



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

Coronavirus (COVID-19) & European Structural and Investment Funds 2014- 2020 programmes

Q&A for Lead Partners

14 January 2022

Version control

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06/04/2020	2.1	Final	Questions and answers in sections 1, 2 and 3 were added/amended.
09/04/2020	3.0	Final	Questions and answers in sections 1 and 3 were added/amended.
17/04/2020	4.0	Final	New question: 3.5.
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27/11/2020	13.0	Final	Amended: 3.10 and 3.11
18/12/2020	14.0	Final	Amended: 3.10 Please note that question and answer numbers may change with each version as new content is added.
28/01/2021	15.0	Final	Amended: 1.5, 2.8 and 2.10
28/05/2021	16.0	Final	Amended: 3.9 and 3.12 Information concerning “wet signatures”, referred to in previous versions in 3.10 and 3.11, have been combined into a new answer/question 3.10.
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27 March 2020

Dear Lead Partners,

The Managing Authority in Scotland has received a large number of queries from Lead partners, delivery bodies and representative organisations over the past two weeks. **This Q&A document seeks to address some of the most common queries.** We will update this document as changes occur.

In the current circumstances, we recognise that there will be very different and reduced programme activities, very different models of delivery and vastly different working arrangements. Evidence of activity and outputs, achievement of targets and milestones, staffing levels and arrangements will all be severely impacted for the duration of the COVID-19 disruption and possibly beyond.

We fully understand and accept this. In the circumstances we simply ask that **as far as possible you continue to deliver where and however you can, making sure to keep a robust audit trail.**

In the meantime we promise to:

- Continue to make all payments as promptly as we can
- Be flexible about all processes and procedures for you to continue to deliver all European structural fund operations where possible.
- Issue a regular update including any updates to this Q&A document to maintain communication flows

I hope this provides some clarity and reassurance and will enable you to continue to deliver your extremely valuable work under these very difficult circumstances.

Kind regards,



Hilary Pearce
Head of the Managing Authority
Deputy Director, European Structural Funds and State Aid Division

The Scottish Government continues to publish up-to-date statistics and information about its response to COVID-19 on its website. This includes advice and guidance for individuals, employers and communities across Scotland. This advice can be found at: <https://www.gov.scot/coronavirus-covid-19/>

We recommend that Lead Partners (LP) and Delivery Agents (DA) familiarise themselves with the Scottish Government's wider COVID-19 guidance and continue to visit the above website to stay up-to-date.

If you should experience any impact on the delivery of your structural fund project as a result of COVID-19, please refer to your Portfolio & Compliance Manager (PCM) or Senior Portfolio & Compliance Manager (SPCM) contact for further advice.

In the meantime this Q&A document has been produced for LPs and DAs to refer to before contacting the Managing Authority (MA). It is organised into three sections:

1. Claims process – submission and payment
2. Delivery of ESF/ERDF operations
3. Eligibility and audit requirements

1. CLAIMS PROCESS – SUBMISSION & PAYMENT

1.1. Will the MA continue to process claims?

Yes. We recognise how important it is at this time of uncertainty for organisations to maintain cash flow and avoid unnecessary disruption to project finances. Where you are able, please continue to submit claims along with all supporting documentation as normal.

1.2. What steps the MA will take to deal with a potential significant backlog in claims, both in terms of their own resources and in relation to supporting LPs? Also, would the MA consider advance payments?

As above, the MA will continue to process claims submitted by LPs in the normal way. We encourage LPs to submit claims on a regular basis to avoid a potential backlog of claims.

1.3. With almost everyone working from home, what arrangements are in place to ensure that claims are continued to be paid and that this is done securely?

Staff in the MA, like all other Scottish Government staff, work on official secure devices so there are no security issues and claims will continue to be processed.

1.4. The MA's IT Support is required to work with LPs' IT departments to overcome Secure File Transfer Protocol (SFTP) issues with remote working. Is the MA planning to create a temporary secure digital space (e.g. Dropbox)?

To avoid any disruption should the current SFTP process fail, the MA is currently investigating alternative methods for LPs to submit documents, this includes the roll-out of eRDM Connect to all LP's, which will eventually replace the SFTP system.

1.5. Will N+3 be suspended for 2020 due to COVID-19?

The European Commission (EC) has confirmed that N+3 is not suspended for 2020. However, the MA has notified the European Commission of our intention to invoke Article 87 'Force Majeure' of the Common Provisions Regulations (1303/2013) in response to the proposed automatic de-commitment of the ESF and ERDF programmes for 2020. The deadline for formal notification and submission of our application is 31 January 2021.

1.6. Usually we would have to submit a letter from a designated signatory before the MA will examine a claim. Due to the COVID-19 disruption, would you accept a copy of an unsigned letter from a designated signatory's official email address?

Yes - the letter should be attached to an email and should be sent from the official mailbox of the designated signatory (if the official signatory is not available, copying

their mailbox will suffice). The MA will follow up after the COVID-19 disruption is over to obtain the letter with a signature.

2. DELIVERY OF ESF/ERDF OPERATIONS

2.1. Can we change our project activity under current rules to help businesses respond to the situation?

Yes. We recognise that there are opportunities for existing projects to amend their approach or refocus their support to assist businesses to respond to the current situation.

2.2. How do I inform and get agreement from the Managing Authority for changes to project activity as a result of COVID-19?

In the first instance you should contact your PCM by email clearly setting out all of the changes that you anticipate. Your PCM will consider and confirm the MA's consent (where possible) in email form. There will be no requirement for a formal change request unless specifically notified.

2.3. What are the consequences of Lead Partners failing to deliver projects as planned due to COVID-19?

If LPs are unable to deliver their projects as planned because of COVID-19, we will consider the situation on a case-by-case basis, as we would for any exceptional situation that prevents a LP from delivering their contractual obligations as planned. We will of course be sympathetic to this and will consider extensions on a case-by-case basis, activities must not go beyond June 2023 in order to enable all LP closure activity to occur by 31 December 2023. PCMs will be the point of contact to discuss this in detail.

2.4. Would we be able to support the same SME more than once, if they need support now?

As stated in our response to 2.1, the MA recognises that LPs may not be able to deliver operations as planned. This will be dealt with on a case-by-case basis.

N.B. LPs should avoid double counting of output indicators where these have been previously claimed. LPs should also check the EC Temporary Framework for State Aid to ensure that aid provided to SMEs is within the agreed limits.

2.5. We have a company that cannot keep a participant on due to the current situation. Should we halt the wage subsidy period and then start up again when things return to normal and the participant restarts with the employer?

If the placement is suspended, the wage subsidy should be halted for the period. It should restart again when the participant restarts with the employer.

2.6. Is the EC considering changes to regulations to respond to COVID-19 e.g. state aid?

Yes. The EC has proposed a series of limited flexibilities under Coronavirus Response Investment Initiative (CRII), Coronavirus Response Investment Initiative Plus (CRII+) and the Temporary Framework for State Aid in response to the current situation. The Scottish Government is currently assessing the proposed changes in consultation with the EC.

However, until further guidance is issued you must continue to follow current National Rules, state aid and procurement rules and regulations.

2.7. Is there any clarity from the EC on the material scope of “undertaking in difficulty” in the current environment?

This is covered in the EC Temporary Framework for State Aid. It is essential to demonstrate via a financial check that the businesses were not in difficulty as at 31.12.2019 and that therefore the difficulty they are experiencing is as a result of COVID-19.

2.8. If contracts are yet to be issued to suppliers, can they be issued with an extended timescale or flexible timeframe? For already issued contracts, is there a simple procedure the MA would be comfortable with for extending their timelines (up and till 2023)?

As stated previously, we will consider changes on a case-by-case basis. In any case, LPs need to be mindful that all physical activity cannot go beyond 30 June 2023.

LPs should refer to Scottish Procurement Policy Notes 5/2020 and 8/2020. SPPN 5/2020 provides advice/guidance for public bodies on options for payment to their suppliers to ensure continuity during the current COVID-19 outbreak. It also includes guidance on modifying contracts to change contract requirements, delivery locations, frequency and timing of delivery, targets/performance indicators and payment terms for supplier relief. SPPN 08/2020 is supplementary to SPPN 05/2020 and provides advice on the recovery and transition from COVID 19 and the action public bodies should be undertaking to ensure the supplier relief measures already in place remain appropriate and sustainable. The principles of both SPPNs applies to good, services and works contracts. For more information, please visit: www.gov.scot/publications/coronavirus-covid-19-supplier-relief and www.gov.scot/publications/coronavirus-covid-19-recovery-and-transition-from-covid-19-sppn-8-2020

2.9. Some LP organisations are allowing the use of an email confirmation as acceptance of the contract, where it is not possible to get contract signed. Is this acceptable for procured activities?

E-mails from appropriate accounts are acceptable in the interim. Signed acceptance should follow when this becomes possible.

2.10. Could we use uncommitted ESF/ERDF support to respond to COVID-19 and are you considering adapting the MAAP process in light of the disruption?

Where LPs require further funds to cover situations resulting from COVID-19, please contact your PCM in the first instance. The MA will continue to hold MAAP meetings throughout 2021 to consider any new or other and all requests to review current approved Strategic Interventions and Operations.

2.11. What other advice and help is available is there for third sector organisations that receive ESF support and are affected by the COVID-19?

On 18 March the Scottish Government announced the details of the Third Sector Resilience Fund. For more information, please visit:
<https://scvo.org.uk/support/coronavirus/funding/for-organisations/third-sector-resilience-fund>

2.12. Can someone who has been furloughed from their job be supported with ESF to gain additional transferable skills?

People who have been furloughed can be supported with ESF, as long as they meet the standard criteria of the ESF priority and have two barriers to employment.

3. ELIGIBILITY & AUDIT REQUIREMENTS

3.1. Will project costs continue to be eligible where official restrictions are in place which affect 'business as usual' activity?

Any necessary costs that have already been approved by the MA, are featured within the Operation approved application form and Financial Annex will continue to be eligible, even in situations where offices have been forced to close and staff are working at home or project activity is reduced (for example, staff costs). As with all costs agreed by the MA, there is an expectation that value for money is secured and where savings or reductions can be made then these options should be explored where possible.

3.2. Can staff costs continue to be claimed?

Staff costs for LP/DA contracted to work on the operation continue to be eligible and should continue to be claimed in line with the organisation's own policies and in accordance with the MA's eligibility rules, as has always been the case. Where the LP/DAs' policies cover extraordinary circumstances (for example, special leave for school closures) these costs continue to be eligible.

Additionally where LP/DAs' policies allow for staff to continue to work at home whilst self-isolating then these costs will continue to be considered eligible. The MA will accept official emails as evidence to confirm what the organisation's policy is for circumstances related to COVID-19. Sick pay continues to be eligible if claimed in accordance with the MA's eligibility rules.

Please note in general salary costs cannot be covered where delivery has ceased. Employers should be referred to the ['Support for Businesses under the Coronavirus Job Retention Scheme'](#) in relation to covering salary costs.

If any organisations start to receive support from the UK Government for ESF/ERDF operations staff, then they need to inform the MA in order to avoid double financing that may result in illegible expenditure.

3.3. If a staff member who is contracted to work 100% on an operation is redeployed due to COVID-19, would we still be able to claim it as a staff cost?

Staff contracted to work on ESF/ERDF operations continue to be eligible and claimed on that basis. It is up to the LP or DA to determine how they deploy their staff, but the European Commission's regulations state that ESF/ERDF can only be used to support the costs of staff delivering ESF/ERDF activity. However, the LP might want to consider claiming staff replacement costs to cover the post(s) in question and would need to advise their PCM/SPCM in advance of any changes in resources.

3.4. Where staff are currently contracted to work 100% on ESF/ERDF activity and have been asked to carry out COVID-19 tasks unrelated to their day-to-day role, would they have to move to completing timesheets and be claimed on that basis?

As per the national rules, staff who are no longer working on ESF/ERDF activity 100% of the time will be required to keep a timesheet and be claimed on the part-time basis. Please note that the minimum 40% of contracted hours spent on ESF/ERDF activity still applies.

3.5. Where staff are currently contracted to work 100% on ESF/ERDF activity and have had to reduce their hours because of caring responsibilities, would they have to complete timesheets?

As long as the staff member spends 100% of their contracted working time on ESF/ERDF activity, the staff costs continue to be eligible and no timesheets are required.

3.6. Some staff are not able to print/sign/scan timesheets when they are remote working. Would emails from staff be sufficient?

Yes, as long as this email comes from the staff members' mailbox, is copied to the line manager/HR/Finance representative and is retained on file. When the disruption caused by COVID-19 is over, the timesheets should be signed and dated. This may apply to documents that should have been supplied before 16 March and are now being corrected and resubmitted retrospectively. The LP is responsible for documenting the issues leading to the resubmission.

3.7. If staff are off sick, we are concerned at the impact this will have on the finances we can claim. Can we (a) increase the percentages claimed by other employees who are not currently claiming 100% of time and (b) can we bring in staff replacement cover (assuming we need a contract in place for them prior to them delivering)?

(a) Yes. Part time staff can increase their percentage to cover sick absence, however the 40% minimum rule will still apply.

(b) Staff replacement cost is eligible usually for long term sick absence. However, given the current circumstances, short term replacement costs are eligible as long as there is a contract in place prior to the staff member delivering.

3.8. If staff need to self-isolate due to COVID-19 and this is classed as sick leave, can this be claimed as an eligible cost?

For COVID-19 cases, sick pay is eligible up until the point it is recoverable from HMRC.

The current UK government guidance states that: "If you're self-isolating because of COVID-19, you can get SSP if you're eligible. You should tell your employer as soon as possible." Further information can be found at: <https://www.gov.uk/statutory-sick-pay>

For all non COVID-19 cases, the current National Rules continue to apply.

3.9. Face-to-face support to participants and businesses has now ceased and is being delivered remotely i.e. telephone/email/MS Teams. Can alternative methods of providing evidence of this support be used, such as:

- notes of the discussion
- email verifications for registration/attendance records/achievements of results that are not signed by the participant/business
- Microsoft forms that gather registration information and trail consent from participants

Yes, under the current circumstances the MA accepts this approach. All notes of discussions should be retained alongside the date/time.

3.10. If we cannot provide a “wet signature” from participants, what alternative forms of evidence would be acceptable for audit purposes in ESF-supported operations?

a) Scanned signatures, with no further supporting evidence as outlined below, are not acceptable as there is no way of proving that the signature belongs to the person or that they were attached to it.

b) Electronic signatures are acceptable as eligible evidence provided that they meet the conditions set out in the eIDAS regulation (<https://ico.org.uk/for-organisations/guide-to-eidas/what-is-the-eidas-regulation>). The eIDAS Regulation is an EU Regulation that sets out rules for electronic identification and trust services. These services help verify the identity of individuals and businesses online or the authenticity of electronic documents.

c) The MA will accept an email confirmation from a participant in place of a “wet” or fully electronic (eIDAS) signature, provided the following conditions have been met:

- The email used belongs to the participant and matches the email address on the registration form. In order to validate the participant email address the LP/DA must do the following:
 - For new participants. the LP/DA should email the participant to confirm the registration details are correct and request a response. It is for Lead Partners to decide the means of confirming the registration details e.g, email the registration document or screenshot of form. Registration details must include name, address, DOB, NINO and telephone number.
 - For existing participants the LP/DA should take a screen print of the registration form and email this to the participant and seek confirmation by return. The screen print should include name, address, DOB, NINO and telephone number.
 - Ensure it is supported by a package of evidence confirming that individual’s eligibility (e.g. for ESF, evidence of right to live and work in the UK along with priority level eligibility).

The above can then be considered to meet the fundamental requirement set out for the electronic execution of documents - 'intention to authenticate clearly expressed & with corresponding audit trail to support intention'. Therefore, if it can be evidenced that these arrangements are in place, this will negate the requirement to retrospectively revisit evidence at a future point in time and once COVID-19 restrictions have been lifted.

3.11 If a Delivery Agent is unable to get an email address validated because the participant is not responding, do they still have the option of making 3 attempts to validate the participant's email address and keeping evidence of attempts for audit purposes?

For participants there has to be either a 'wet' signature, fully eIDAS-compliant electronic signature or a validated email address, otherwise the participant will be marked as unsupported.

3.12. Instead of using emails, would screen-prints of WhatsApp conversations be acceptable?

WhatsApp and text messages are acceptable, as long as the mobile phone number is visible and the telephone number of the participant reconciles with other evidence noting the number for the particular participant.

3.13. If we have already secured a "wet signature" from a participant during their registration and are engaging with them via telephone support/online activity, what evidence would be sufficient for audit purposes?

The MA requires that a record of telephone conversations and screenshots evidencing online activity are retained. If the engagement has resulted in an update to the participant's action plan, the LP or DA should send the updated document to the participant's registered email address.

3.14. Because of the lockdown, we are unable to receive original supporting evidence from participants (e.g. passports, birth certificates). Can we accept photocopies/screenshots in the meantime?

Due to the COVID-19 disruption, photocopies or scanned copies of supporting evidence are acceptable provided that they have been sent from the validated email address of the registered participant.

Photographs or screenshots of the supporting evidence are acceptable, as long as they are clear and legible and have been sent via a validated email and text message that can be identified as coming from the participant. For WhatsApp or similar social media platforms, please check with your Data Protection team to ensure that this is in accordance with your organisation's policy.

3.15. If participants are unable to produce print-outs of Universal Credit statements, can we accept screenshots from mobile phones and tablets?

Due to the COVID-19 disruption, screenshots of Universal Credit statements from mobile phones and tablets are acceptable, instead of a hard copy. The screenshots must display the breakdown of payment and the statement page, along with the participant's name and address. The request for the screenshot from the LP/DA to the participant must be included to confirm the participant's email address.

3.16. Can we claim job outcomes if participants gain temporary employment during the COVID-19 disruption?

Job outcomes can be claimed for temporary employment that lasts a period of three months or more. A robust audit trail must be maintained; contracts must clearly state the detail of the work being undertaken and the length of the employment period. Due to the nature of temporary employment, LPs should obtain the necessary supporting information as early as possible. The MA will continue to keep this under review to take account of any ongoing disruption.

3.17. Would cancellation fees be eligible?

Where a LP/DA has incurred costs for activities that could not be delivered due to events or decisions beyond their control (e.g. meetings are cancelled by third parties or following Government advice), that expenditure will be eligible as long as reasonable steps have been taken to minimise that cost.

3.18. I have a few businesses who have been in touch regarding employer recruitment incentives and how this will work with HMRC's furlough (80% salary). Can I have some guidance from the MA as to what will be eligible?

As 80% of the costs are covered by HMRC then the employer recruitment incentive should be stopped for the period, otherwise this is considered double funding and therefore ineligible.

3.19. Would it be possible to submit claims without evidence, and then submit the missing evidence later? Could any costs that cannot be evidenced be clawed back from a subsequent claim?

Where LPs have concerns regarding missing evidence, they must discuss this with the relevant PCM prior to submission of the claim. The MA will take a view on any alternative evidence that could be used to support a claim on a case-by-case basis.

3.20. If DAs are accessing other forms of financial support (e.g. Third Sector Resilience Fund), what is the responsibility of LPs to reduce the risk of duplication of funding?

LPs are required to ascertain from their DAs if any of them have accessed other sources of funding and what costs have been covered. In terms of an audit trail, LPs should retain a copy of the award letter that was issued to the DA confirming the other funding and any other relevant correspondence. It is the responsibility of LPs to ensure that there is no duplication of funding – where this has been identified, these costs should not be included in any future claim for ESF/ERDF.

Managing Authority
14 January 2022