



**PERTH & KINROSS COUNCIL**

**CODE OF GUIDANCE**

**FOR**

**FUNDING EXTERNAL ORGANISATIONS**

**&**

**“FOLLOWING THE PUBLIC POUND”**

**MAY 2017**

## 1 INTRODUCTION & BACKGROUND

- 1.1 Councils as public bodies are accountable for how they spend public money in the delivery of their services. They are also under a statutory duty to achieve Best Value in terms of the discharge of their functions and as such are being encouraged to consider innovative and alternative service delivery models. Irrespective of how Councils may design or deliver services, it is important that there is proper accountability and transparency as to how funds are being spent. This concept is known as “Following the Public Pound”.
- 1.2 Councils have the power to deliver services to discharge their functions in a variety of ways:
- **Direct provision** - where the services are delivered in-house through the Council’s own departments and employees
  - **Contracted provision** – where the services are contracted from other public, private, third sector or voluntary suppliers
  - **Arm’s Length External provision** – where a separate organisation is created to deliver the services on behalf of the Council and over which the Council has a degree of control or influence (e.g. ALEOs / Trusts)
- 1.3 In terms of:
- **Direct provision** - the Council accounts for their spend through the normal budget setting, monitoring and public reporting processes
  - **Contracted provision** - Procurement legislation and the Council’s internal Contract Rules ([hyperlink for contract rules](#)) set out the basis for engaging and contracting with other bodies. That procurement and commissioning process provides the transparency and accountability as to how the funds are being spent.
- 1.4 Historically there has been less clarity and transparency around spending where services have been delivered on behalf of Council through Arm’s Length External Organisations (ALEOs). The use of ALEOs has become increasingly popular as a service delivery model as external organisations may be able to provide a better range or quality of service, or provide services that would otherwise not be provided. External organisations may also be able to attract funding from sources not so readily accessible to the Council, such as the private or voluntary sectors. Concerns as regards the lack of transparency and proper accountability for funds around the use of ALEOs prompted the Accounts Commission and COSLA to publish the “Code of Guidance on Funding External Bodies and Following the Public Pound” (“the original Code”) in 1996. This sets out the principles of best practice when establishing significant funding arrangements with companies, trusts and other bodies other than on a contractual basis
- 1.5 Since then the original Code has been given more formal status under the Local Government in Scotland Act 2003, in establishing the statutory duty on councils to ensure that they secure Best Value in the discharge of their functions.

- 1.6 The original Code reflects a self-regulatory approach and it is for Councils to interpret the Code and make their own arrangements as to how the general principles will be implemented locally.
- 1.7 This document constitutes the Perth & Kinross Council Code of Guidance for Funding External Organisations and “Following the Public Pound” (“the FPP Code”). It is based on the original Code as supplemented by the Controller of Audit’s report and Accounts Commission’s findings from March 2004 (“Following the Public Pound”) and the supplementary report by Audit Scotland entitled “Arm’s-length external organisations (ALEOs): are you getting it right?” from June 2011 (together the “FPP Framework”).
- 1.8 The FPP Framework cannot however be applied in isolation. As a public body, the Council is subject to a number of external rules and regulations governing how and with whom it spends its funds. In preparing this Code therefore, the following must be taken into account and adhered to:
- Procurement Reform (Scotland) Act 2014
  - Public Contract (Scotland) Regulations 2015 and supplementary guidance
  - Procurement (Scotland) Regulations 2016
  - State Aid rules set out in the Treaty on the Functioning of the European Union.

## 2 SCOPE OF THIS CODE OF GUIDANCE

### 2.1 In this Code:

**“Assistance-in-kind”** includes all staff time and all associated costs involved in enabling the outside organisation to carry out its core activities which are essential to its continued existence e.g. administrative support, professional services, advice, accommodation, rates remission, use of equipment, training, preparation of material for reporting to Council etc.

But does not include:

- staff time and associated costs involved in supporting and developing groups as part of Council’s duty to promote and support community action;
- staff time and associated costs in providing advice on setting up the funding and applications to Council
- staff time and associated costs incurred in the formal monitoring and review of funding arrangements by Council;

**“Best Value”** means balancing quality and cost considerations in improving performance. Achieving Best Value requires the Council to make arrangements to secure continuous improvement in performance (while maintaining an appropriate balance between quality and cost) and in doing so to have regard to economy, efficiency, effectiveness, equal opportunities requirements and to the achievement of sustainable development;

**“Contract Rules”** means the rules and regulations put in place by the Council for advertising and awarding contracts as more particularly set out in section 81 of the Local Government (Scotland) Act 1973;

**“External organisation”** includes Arm’s Length External Organisations, companies, trusts, voluntary organisations and grant aided bodies;

**“Funding”** means money, grants, capital grants, guarantees, loans, common good fund, shares, assets and assistance-in-kind;

**“Public Services Contract”** has the meaning ascribed to it in the Public Contracts (Scotland) Regulations 2015;

**“Value for Money (VFM)”** is defined as the optimum combination of whole life costs and quality (or fitness for purpose) to meet the customer's requirements, and can be taken to be largely analogous with "most economically advantageous".

- 2.2 The FPP Code applies in any situation where the Council decides to fund external organisations other than by means of a transparent procurement process in accordance with the Council’s Contract Rules (attach hyperlink) and Procurement Toolkit (attach hyperlink)
- 2.3 Contracts with a value of less than £5,000 in total, whilst not requiring to be publicly procured, do need to demonstrate value for money. Similarly there are specific exceptions for larger contracts contained within the Contract Rules. As the FPP Code reflects general principles designed to provide transparency in respect of public spending, the FPP Code is applied in these situations also to provide assurance as to Best Value and VFM considerations.
- 2.4 Therefore the FPP Code is likely to apply:-
- (i) where the Council provides funding to an external organisation which is a separate legal entity from Council but over which the Council exerts a degree of control or influence by virtue of its constitution or the terms of its funding agreement (such as an ALEO/ Trust arrangement); or
  - (ii) In the event clauses 2.2 and 2.3 do not apply and the Council intends to directly award a contract for the supply of education or social care services to an independent supplier because no competition exists in the market; or
  - (iii) where the estimated costs of the services are below the EU threshold (all of which are set out in the Procurement Toolkit) and a review has been carried out which has determined that Best Value can be obtained without going to tender; or
  - (iv) where the total value of the spend is less than £5,000); or
  - (v) where the Council provides some form of grant or assistance-in-kind (subject to compliance with any state aid rules).
- 2.5 This Code does not apply where the Council’s Contract Rules or other rule of law requires a public procurement process to be followed.
- 2.6 Subject to 2.4(ii)-(iv) above, under no circumstances should this FPP Code be applied to a situation where the Council is procuring:-

- works or services pursuant to a public works contract;
- any form of professional or consultancy services; or
- the purchase of goods.

In these circumstances, the appropriate procurement route must be followed as set out in Contract Rules in conjunction with the Procurement Toolkit.

(more detailed guidance is contained within the FPP Practitioner Toolkit)

- 2.7 In reality most spend will be subject to the Council's Contract Rules and the Procurement Toolkit and these should always be checked, in the first instance, to see if they apply before considering the application of the FPP Code. If you are unsure you should always seek advice from the Council's Corporate Procurement Team.
- 2.8 The obligations as regards the governance of public funds do not end with the transfer of funding to the external body. All Council staff responsible for the award or payment of public funds to external organisations outside the Council's Contract Rules must follow the processes set out in this FPP Code.
- 2.9 Attached to this FPP Code is a toolkit to assist those individuals in identifying whether or not the FPP Code applies and how to put the appropriate checking, monitoring and reporting arrangements in place. It also details the specific roles and duties of staff in dealing with FPP arrangements.
- 2.10 Should Services require any further guidance in relation to funding external organisations, they should contact the Head of Legal and Governance Services.

### **3 PRINCIPLES OF "FOLLOWING THE PUBLIC POUND"**

- 3.1 As stated above, the original Code sets out basic principles governing FPP arrangements to ensure openness, transparency and adequate accountability. These can be summarised as follows:-

- **PURPOSE:** the Council must be clear about the reasons for their involvement in any external funding arrangement;
- **FINANCIAL REGIME:** the Council must specify clearly the extent of its financial commitment to the external body, including the nature of the financial relationship and the criteria for making and receiving payment;
- **MONITORING:** the Council ensure that there are appropriate and robust financial and performance monitoring and reporting arrangements are in place from the start of the relationship;
- **REPRESENTATION:** the Council should carefully consider its representation on the Board of any external organisation and ensure that Members and Officers understand their roles and responsibilities;
- **LIMITATIONS:** the Council must lay down a timetable for the achievement of its objectives, clearly specify any limits to funding and provisions for terminating the arrangement;
- **ACCOUNTABILITY:** provisions must be made for the Council and its external auditors to have access to the records of the funded body.

(more detailed guidance is contained within the FPP Practitioner Toolkit.)

## **4 APPLYING THE PRINCIPLES**

4.1 In practice therefore it is essential that before any FPP arrangement is entered into:-

- (i) you can clearly link what the external organisation will be providing to an objective, strategy or policy of the Council;
- (ii) a risk-based assessment is carried out of the external organisation prior to agreeing funding to ensure the organisation is able to achieve the Council's objectives and that there are no state aid implications arising out the decision to fund the external organisation;
- (iii) that an adequate level of checks is carried out on the external organisation before and during any funding, based on the amount of money they are receiving in total from the Council;
- (iv) a funding agreement will be reached between the Council and the external organisation prior to any funding being made available, setting out the terms and conditions of the payment;
- (v) a Monitoring Officer from the Council will be appointed to oversee the funding provided to each external organisation;
- (vi) the position as regards Elected Member or officer representation on any board or governing body of any external organisation is identified and that roles and responsibilities are fully understood.

(More detailed guidance is contained within the FPP Practitioner Toolkit)

4.2 It is the responsibility of each Director to ensure that expenditure is being correctly categorised under this Code (and is not subject to any procurement rules) and where such expenditure meets the test under this Code, then there is clear accountability for all funds which are provided from their Service budgets.

## **5 ASSURANCE FRAMEWORK**

5.1 The requirement to provide assurance in respect of funding to external organisations does not end at the point of payment being made. Whilst a number of risks will have been identified and addressed prior to funding, a number of different risks will continue or emerge in the course of performance (e.g. non delivery or poor performance of the service, misuse of funds, reputational risk etc. Assurance will therefore be required in respect of the external organisation's ability to deliver high quality services. The level of assurance required must be reflective of the risks/potential risks that exist.

5.2 The purpose of a financial and operational risk assessment is to determine how any changes in income and expenditure will impact upon the external organisation's future viability and operational ability to deliver the necessary outcomes.

5.3 This FPP Code applies the principle of proportionality to the assessment of risk and assurance, recognising that different levels of scrutiny will be required depending on;

- the degree, nature and impact of the risks/potential risks identified
- the level of control/influence which the Council has over the external organisation
- the level of funding given.

- 5.4 The following matrix will be used to determine the level of risk assessment and assurance required.

<b>FINANCIAL RISK LEVEL</b>	<b>SCORE</b>
Less than £5,000	1
Greater than £5,000 but less than £50,000	2
Greater than £50,000	3
Substantially greater than £50,000 and included in Group Accounts for the Council	4

  

<b>NON- FINANCIAL RISK LEVEL (OPERATIONAL / REPUTATIONAL)</b>	<b>SCORE</b>
One off grant / subsidy to body for community benefit	1
External organisation - Council has no interest or control	2
External organisation - Council has substantial interest and control	3
External organisation - Council has substantial interest and control and the results of organisation are included in the Council's Group Accounts	4

- 5.5 To assess the level of assurance required select the relevant criteria from both the financial and non-financial risks and add the scores together.

<b>SCORE</b>	<b>ASSURANCE ASSESSMENT LEVEL</b>
1-2	LEVEL 1
3-4	LEVEL 2
5-6	LEVEL 3
7-8	LEVEL 4

(more detailed guidance as to the content of each level of risk assessment is contained within the FPP Practitioner Toolkit.)

- 5.6 Once the financial/ non-financial risks have been assessed and a decision to fund has been made the next stages of the assurance process are:

- to agree clear and transparent contractual arrangements
- to agree a schedule of payments
- to establish regular and robust approval, monitoring and reporting arrangements
- where appropriate, to determine the degree of the Council's representation and participation in the external organisation.

(more detailed guidance is contained within the FPP Practitioner Toolkit.)

## **6 CENTRAL REGISTER**

- 6.1 It is important that the Council is publicly accountable for how it is spending public funds.

- 6.2 Under the Council's Contract Rules, details of all contracts entered into as a result of regulated procurement must be entered into a Contract Register. Those arrangements which fall out with the scope of regulated procurement shall be recorded on a central FPP Register. Accordingly the following arrangements will require to be recorded on the FPP Register :

- where the total value of the spend in respect of the services is less than £5,000 (or such other minimum level as prescribed in the Council's Contract Rules); or

- where the Council provides some form of grant or assistance-in-kind (subject to compliance with any state aid rules); or
- where the Council intends to directly award a contract for the supply of education or social care services to an independent supplier because no competition exists in the market, the value of which is less than £50,000; or
- where the estimated costs of the services are below £50,000 and a review has been carried out which has determined that Best Value can be obtained without going to tender; or
- where the Council provides funding to an external organisation which is a separate legal entity from Council but over which the Council exerts a degree of control or influence by virtue of its constitution or the terms of its funding agreement (such as an ALEO/ Trust arrangement).

6.3 Where the FPP Code has been applied because :

- (i) the Council intends to directly award a contract for the supply of education or social care services to an independent supplier because no competition exists in the market; or
  - (ii) where the estimated costs of the services are below the EU or other relevant threshold and a review has been carried out which has determined that Best Value can be obtained without going to tender;
- and
- (iii) the **value is greater than £50,000**

The arrangement shall be recorded on the CONTRACT REGISTER as opposed to the FPP Register.

6.4 The FPP Register will be maintained by the Head of Legal & Governance Services. Service Management Teams are required to ensure that the Register is kept up to date with all relevant information.

Version	Summary of Changes	Approved	
V.1	Initial draft 30/04/14	DH	ITI
V1.2	Second draft issued 1/10/14	DH	ITI
V2	Third draft issued 21/11/14	DH	ITI
V3	Fourth draft issued 12/12/14	DH	ITI
V4	Fifth draft issued 17/12/14	DH	ITI
V5	Sixth draft issued 10/04/15		
V6	Seventh draft issued 29/05/15		
V7	Eighth draft issued 24/07/15		
V8	Ninth Draft issued 20/11/2015		
V9	Revisals made following comments from JC and MM. Issued to LS for comment 04/02/2016.		
V10	Further revisals made to reflect changes in Procurement legislation. Issued to and LS for comment 30/03/2016		
V11	Revisal made by LS		
V12	Revisals made by LC 02/06/2017		



# **FUNDING EXTERNAL ORGANISATIONS AND “FOLLOWING THE PUBLIC POUND”**

## **PRACTITIONER TOOLKIT**

# **Index**

## **Section 1: Introduction**

## **Section 2: Summary of the stages of FPP funding**

## **Section 3: Prior to funding**

- 3.1 Checklist 1: Is the funding necessary?
- 3.2 Checklist 2: Should this be publicly procured?
- 3.3 Checklist 3: Does the FPP Code apply?

## **Section 4: State Aid**

- 4.1 Checklist 1: Do the State Aid rules apply?
- 4.2 Checklist 2: Does the funding amount to State Aid?

## **Section 5: Risk Assessment of external organisation**

- 5.1 Checklist 1: What is the financial risk level?
- 5.2 Checklist 2: What is the non-financial risk level (i.e. operational / reputational)?
- 5.3 Checklist 3: What is the assurance assessment level?
- 5.4 Checklist 4: Assurance Assessment Level 1
- 5.5 Checklist 5: Assurance Assessment Level 2
- 5.6 Checklist 6: Assurance Assessment Level 3
- 5.7 Checklist 7: Assurance Assessment Level 4
- 5.8 Checklist 8: Credit Check

## **Section 6: Establishing a funding agreement**

- 6.1 Checklist 1: Schedule of payments
- 6.2 Checklist 2: Service Level Agreement
- 6.3 Checklist 3: Council representation /participation within the external organisation

## **Section 7: Monitoring the agreement**

- 7.1 Checklist 1: Monitoring required in all cases
- 7.2 Checklist 2: Assurance Assessment Level 3
- 7.3 Checklist 3: Assurance Assessment Level 4
- 7.4 Checklist 4: Group Accounts Concept

## **Section 1: INTRODUCTION**

1. This is the 'Following the Public Pound (FPP) Practitioners' Toolkit' which is referred to in the 'Perth & Kinross Council Code of Guidance for Funding External Organisations & "Following the Public Pound"' (the FPP Code).
2. This Toolkit is intended to assist Council Officers who are involved in decision-making, arranging and monitoring funding agreements under the FPP Code.
3. This Toolkit has been set out in a series of checklists to help the user complete each step of the process towards awarding, providing and monitoring funding to an external organisation.
4. By working through the checklists below, Council officers should be able to determine what steps are to be carried out prior to any funding and throughout the funding agreement.
5. This Toolkit should be read alongside the FPP Code. Further explanation and a glossary of terms used in this Toolkit are available in the FPP Code.
6. Further information or advice in relation to Following the Public Pound may be sought by referring to the FPP Code or by contacting the Head of Legal & Governance Services.

## **Section 2: SUMMARY OF THE STAGES OF FPP FUNDING**

The various stages involved in the awarding, providing and monitoring of funding under the FPP Code can be broadly summarised as follows:

- Application for funding received from external organisation / identified need for external organisation to deliver a service on behalf of the Council
- Determine the level of funding – this will indicate the information, documentation and agreement type required
- The Monitoring Officer undertakes a financial and non-financial risk assessment
- A decision is taken under the Scheme of Delegation or by Committee to approve the funding
- The funding agreement is put in place by the Monitoring Officer
- The Monitoring Officer advises the Head of Legal & Governance Services of the agreement for the purpose of updating the Central Register
- The external organisation provides its reports and documentation as required under the funding agreement
- The Monitoring Officer provides annual information to the Head of Service, Service Management Team or Committee as appropriate
- The Monitoring Officer continues to oversee the funding agreement
- Funding may be extended beyond a single financial year, subject to annual and ongoing financial and non-financial checks and aggregation rules/thresholds.

**These stages can vary and the Checklists set out in the remainder of this Toolkit should be followed in all cases.**

## **Section 3: PRIOR TO FUNDING**

Before any decision is made that the Council will provide funding to an external organisation, you must be able to justify the funding in accordance with the Council's strategic objectives and demonstrate that the funding should be made under FPP rules, rather than through procurement of the service.

Complete the checklists below to ensure that the funding should be made through FPP.

### **3.1 CHECKLIST 1: Is the funding necessary?**

1. Is the purpose of the funding clearly linked to the achievement of the Council's objectives or the implementation of a Council Strategy or Policy?
2. Are there clear benefits to delivering this service through an external body, as opposed to direct provision by the Council?
3. Do you have an approved budget for the funding?
4. Have you checked if any other Council Service is already directly delivering or procuring the same or similar service?

**If the answer to any of the above is "NO" then further consideration needs to be given to the proposal before proceeding.**

### **3.2 CHECKLIST 2: Should this be publicly procured?**

1. Is the value of the proposed arrangement over £5,000?
2. Does the proposed arrangement fall within the definition of "public services contract" under the procurement regulations?
3. Is the proposed arrangement for the delivery of what might constitute "public works" under the procurement regulations?
4. Are there a number of suppliers in the market who could provide the service?
5. Is the value of the proposed arrangement greater than the current EU procurement threshold?
6. Are there State Aid implications? (see State Aid Checklist in Part B)

**If the answer to any of the above is "yes" or "don't know" then seek advice from the Council's Corporate Procurement Manager or Head of Legal & Democratic Services before proceeding any further.**

### **3.3 CHECKLIST 3: Does the FPP Code apply?**

1. Is the value of the proposed arrangement under £5,000 and has not been recorded on the Council's contract register?
2. If the contract is for the provision of education or social services, and the value of the proposed arrangement is greater than £5,000, can you demonstrate that no market competition exists in respect of the proposed supplier?
3. If the value of the proposed arrangement is above £5,000, but below EU threshold limits, and has not been recorded on the Council's Contract Register can you demonstrate that Best Value can be achieved??
4. Is the proposed funding to take the form of a grant, loan or assistance in kind?
5. Is the proposed funding being made to an Arm's Length External Organisation (ALEO)? (An ALEO is a company, trust or other external organisation which is a separate legal entity from the Council, but over which the Council exercises a degree of control or influence, e.g. through Board/Trustee Membership, shareholding or the terms and nature of the funding agreement)

**If the answer to any of the above is YES, then the FPP Code applies.**

**If the answer to all of the above is NO or you are unsure, please seek advice from the Corporate Procurement Manager or the Head of Legal & Governance Services before proceeding any further.**

## **Section 4: STATE AID**

Any Service proposing to fund an external organisation through a grant or direct award without competition must comply with the rules relating to State Aid. Services should apply the following tests when determining whether the State Aid rules are applicable.

### **4.1 Checklist 1: Do the State Aid rules apply?**

1. Is the external organisation an 'undertaking'?

**An undertaking is defined as any entity, regardless of its legal status, which is engaged in economic (commercial/competitive) activity and where there is a market in comparable goods or services**

2. If so, is the external organisation engaged in economic activity?

**This is defined as offering goods and/or services on a given market and which could, at least in principle, be carried out by a private operator for remuneration in order to make profits**

**If the answer to these two questions is YES, then the checklist below must then be applied to determine the possible presence of State Aid.**

### **4.2 Checklist 2: Does the funding amount to State Aid?**

1. Has there been an intervention in the market using public money?
2. Does the funding give the external organisation an advantage, for example when dealing with specific companies or industry sectors, or to companies located in a specific region?
3. Could competition within the market for these goods or services be distorted as a result of this funding?
4. Is the funding likely to affect the trade of goods or services between EU Member States?

**If the answer to all these questions is YES, then it is likely that the funding amounts to State Aid.**

**Where it is determined State Aid may apply, you must contact the Head of Legal & Governance Services before any funding can be given, as there are certain exemptions and *de minimis* rules that apply. Clearance may be required from the Scottish Government State Aid Unit before the funding agreement can be entered into.**

**If you are unsure as to whether State Aid applies, seek advice from the Corporate Procurement Manager or the Head of Legal & Governance Services before proceeding further.**

## **Section 5: RISK ASSESSMENT OF EXTERNAL ORGANISATION**

Once the decision has been made to fund an external organisation and you have established that the FPP Code applies, a risk assessment must be carried out to determine the level of financial and non-financial checks required.

The level of financial and non-financial checks will be based on the Assurance Assessment Level, which is arrived at by using the checklists below. This takes into account the level of funding to the external organisation and the extent of the Council's interest in or control over the external organisation. This will minimise the risk to the Council and ensure that the requirements on smaller organisations are not too onerous.

### **5.1 CHECKLIST 1: What is the financial risk level?**

1. Is the Council funding to the external organisation substantially greater than £50,000 and included in Group Accounts for the Council?  
**(If so, score 4 points and proceed to Checklist 2)**
2. Is the Council funding to the organisation £50,000 or more?  
**(If so, score 3 points and proceed to Checklist 2)**
3. Is the Council funding to the organisation less than £50,000 but more than £5,000?  
**(If so, score 2 points and proceed to Checklist 2)**
4. Is the Council funding to the organisation £5,000 or less?  
**(If so, score 1 point and proceed to Checklist 2)**

### **5.2 CHECKLIST 2: What is the non-financial risk level (i.e. operational / reputational)?**

1. Is the funding to an external organisation in which the Council has substantial interest and control and the results of the organisation included in the Council's Group Accounts?  
**(If so, add 4 points to the previous score and proceed to Checklist 3)**
2. Is the funding to an external organisation in which the Council has a substantial interest and control?  
**(If so, add 3 points to the previous score and proceed to Checklist 3)**
3. Is the funding to an external organisation in which the Council has no interest or control?  
**(If so, add 2 points to the previous score and proceed to Checklist 3)**

4. Is the funding a one-off grant / subsidy to an external organisation for a community benefit?  
(If so, add 1 point to the previous score and proceed to Checklist 3)

### 5.3 CHECKLIST 3: What is the assurance assessment level?

1. What was the total score from Checklists 1 and 2?

SCORE	ASSURANCE ASSESSMENT LEVEL
1-2	LEVEL 1 – go to Checklist 4
3-4	LEVEL 2 – go to Checklist 5
5-6	LEVEL 3 – go to Checklist 6
7-8	LEVEL 4 – go to Checklist 7

### 5.4 CHECKLIST 4: Assurance Assessment Level 1

1. Do you have the following documentation from the external organisation?
- An annual income and expenditure account and statement of cash balance, which has been approved by a person independent of the day to day running of the organisation
2. Has the funding been approved by your service through its budget approval process and delegated authority arrangements or by the appropriate Committee?

**If you have all of the information set out in this Checklist, go to Part D**

### 5.5 CHECKLIST 5: Assurance Assessment Level 2

1. Do you have the following documentation from the external organisation?
- Financial Statements for the preceding three financial years (unless the organisation is less than three years old)
2. Does the organisation have a management board to oversee the direction, service delivery and financial stability of the organisation?
3. Is the organisation a registered charity, and if so have they complied with guidance from OSCR?
4. Is the organisation a registered company, and if so have they complied with their requirements under the Companies Acts?
5. Does the organisation have a clear statement of purpose and organisational objectives?

6. Is the organisation able to provide evidence or other support to demonstrate achievement of its objectives and purpose?
7. Are there any known reasons that would result in a risk to the Council's reputation through association with an external body if financial or service delivery problems emerge?
8. Has the funding been approved by your service through its budget approval process and delegated authority arrangements or by the appropriate Committee?

**If you have all the information set out in this Checklist, and you are satisfied that the external organisation is a suitable organisation to receive the proposed Council funding, go to Part D**

## **5.6 CHECKLIST 6: Assurance Assessment Level 3**

1. Do you have the following documentation from the external organisation?
  - Financial Statements for the preceding three financial years (unless the organisation is less than three years old)
  - Objectives – a statement of the external organisation's strategic objectives
2. Have you asked the external organisation for the following documentation (which the Council has the right to ask for)?
  - Copies of (non-confidential) Minutes of the Board of Directors or Trustees meetings
  - Details of the organisation's financial and non-financial transactions, policies and procedures

**The items listed above are the minimum requirements of the Council and will be required for all funding arrangements at this Assurance Assessment Level**

**The items listed above exceed the minimum requirements, however the Council has the right to ask for or inspect these items to satisfy itself as to the suitability of the external organisation to receive Council funding**

3. Does the organisation have a management board to oversee the direction, service delivery and financial stability of the organisation?
4. Is the organisation a registered charity, and if so have they complied with guidance from OSCR?
5. Is the organisation a registered company, and if so have they complied with their requirements under the Companies Acts?
6. Does the organisation have a clear statement of purpose and organisational objectives?

7. Is the organisation able to provide evidence or other support to demonstrate achievement of its objectives and purpose?
8. Are there any known reasons that would result in a risk to the Council's reputation through association with an external body if financial or service delivery problems emerge?
9. Has the funding been approved by your service through its budget approval process and delegated authority arrangements or by the appropriate Committee?

**If you have all the information set out in this Checklist, and you are satisfied that the external organisation is a suitable organisation to receive the proposed Council funding, go to Part D**

## **5.7 CHECKLIST 7: Assurance Assessment Level 4**

1. Do you have the following documentation from the external organisation?
  - Financial Plan – a detailed one year plan and summary three year plan
  - Financial Statements – for an external organisation seeking funding for the first time, annual accounts for the preceding three financial years (unless the organisation is less than three years old). For an organisation already in receipt of Council funding, an annual set of accounts, audited or approved
  - Objectives – a statement of the external organisation's strategic objectives
2. Have you asked the external organisation for the following documentation (which the Council has the right to ask for)?
  - Details of the performance of the organisation against the organisation's financial plan
  - Copies of (non-confidential) Minutes of the Board of Directors or Trustees meetings
  - Details of the organisation's financial and non-financial transactions, policies and procedures

**The items listed above are the minimum requirements of the Council and will be required for all funding arrangements at this Assurance Assessment Level**

**The items listed above exceed the minimum requirements, however the Council has the right to ask for or inspect these items to satisfy itself as to the suitability of the external organisation to receive Council funding**

3. Does the organisation have a management board to oversee the direction, service delivery and financial stability of the organisation?
4. Is the organisation a registered charity, and if so have they complied with guidance from OSCR?
5. Is the organisation a registered company, and if so have they complied with their requirements under the Companies Acts?

6. Does the organisation have a clear statement of purpose and organisational objectives?
7. Is the organisation able to provide evidence or other support to demonstrate achievement of its objectives and purpose?
8. Are there any known reasons that would result in a risk to the Council's reputation through association with an external body if financial or service delivery problems emerge?
9. Has the funding been approved by your service through its budget approval process and delegated authority arrangements or by the appropriate Committee?

**If you have all the information set out in this Checklist, and you are satisfied that the external organisation is a suitable organisation to receive the proposed Council funding, go to Part D.**

## **5.8 Checklist 8: Credit Check**

1. Have you completed the required checks above and are still not satisfied as to the suitability of the external organisation to receive Council funding?

**Where specific issues exist or additional information may be helpful to the assessment of the organisation, a credit check may be appropriate and should be discussed with the appropriate Line Manager and be reported to the Service's Senior Management Team. Credit check services can be obtained through the Finance Division.**

**If you remain unsatisfied as to the suitability of the external organisation to receive Council funding, funding should not be provided under the FPP Code.**

## **Section 6: ESTABLISHING A FUNDING AGREEMENT**

Once you have completed the risk assessment and carried out all checks according to the Assurance Assessment Level, you can proceed to setting up the funding agreement with the external organisation.

The funding agreement will comprise a schedule of payments, setting out how the funds will be paid over the course of the funding arrangement, and a Service Level Agreement, setting out how the funding agreement is to be carried out and what will be expected in return for the funding.

Consideration may be given to the Council being represented by Council Members or Officers within the external organisation.

Use the checklists below to reach a suitable funding agreement.

## **6.1 CHECKLIST 1: Schedule of payments**

1. Is the annual funding in excess of £5,000?

**If so, payments should be made in no fewer than four instalments per financial year, and preferably made monthly to minimise the Council's exposure in the event of the organisation encountering financial difficulties.**

2. Have all financial checks been completed to the satisfaction of the Council?
3. Has all the required information been submitted by the external organisation?
4. Have you tailored the payments to meet the cash flow requirements of the external organisation?
5. Has the external organisation been consulted in relation to the schedule of payments and are they in agreement?

**If the answer to questions 2-5 is YES, then complete the Schedule of Payments form and proceed to Checklist 2**

## **6.2 CHECKLIST 2: Service Level Agreement**

1. Which form of Service Level Agreement should be used?

- Is the Council funding to the external organisation greater than £5,000?

**If so, the Service Level Agreement should be used. Proceed to Part 2 of Checklist 2**

- Is the Council funding to the organisation £5,000 or less?

**If so, a written funding letter may be used, setting out clearly the amount of funding, the period for which it is applicable and any conditions or objectives attached to the funding. Proceed to Checklist 3**

2. Does the Service Level Agreement include the following?
  - The purpose of the funding and the expectation of use
  - The Council policy / strategy that the funding is linked to
  - The level of funding approved by the Council and schedule of payments
  - The period over which the funding applies
  - Financial reporting requirements
  - Monitoring and reporting requirements
  - A statement on the consequences of failure to provide reporting information to the Council, e.g. the discontinuation of further funding
  - A statement on the ability of the Council to deduct any debts due to the Council prior to making any further awards
  - A statement on access to the accounting records of the organisation that requires to be given to Council staff, including internal and external audit staff

- Details of Council representation of Councillors and Officers
- The need for the Council to be acknowledged for its support on all publicity material relating to the project / service
- Procedures for cancelling the Funding Agreement

**You must ensure that the Service Level Agreement includes all of the above. If you require assistance including all this information in the Service Level Agreement, please contact the Head of Legal and Governance Services.**

### **6.3 CHECKLIST 3: Council representation / participation within the external organisation**

1. Does the Council have clear reasons why it wants representation within the external organisation?
2. Has the Council been transparent in its decision-making about which Council Members or Officers will be involved and why?
3. Has the Council provided advice and guidance to the Council Member and/or Officer involved which covers:
  - Their responsibilities to the Council and to the external organisation?
  - The potential for conflicts of interest and the need to have regard to the national Code of Conduct for Councillors at all times?
  - The need to recognise their duties towards the external organisation differ from their duties to the Council?
  - The limitations on what they may disclose to the Council where there is a conflict of interest?

**If the answer to any of the questions above is NO, you should give further consideration to the Council's involvement with the external organisation before proceeding**

4. Has the Head of Democratic Services (for Council Members) or the Legal & Governance Services (for Council Officers) been advised of the appointment to the external organisation?

## **Section 7: MONITORING THE ARRANGEMENT**

Once the funding arrangement is in place, it must be monitored on an ongoing basis. The level of monitoring will be determined by the Assurance Assessment Level which was reached in Part B.

Checklist 1 sets out the monitoring requirements for all funding agreements. Checklists 2 and 3 set out the additional monitoring requirements which apply to funding agreements with Assurance Assessment Levels 3 and 4 respectively.

### **7.1 Checklist 1: Monitoring required in all cases**

1. Has a Council Monitoring Officer been appointed to oversee this funding agreement?
2. Is the Monitoring Officer familiar with the FPP Code and this Toolkit?
3. Does the Monitoring Officer understand their responsibilities in relation to the funding agreement?
4. Has the Head of Legal & Governance Services been made aware of any changes to the funding agreement for the purpose of maintaining the Central Register?
5. Has the Monitoring Officer submitted an annual report to the relevant Senior Management Team or approving Committee?

### **7.2 Checklist 2: Assurance Assessment Level 3**

1. Has the Monitoring Officer completed the following checks?
  - Every year – check that sufficient cash exists to enable the organisation to meet its financial obligations for at least the next 12 months
  - Every year – check that any other material sources of external funding are secure and assess any risks relevant to the ability of the organisation to continue as a going concern

**Where the external organisation is unable to demonstrate its operational or financial capability, future discussions should be held with the organisation to review its financial plans.**

**Funding will only be approved where an organisation can demonstrate it has the ability to continue to meet the objectives for Council funding as well as its financial obligations.**

### **7.3 Checklist 3: Assurance Assessment Level 4**

1. Has the Monitoring Officer completed the following checks?

- Every two years - ensure the organisation has adequate policies and procedures in place to govern the way their finances are handled
- Every year – check that projections in the financial plan are realistic and achievable
- Every year – check that sufficient cash exists to enable the organisation to meet its financial obligations for at least the next 12 months
- Every year – check that any other material sources of external funding are secure and assess any risks relevant to the ability of the organisation to continue as a going concern
- Ongoing – check the six monthly Management Accounts to ensure that there is sufficient cash to meet the organisation's outgoings for the following year

**Where the external organisation is unable to demonstrate its operational or financial capability, future discussions should be held with the organisation to review its financial plans.**

**Funding will only be approved where an organisation can demonstrate it has the ability to continue to meet the objectives for Council funding as well as its financial obligations.**

## **7.4 Checklist 4: Group Accounts Concept**

1. Has the Council entered into a financial arrangement with an external organisation which has resulted in that organisation being treated as a 'subsidiary' (in terms of the Group Accounts concept under the Code of Practice on Local Authority Accounting)?

**If so, the following documentation is required by the Council as part of its monitoring of the funding agreement**

- Draft financial statements provided in a timescale to be agreed with the Head of Finance, to enable the proper and timely production of the Council's draft financial statements each year
- Audited financial statements and a summary of any audit adjustment in a timescale to be agreed, to enable the proper and timely production of the Council's audited financial statements each year
- An annual assurance statement on the system of internal controls, including financial controls, is to be sent to the Head of Finance for review and to inform the production of the Council's Annual Governance statement
- Internal Audit should consider the audit of subsidiary organisations in the annual audit planning process. Internal Audit will report their findings to the Audit Committee