- Staff training
- Redundancy payments
- Payments for unfunded pensions
- Maternity, adoption or statutory sick pay
- First aid or keyholder allowances (eligible island allowances are acceptable)
- Bonus or commission payments
- Annual Leave Buy Back

5.8 Other Ineligible Costs

- Expenditure defrayed out with the eligible programme period, including site acquisition
- Costs related to research or studies carried out in respect of the project prior to the official project start date
- Feasibility studies (some pilot studies will be eligible e.g. feasibility and initial development work under low carbon operations – to be discussed and agreed with MA)
- In-kind costs (excluding land or real estate)
- Gifts
- Repairs and maintenance unless covered by the eligible cost description
- CCTV for town centres and/or as a stand-alone initiative
- Civic sculpture
- Compensation for loss of office
- Costs that are a statutory requirement, including maternity/paternity pay, statutory sick pay, improvements to buildings as a requirement of changes to legislation e.g. Disability Discrimination Act.
- Any actions previously funded by European Structural Funds under other Programmes or EU-funded initiatives
- Purchase of ID

- General subscriptions or memberships of trade or professional organisations which are not specific to the operation

Annex A

Calculating Payments Under the Flat Rate Model

In the flat rate model the agreed intervention rate (up to 40% LUPS, up to 50% H&I) is applied to the total expenditure. The flat rate is used as a means of calculating the total expenditure on the basis of direct costs without the need to prove the expenditure for indirect costs.

Example of 15% Flat Rate

Lead partner management direct staff costs (Verified through audit)	£100,000
Application of 15% flat rate to determine all indirect costs	£ 15,000
TOTAL EXPENDITURE	£115,000
ESF Grant Payment at 40% intervention rate (LUPS)	£46,000
Or	
ESF Grant Payment at 50% intervention rate (H&I)	£57,500

Example of 40% Flat Rate

Delivery operation direct staff costs. (Verified through audit)	£100,000
Application of 40% flat rate to determine all indirect costs	£ 40,000
TOTAL EXPENDITURE	£140,000
ESF Grant Payment at 40% intervention rate (LUPS)	£56,000
Or	
ESF Grant Payment at 50% intervention rate (H&I)	£70,000

Strategic Intervention - Employability Pipeline with 4 Operations (H&I Area)

Operation A - Lead Partner Management

Includes: 3 members of compliance staff working on ESF compliance full-time, 100%
Funding Model: Flat Rate (direct staff costs plus 15%)

Staff Cost	=	£400,000
Plus 15%	=	<u>£ 60,000</u>
Total Expenditure	=	<u>£460,000</u>
ESF Grant	=	£230,000

(50% of Total Expenditure)

Operation B - Adviser Support

Includes: 10 members of staff, 3 on part-time contracts) working on participant delivery, in-house, full-time, 100%
Funding Model: Flat Rate (direct staff costs plus 40%)

Staff Cost	=	£1,000,000
Plus 40%	=	<u>£ 400,000</u>
Total Expenditure	=	<u>£1,400,000</u>
ESF Grant	=	£ 700,000

(50% of Total Expenditure)

Operation C - Third Sector Delivery

Includes: Third sector delivery of specific barrier removal services.
Funding Model: Procurement

Total Expenditure	=	<u>£200,000</u>
ESF Grant	=	£100,000

(50% of Total Expenditure)

Operation D – Employer Recruitment Incentive

Includes: 1 member of staff working with employers to set up and monitor the placements plus participant wage cost element at 50% of actual cost. As the operation doesn't have significant indirect costs associated with it a flat rate of 15% is applied to the staff cost.

Staff Cost	=	£ 100,000
Plus 15%	=	£ 15,000
Participant Costs	=	£ <u>100,000</u>
Total Expenditure	=	£ <u>215,000</u>
ESF Grant	=	£ 107,500

(50% of Total Expenditure)

Phase 1 Total Expenditure = £2,275,000

Phase 1 Total ESF Grant = £1,137,500

(50% of Total Expenditure)