

Department for Culture, Media and Sport

Financial Directions issued under Sections 26 (3), (3a) and (4) of the National Lottery Etc. Act 1993 (As Amended By The National Lottery Act 1998)

The Arts Council of England ("the Council") shall comply with the requirements contained within the attached Statement of Financial Requirements, which have the status of directions under section 26 of the National Lottery etc. Act 1993, as amended ("the Act"). The Statement of Financial Requirements complements the Council's Management Statement and Financial Memorandum (MS/FM), which deals with corporate management matters and with the application of non-Lottery funds, and should be read in conjunction with the MS/FM.

Signed by authority of the Secretary of State for Culture, Media and Sport

ANDREW RAMSAY
Director General, Economic Impact
Department for Culture, Media and Sport

Introduction

1. This statement of Financial Requirements (SFR) replaces any previous SFR issued. It complements the Council's Management Statement and Financial Memorandum (MS/FM) whose provisions, unless otherwise stated in this SFR, apply to the administration of National Lottery proceeds and the costs of administering Lottery proceeds. It also complements and should be read in conjunction with the Accounts Directions issued to the Council under section 35(3) of the Act.
2. The Council must operate within the principles of administrative law. Lottery proceeds are public monies, and shall be used only to make grants and loans in connection with successful Lottery applications, to defray administration expenses incurred in the distribution of those funds (including those connected with delegation of Lottery distribution), or to meet the cost of non-cash grants. The Council should have regard to value for money, and to additionality principles, in all aspects of its administration of Lottery funds.
3. Systems of internal control deployed by the Council should be designed to manage risk to a reasonable level rather than eliminate all risk of failure to the achievement of policies, aims and objectives. Systems of internal control should be based on an ongoing process to identify and prioritise the principal risks to the Council not achieving its objectives, to evaluate the likelihood and impact of those risks and to manage them efficiently, effectively and economically.

Applications

4. The Council should make guidance on how to apply for Lottery funds widely available and should distribute funds only in response to applications. It may exercise as it sees fit, putting appropriate management and accountability arrangements in place, its powers under the Act to:
 - co-ordinate applications with other distributing bodies and/or other organisations;
 - participate in a joint scheme;
 - solicit applications;
 - delegate, internally or externally, decisions as to whom Lottery money is to be distributed.
5. The Council should ensure that, where appropriate, applicants are informed of the circumstances in which they will have to satisfy European Union (EU) and World Trade Organisation (WTO) procurement rules.

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6. The Council should adopt appropriate policies for the appraisal of applications, depending on the nature, size and complexity of the project proposed. These should follow the best current practice and utilise, where appropriate, the Treasury "Green Book" and the Office of Government Commerce's Project Profile Model (PPM), used to determine the need for Gateway reviews.
7. The Council should notify the Secretary of State whenever it receives an application that falls under section 27 of the Act, and where possible should inform the Secretary of State as soon it becomes aware that such an application is likely to be made. Where the Council is minded to approve the application, it should submit a clear analysis of why the Secretary of State should not exercise section 27 powers, and should not finally approve the application until it receives written notification of the Secretary of State's decision not to exercise section 27 powers.
8. The Council should collect what information it considers appropriate on each application it receives, and on each successful application. It should supply such information to the Secretary of State as and when requested. It should share information on applications with other distributing bodies where it judges that there is a significant risk that an applicant could fraudulently apply to more than one body.

Successful applications and payments of grant

9. The terms and conditions with which each grant or loan recipient must comply should be clearly set out. These should include a provision that the grant can be clawed back if there is a change of use from the one originally intended, and/or that an appropriate proportion of the value of the asset should be repaid. They should also include a provision for access by the Comptroller and Auditor General; requirements for the applicant to pay to the Council a share of the proceeds from the disposal of assets (including their transfer to the private sector) purchased or enhanced with the assistance of Lottery funding; and for the applicant to repay the grant in full or in part if any of the grant conditions are breached, including instances where the purpose for which the grant was made is not fulfilled, or seems unlikely to the Council to be fulfilled. The Council may vary the terms and conditions of a grant or loan by written agreement with the recipient.
10. The Council may waive such requirements and 'write off' the grant if it considers that this would be appropriate having regard to all the circumstances. However, write-offs totalling £50,000 or more in a single financial year must be reported to the Secretary of State.
11. In addition, where a body is participating in a joint scheme with other distributing bodies, the Accounting Officers of the participating bodies may, by mutual agreement, delegate grant decision-making authority, and the authority to authorise write-offs and special payments, to the Accounting Officer of one of the bodies or, where appropriate, to a suitably qualified person empowered to act for an external delegate. The person so authorised should report back to the Accounting Officers of the other participating bodies on the achievements of the joint scheme.

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12. Grants paid to successful applicants must come from a separate bank account(s) maintained specifically for the transfer of funds from the NLDF to approved projects. This, the Distributing Body's Lottery Account(s) (DBLA(s)), should also be used to cover any costs incurred in administering the Lottery by the Council or any delegates.
13. The Council may hold funds for a short time in DBLA(s) (which may be an interest-bearing instant access account) but may not otherwise invest Lottery money on its own behalf. Draw down requests should reflect the Council's best estimate of the amount needed during the following month [or "following week" for distributors which draw down weekly.] The DBLA(s) should not be overdrawn at any time.
14. Grant distribution may also be made using non-cash methods (for example, vouchers redeemable for goods and services from an approved supplier or contractor). Grants may be made to set up or augment endowments.
15. Grants should not normally be issued to successful applicants in advance of need. However, the Council can and should have regard to the flexibility provided for in relevant DCMS and other Government advice and guidance. The Council should also bear in mind the need to release funds without undue delay so that the applicant can pay bills promptly in accordance with best commercial practice.
16. The Council should set up appropriate arrangements for monitoring and evaluating projects both while they are in progress and after completion.

General administrative & financial matters

17. The Chief Executive of the Council is normally designated as the Accounting Officer for the Lottery Funds under the Council's control, and the responsibilities are set out in the Chief Executive's designation letter. In particular he/she is responsible for signing the accounts for the Council's Lottery distribution activities, and ensuring that:
 - Lottery money is distributed with due regard to regularity and propriety;
 - Bodies engaged as partners or agents for the purpose of processing Lottery applications and paying funds, or delegated to make decisions on the Council's behalf, are fit and proper and have established appropriate management arrangements;
 - Lottery money is used economically, efficiently, and effectively even though grant decisions may have been delegated to an outside person, organisation, committee, or are distributed under a scheme in conjunction with other distributors.
18. The Council will devise and implement appropriate indicators for analysing its own administrative efficiency and performance. These should be agreed with its sponsor division in DCMS. Performance measures, and targets for them, should be included in the annual business/operational plans.

19. In making forward commitments the Council must have due regard to past and projected income flows and to the need to keep its cash balance in the NLDF to a level which is consistent with safeguarding its commitments. In complying with this direction, the Council should have regard to relevant guidance.