



Llywodraeth Cynulliad Cymru  
Welsh Assembly Government

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Welsh European Funding Office

European structural funds programmes 2007-2013

## Guidance

# Welsh National Rules on the Eligibility of Expenditure

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## Welsh National Rules on the Eligibility of Expenditure for the 2007-2013 Structural Funds Programmes

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## Purpose

The document forms part of the legal basis for the implementation of projects co-financed by any one of the four Welsh Operational Programmes (outlined below) for the 2007-2013 programme period.

Where necessary these Rules are supplemented by guidance notes giving details of how these Rules should be interpreted for the Programmes and projects. All guidance referred to within this document can be located on the WEFO website via the following hyperlinks:

<http://wefo.wales.gov.uk/applyingforfunding/submitting/guidance/?lang=en>

<http://wefo.wales.gov.uk/developing/guidance/?lang=en>

All guidance notes will be regularly reviewed and updated as necessary and in the light of experience. Where there are any queries regarding the Rules or associated guidance, please contact the WEFO Helpline on 0845 010 3355, website address:

[www.wefo.wales.gov.uk](http://www.wefo.wales.gov.uk)

**Please note it is the project sponsor's responsibility to ensure continued compliance with the Welsh National Rules and any associated guidance, by taking account of any amendments to these documents**

## Background

The United Kingdom, as Member State, recognises the legislative authority of the devolved administrations and, in agreement with the European Commission (EC), the UK has determined that the National Rules on the eligibility of expenditure will be drawn up at the level of England, Scotland, Wales and Northern Ireland. The Welsh Ministers, acting through the Welsh European Funding Office (WEFO) the managing and certifying authority in relation to the Structural Funds in Wales, therefore developed the following National Rules (the Rules) to take into account EC legislative requirements and ensure the key principle of sound financial management is adhered to.

The Rules cover expenditure on projects funded by the Structural Funds, i.e. European Regional Development Fund (ERDF) **and** the European Social Fund (ESF), except where it is explicit that they apply to one fund only.

The Rules apply to all projects approved under the following 2007-2013 Operational Programmes (the Programmes) and apply to all expenditure declared as eligible in any payment claim:

1. West Wales and the Valleys Convergence Operational Programme ERDF 2007-2013
2. West Wales and the Valleys Convergence Operational Programme ESF 2007-2013
3. East Wales Regional Competitiveness and Employment Programme Operational Programme ERDF 2007-2013
4. East Wales Regional Competitiveness and Employment Programme Operational Programme ESF 2007-2013

Provision has been made in all four of these Programmes for the mainstreaming of territorial co-operation which allows for collaboration in areas of mutual interest with other

European regions. Welsh National Rules will apply to expenditure by Welsh participants in territorial elements of Convergence or Competitiveness projects.

In the case of Welsh participation in Territorial Co-operation Programmes, i.e. the 2007-13 Cross-Border, Transnational and Inter Regional Programmes, specific Programme rules will apply. Further information is at Annex 1. Should any queries arise, the advice of WEFO's Territorial Co-operation Unit should be sought.

## Legislative Background

National eligibility rules are established in accordance with Council Regulation (EC) No 1083/2006 Article 56 paragraph 4 which states:

'The Rules on the eligibility of expenditure shall be laid down at national level subject to the exceptions provided for in the specific Regulations for each Fund. They shall cover the entirety of the expenditure declared under the operational programme'.

The following Regulations set out the specific requirements regarding the eligibility of expenditure that are reflected within this document:

**Council Regulation (EC) No 1083/2006 of 11 July 2006**, as amended by **Council Regulation (EC) No 1341/2008 of 18 December 2008**, **Council Regulation (EC) No 284/2009 of 7 April 2009**, and **Regulation (EU) No 539/2010 of 16 June 2010** – laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999.

**Regulation (EC) No 1080/2006 of the European Parliament and of the Council of 5 July 2006** as amended by **Regulation (EC) No 397/2009 of 6 May 2009** and **Regulation (EC) No 437/2010 of 19 May 2010**, on the European Regional Development Fund and repealing Regulation (EC) No 1783/1999

**Regulation (EC) No 1081/2006 of the European Parliament and of the Council of 5 July 2006** as amended by **Regulation (EC) No 396/2009 of 6 May 2009** on the European Social Fund and repealing Regulation (EC) No 1784/1999

**Commission Regulation (EC) No 1828/2006 of 8 December 2006** as amended by **Commission Regulation (EC) No 846/2009 of 1 September 2009** – setting out Rules for the implementation of Council Regulation (EC) 1083/2006 and of Regulation (EC) No 1080/2006

## Scope of the Rules

The Rules have been broken down into six sections:

- Section 1 - General principles
- Section 2 - Who is eligible to apply for funds? - Applicants / sponsors / participants
- Section 3 – What activity is eligible?
- Section 4 – What expenditure is eligible?
- Section 5 – What expenditure is ineligible?

- Section 6 - Technical assistance

## Section 1 - General Principles

All project proposals should be consistent with the principles of sound financial management. In particular the delivery, reporting, monitoring and control of a project should be carried out effectively with a clear audit trail in accordance with Article 15 of Commission Regulation 1828/2006.

All projects will be selected by WEFO, as Managing Authority, in accordance with the project selection and prioritisation criteria agreed by the All-Wales Programme Monitoring Committee and in relation to the achievement of the goals of the Operational Programme and Priority to which they relate.

### 1.1 Eligible period

Expenditure is eligible if it has **actually been incurred and paid out between 1 January 2007 and 31 December 2015**, in accordance with Article 56 of Regulation 1083/2006. New categories of expenditure added on the revision of an Operational Programme (OP) will be eligible from the date of the submission to the EC of the request for revision of the OP. WEFO PDOs will advise where eligibility dates may vary.

As a general rule, all expenditure incurred before the acceptance of an offer of grant is considered ineligible. However there are two exceptions to the rule:

- Preliminary expenditure – incurred in the Programme period and agreed prior to the offer of a grant
- Retrospective expenditure

#### See WEFO Guidance Notes:

- Guidance Note on Retrospection

### 1.2 Geographic flexibility

As a general rule projects co-financed from the Structural Funds will be located in the region to which the assistance relates. Activity outside the region may be eligible if it is a requirement for the successful delivery of the programme objectives.

Where all of the project activity is located in and benefits the eligible area but the deliverer of a service has premises outside the region this rule will not apply, despite some minimal related costs being located outside the region.

In other cases, the following criteria will be applied to determine the eligibility and amount of expenditure:-

- the project must be located in a region immediately adjacent to the region to which the assistance relates;

- the maximum eligible expenditure is determined pro-rata to the proportion of benefits from the project which will accrue to the Programme area. The benefits will be assessed taking into account the specific targets of the assistance and its expected impact

Having regard to the relevant Programme the sum total of eligible expenditure of the projects accepted under this provision will not exceed 10% of the total expenditure of the relevant Priority /Theme and not more than 5% of the relevant Programme expenditure.

Expenditure under the 4 Welsh Operational Programmes on

- territorial cooperation aspects
- technical assistance activities
- tourism and trade promotion

in projects which are located in the region but which involve expenditure being incurred outside the region, is eligible, where necessary, for achieving the aims of the project as agreed with WEFO.

**See also WEFO Guidance Note:**

- Guidance Note on Geographic Flexibility / Out-of-Area Spend

**1.3 Match funding**

Match funding represents the domestic or national contribution to the project/programme. The eligibility of match funding for a project will be determined during the appraisal process. Details of each programme's Structural Funds finance and match funding are set out in the Financial Tables of the Operational Programmes. Match funding will be classed as either public or private. Match Funding is subject in all respects to the Rules.

**See WEFO Guidance Note:**

- Guidance Note on Match Funding In-Kind

**1.4 Procurement**

All projects must comply with Community and National law regarding procurement and the approach outlined in WEFO's guidance notes.

All project sponsors must ensure that all recipients / beneficiaries comply with these Rules and associated guidance.

**See WEFO Guidance Notes:**

- Supplementary Guidance on FE Sector Engagement
- Sponsorship and Delivery Models Guidance

See procurement information available on WEFO website

## 1.5 Grant schemes

Sponsors delivering grant schemes must ensure that all grant recipients comply with these Rules and associated guidance.

## 1.6 State Aid

All projects must comply with the prevailing State Aid Rules.

**Additional rules over and above those identified within this guidance may apply where the funding is deemed to be state aid. These additional rules take priority over any generic eligibility criteria set out in this document and maximum intervention rates identified within the Programmes.**

**See State Aid guidance as held on the WEFO website, entitled as below:**

- State aid - General Guidance in relation to the delivery of Structural Funds in Wales 2007-2013
- Guidance for project sponsors and public match funders on putting in place State aid cover and State aid reporting requirements

## 1.7 Major projects (ERDF specific)

ERDF funded projects with a total cost (eligible plus ineligible cost) of more than €50 million are subject to EC approval. This will be dealt with by WEFO within the application process.

**See WEFO Guidance Note:**

- Major Projects (& Major Project Applications) in the 2007-2013 Programming Period

## 1.8 Financial Engineering Instruments

All projects involving the use of Financial Engineering Instruments will be carried out in accordance with Article 44 of Regulation 1083/2006, as amended by Regulation (EU) No 539/2010 of 16 June 2010 and section 8, Articles 43-46 of Commission Regulation 1828/2006, as amended by Commission Regulation (EC) No 846/2009 of 1 September 2009:

In the case of urban development funds, expenditure is only eligible for activities included within an Integrated Plan for Sustainable Urban Development (IPSUD), as defined by WEFO, as Managing Authority, in the following guidance note:

**See WEFO Guidance Note:**

- Integrated Plans for Sustainable Urban Development (IPSUD)

Eligible management costs or fees are those incurred for the benefit of the fund; directly linked to and necessary for the management of the EU, national funding and assets of the fund. They may not exceed the thresholds set out in Article 43.(4) of Regulation 1828/2006,



unless a higher percentage proves necessary following a competitive tender, in accordance with the applicable rules. The provisions of Section 5 of these Rules apply, as do the provisions of any specific agreement or conditions contained within the relevant funding agreement.

Financial Engineering Instruments are subject to State Aid rules.

## 1.9 Revenue generation

As a general principle revenue generated by a structural fund co-financed project during its implementation, or as a result of its implementation, should be taken into account during the appraisal process. Where revenue is received, documentation to support it must be retained and amounts received declared in claims for payment. The amount of any revenue declared will be deducted from declared expenditure when calculating the structural fund payment due.

Revenue generation is *normally only applicable to projects co-financed by the ERDF*, where the total project cost is in excess of €1,000,000 (Council Regulation (EC) No 1341/2008 of 18 December 2008). In such cases, project sponsors must:

- determine the eligible expenditure in accordance with the provisions of Article 55 of Regulation 1083/2006 and as amended by Regulation (EU) No 539/2010 dated 16 June 2010
- retain all documentation to support the amount of revenue received, and
- declare all revenue received within claims for payment to WEFO

ESF co-financed projects that generate income through services and sales of goods will need to account for this within claims for payment to WEFO and to offset the income against the eligible costs of the project.

Article 55 of Regulations 1083/2006, 539/2010 and Section 1.9 of these Rules do not apply to projects which are subject to State Aid rules nor to Financial Engineering Instruments.

## 1.10 Durability of Projects

In order to ensure the durability of projects co-financed by the Structural Funds there is an obligation to maintain the investment in accordance with Article 57 of Regulation 1083/2006 and as amended by Regulation (EU) No 539/2010 of 16 June 2010.

Project sponsors are required to inform WEFO of any substantial modification to their project within **5 years of its completion or 3 years from the completion of a project for the maintenance of investments or jobs created by SMEs** which:-

- affects its nature or its implementation conditions or gives to a firm or public body an undue advantage: and
- results either from a change in the nature of ownership of an item of infrastructure or the cessation of a productive activity

The failure to maintain the investment will result in recovery of the structural funds contribution.



Activities under ESF will only be required to maintain the investment where they are subject to an obligation under the applicable rules on state aid and where they undergo a substantial modification caused by the cessation of productive activity within the period laid out by those rules.

In the case of a substantial modification as a result of the cessation of productive activity, due to non-fraudulent bankruptcy, the provisions of section 1.10 do not apply.

Article 57 of Regulation 1083/2006, as amended by Regulation (EU) No 539/2010 of 16 June 2010 and Section 1.10 of these Rules do not apply to Financial Engineering Instruments and projects funded under these instruments.

### **1.11 Information and Publicity**

Expenditure is eligible on information and publicity activities in accordance with section 1, Articles 2-10 of Commission Regulation 1828/2006 (as amended by Commission Regulation (EC) No 846/2009 of 1 September 2009) and WEFO's Information and Publicity Guidelines.

#### **See WEFO Guidance Notes:**

- Information and Publicity Guidelines 2007-2013

### **1.12 Cross Cutting Themes**

At all stages of their implementation, projects co-financed with Structural Funds must ensure:

- Equality between men and women and the principle of non-discrimination based on sex, religion, racial / ethnic origin, disability, age or sexual orientation, in accordance with requirements of Article 16 of EU General Regulation 1083/2006 and Article 6 of Regulation 1081/2006. In Wales the commitment to integrate the equal opportunities cross cutting theme also includes the Welsh Language
- Environmental Sustainability - in accordance with requirements of Article 17 of EU General Regulation 1083/2006.

#### **See WEFO Guidance Notes which can be accessed via the following hyperlink:**

<http://wefo.wales.gov.uk/development/crosscutting/>

### **1.13 Fund flexibility**

In accordance with Article 34 of Regulation 1083/2006, ERDF and ESF can finance, in a complementary manner and subject to a limit of 10% of Community funding for each Priority of an Operational Programme, actions falling within the scope of assistance from the other Structural Fund providing they are necessary for the satisfactory implementation of the project and are directly linked to it.

The Programme's Operational documents describe at a Priority level where the use of this flexibility facility is envisaged and provides examples of the types of activity which can be supported

**See WEFO Guidance Note:**

- Guidance Note on the Use of the Flexibility Facility

**1.14 Retention of documents**

Documents must be retained in a suitable format for a period of 3 years following payment of the final balance of the Structural Funds by the EC to the Welsh Ministers. This means at least until 2024 but since it is unclear when WEFO will receive final payment from the EC the project sponsor must retain all documents until WEFO advises that it is safe to destroy them.

**See WEFO Guidance Notes:**

Guidance Note on Retention and Management of Documents

## **Section 2 – Who is eligible to apply for funds?**

### **Eligible applicants / sponsors / participants**

In Wales the traditional term for applicants making a direct application for funds is 'project sponsor'. This will continue to be the case for the 2007-2013 Programmes. For administrative reasons project sponsors fall into three categories:

#### **2.1 Public sector**

These include any organisations which are part of, or under the control of, central or local government. This includes:

- the Welsh Assembly Government;
- Local Authorities,
- the public education sector (including higher and further education),
- Assembly Government Sponsored Bodies,
- UK Government Departments and their Agencies,
- any not-for-profit companies set up by a part of local or central government for the purposes of delivering a part of their services or exercising their powers;
- companies which involve partnership between the public sector (e.g. Local Authorities) and the private sector, where the private sector share-holding is less than 50%

#### **2.2 Private sector**

For the purposes of Structural Funds in Wales, "private sector bodies" means:

- companies which have the intention of making profits and where those profits could be distributed, and
- companies which are partnerships between a private (i.e. profit-distributing company as set out above and a public sector body, and where the share-holding of the private sector is 50% or more)

#### **2.3 Third sector**

For the purposes of seeking funds, the third sector is defined as non-governmental organisations which are value-driven and which principally reinvest their surpluses to further social, environmental or cultural objectives. It includes voluntary and community organisations, charities and trusts, social enterprises, co-operatives and mutuals.

**All project sponsors must be able to evidence their legal constitution.** In addition, all project sponsors must notify WEFO of any proposed change to their legal constitution which will occur:

- during the delivery of a structural fund co-financed project, and/or
- within 5 years of the project completion date

**NB. For the 2007-13 Cross Border, Transnational and Inter Regional Programmes, the eligibility of organisations and the way they are classified can vary. Therefore, when considering engagement in the Territorial Co-operation Programmes, it is important to check the relevant definitions set within each Programme.**

## **2.4 Eligible participants for operations**

In any situation where there is uncertainty, WEFO is responsible for a final decision on whether the participant is eligible for support.

### **2.4.1 Private individuals**

Private individuals cannot be project sponsors but they can be participants in a Structural Fund funded operation. To be eligible, as a participant, for support from the Structural Funds an individual must be:

- legally resident in the UK and
- able to take paid employment in an European Union Member State

Eligible participants for ESF projects are those who are resident in the relevant Programme area and/or employed / in education or training in the region to which the assistance relates.

Eligible participants under Priority 1 of the ESF Convergence programme are those legally resident in the UK, having passed their 11<sup>th</sup> birthday but not their 20<sup>th</sup> birthday.

For each of the groups outlined below in sections 2.4.2-2.4.5 inclusive individuals granted leave to enter or remain in the UK on the basis of 'no recourse to public funds' are ineligible.

### **2.4.2 Refugees**

Refugees are people who have already been given permission to stay and work in the UK. They are eligible for ESF support.

### **2.4.3 Asylum Seekers**

Asylum seekers are people who want to stay in the United Kingdom and they are not usually eligible for ESF support. Asylum seekers who have permission to work, granted prior to June 2003, can receive ESF support. Asylum seekers without permission to work,

or failed / refused asylum seekers (but see below), are eligible only for the following pre-vocational support:

- Initial English for speakers of other languages, other basic skills (literacy, numeracy and IT) where they are not part of provision that is designed to lead to employment;
- Orientation provision to raise awareness of UK labour market needs asylum seekers' rights and responsibilities;
- Provision of information about further education and voluntary work they can take part in;
- General advice about life in Britain (e.g. law, culture, housing, welfare, health, educating and employment) for individuals given leave to remain (although not on the basis of 'no recourse to public funds');
- Involvement in voluntary activity

Failed asylum seekers may only be supported where they have signed up to return home as soon as possible and are taking all reasonable steps to leave the UK and that they meet one of the following criteria:

- Where they are unable to leave due to physical impediment to travel or other medical reason;
- If in the opinion of the Secretary of State, there is no safe route of return for them;
- If permission has been granted for a judicial review; and,
- If support is necessary to avoid a breach of European Court of Human Rights (ECHR) e.g. outstanding further submissions or out of time appeals.

#### **2.4.4 Individuals from States that joined the EU on 1 May 2004**

Nationals from the ten countries that became EU members on 1 May 2004 may be eligible if they are legally resident in the UK, and fulfil the normal ESF eligibility requirements for the Priority & Theme concerned.

Nationals from Cyprus and Malta have the same access to the Welsh ESF Programmes as nationals from the existing 15 EU member states.

Nationals from the eight central and eastern European accession countries (Czech Republic; Estonia; Hungary; Latvia; Lithuania; Poland; Slovakia and Slovenia) who are legally resident in the UK are eligible for ESF if they are:

- In work and registered under the Home Office Worker's Registration Scheme<sup>1</sup>; or

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<sup>1</sup> <http://www.workingintheuk.gov.uk/>

- Seeking work and self sufficient i.e. not a burden on public funds / receiving benefits;  
or
- Not required to register under the Home Office Worker's Registration Scheme.

#### **2.4.5 Bulgarian and Romanian Citizens**

To be eligible for ESF support for employees, Bulgarian and Romanian citizens must hold one of the following:

- A work permit or leave to remain and work in the UK;
- An accession workers' card or a Seasonal Agricultural Workers' Scheme work card;
- Proof that they are exempt from having to hold work-authorisation documents;
- A student's registration certificate confirming permission to take restricted employment of less than 20 hours per week

#### **2.4.6 People in prison**

People in prison may be eligible for ESF support under limited conditions relating to their work potential. This includes eligible prisoners and young offenders outside the Programme area who intend to return to live or work in the Programme area.

The following eligibility criteria apply to people in custody:

- People sentenced to less than two years can access ESF at any point during their sentence in custody, and;
- People sentenced to more than two years can only access ESF during the last two years of their sentence in custody

#### **2.4.7 Self Employed People**

Self-employed people who want to access ESF must be able to show that they are genuinely self-employed and that their business activities are registered with Her Majesty's Revenue and Customs (HMRC).

#### **2.4.8 Foreign students**

Foreign students from European Economic Area (EEA) countries who have the right to take up employment in the UK are eligible for ESF funding. Non EEA foreign students will not be considered eligible.

### **2.4.9 People at risk of redundancy**

ESF can support those at risk of redundancy whether or not they have received notice of redundancy, although not through wage subsidies. Only individuals under formal notice of redundancy will be eligible for support under the Increasing Employment and Tackling Inactivity ESF programme priorities.

### **2.4.10 Agriculture, Fisheries and Forestry**

Individuals or enterprises engaged in production or primary processing of agricultural, fisheries or forestry products are not eligible for support from the Structural Funds (see section 3.1).



## Section 3 – What activity is eligible?

**Eligible activities are those which deliver the objectives outlined in the relevant Operational Programme Priority and Theme, and Strategic Framework.**

Copies of all Programme documents and Strategic Frameworks are available on the WEFO website.

In any situation where there is uncertainty, WEFO is responsible for a final decision on whether the activity is eligible for support.

### 3.1 Ineligible Activities

For the 2007-2013 Programmes, the following activities are considered ineligible:

- direct expenditure on building and renovation of **housing** (including affordable housing) is ineligible; (however, please see section 4.3.5)
- services that are the **statutory responsibility** of central or local government or their agencies are ineligible for support (but this does not preclude expenditure by these bodies on activities which are not a statutory responsibility or duty);
- direct support for generalised (school age) **statutory education** is ineligible;
- activities in support of the production or primary processing of agricultural, fisheries or forestry products are not eligible for support from the Structural Funds. In this context agricultural products means the products of the soil, of stock farming and of fisheries and products of first stage processing directly related to these products;
- direct support for **health services and local social welfare facilities** (hospitals, nursing homes, fire stations, day nurseries, child-minding facilities, sports facilities, parks and public libraries) is ineligible when not directly linked to activities of an economic nature specifically related to the objectives of the Operational Programme;
- activities which demonstrably **displace** existing activities are ineligible;
- activities covered by EC sectoral restrictions are ineligible for support (see State Aid guidance).

In any situation where there is uncertainty, WEFO is responsible for a final decision on whether the activity is eligible for support;

### 3.2 Special Provision for ESF Activities

- any statutory training, for example training that employers must provide under Health and Safety legislation, is not eligible
- training to support low skilled public sector workers to gain basic skills and level 2 qualifications can be eligible. This will be considered by WEFO on a case by case basis
- training of public sector workers at level 3 and above is only eligible in the following cases:
  - training of trainers in the public sector to deliver basic skills and other provision to support ESF priority groups
  - training for public sector workers where there is evidence of demand and a demonstrable link into economic development actions.

See also 2.1 - Public sector organisations

## Section 4 – What expenditure is eligible?

### 4.1 General

Expenditure on approved projects is eligible for grant reimbursement if it has **actually been incurred and paid** (see also 1.1) before its inclusion in the payment request to WEFO.

Expenditure will normally be in the form of **cash** supported by receipted invoices or accounting documents of equivalent probative value e.g. salaries must be supported by payroll records, BACS lists and bank statements.

The only exceptions to this are:

- where WEFO has agreed to make advance payments to third sector organisations (these are not included in any claim to the EC)
- payments into financial engineering instruments
- payments made in advance of the service / goods / works being provided, in accordance with contractual obligations, subject to the service / goods / works being delivered / completed by the agreed end date of the project
- advances paid in accordance with Article 78(2) of Regulation 1083/2006 with regard to State Aid schemes and as amended by Regulation (EU) No 539/2010 of 16 June 2010

In the case of financial engineering instruments, eligible expenditure **at closure** will be the total of payments from funds for investment in:

- projects included in an integrated plan for sustainable urban development in the case of JESSICA;
- payments for investments in enterprises for JEREMIE;
- payments for investments in energy efficiency and the use of renewable energy in buildings in the case of energy-related financial engineering instruments;
- guarantees provided included amounts committed as guarantees by guarantee funds;
- eligible management costs or fees.

**Non cash payments** (incurred expenditure which can be classed as paid out) are limited to:

- in-kind contributions – see 4.1.1
- depreciation – see 4.4.7
- indirect costs – see 4.4.8

#### 4.1.1 In-kind contributions

In-kind contributions are eligible expenditure provided that:

- they consist in the provision of **land or real estate, equipment or materials; research or professional activity or unpaid voluntary work** (including unpaid professional services);
- their value can be **independently assessed and audited**;
- in the case of the provision of land or real estate, the **value is certified** by an independent qualified valuer or duly authorised official body;
- in the case of **unpaid voluntary work**, the value of the work is determined taking into account the amount of time spent and the normal hourly and daily rate for the work carried out..

Discounted sales of equipment and the discounted provision of services or advice (e.g. solicitor', accountants' or SME staff time) are **ineligible**.

**In-kind contributions must always be supported by a complete audit trail.**

In-kind contributions will always constitute match funding (with a corresponding project cost) and must relate to eligible project expenditure. The Structural Fund contribution to a project will not exceed the total eligible expenditure, excluding the contributions in-kind, at the end of the project. In-kind contributions to Financial Engineering Instruments can be treated as expenditure paid at the constitution of the fund(s) where the above-mentioned conditions are adhered to.

For ESF projects the cost associated with participants time is eligible as match funding providing that there is a real cost identified, recorded, evidenced and supported by a clear audit trail. It follows that there must be an equivalent value as a cost in the project budget.

**See WEFO Guidance Note:**

- Guidance Note on Match Funding In-Kind

**4.1.2 Value Added Tax**

VAT which is recoverable, by whatever means, is ineligible, even if it is not actually recovered by the sponsor or individual recipient. Irrecoverable VAT can be claimed as an eligible cost provided the claim is substantiated by suitable evidence from the organisation's auditors or accountants.

Project sponsors / organisations must notify WEFO immediately of any change in VAT status at any point up to the closure of the programmes. WEFO will request repayment of structural funds where project sponsors subsequently recover VAT from HMRC.

**4.1.3 Public administrations' expenditure**

Expenditure incurred by public administrations, including the civil service, in implementing projects is eligible providing that it does not arise from the statutory responsibilities of the public authority or its day to day tasks. Eligible expenditure includes:

- costs of professional services given by a public service in the implementation of a project. The costs must be invoiced to the beneficiary, or certified on the basis of documents of equivalent probative value which identify the real costs paid by the public service concerned in relation to the project.
- costs of the implementation of the project, including the costs related to the provision of services, borne by the public authority that is itself the beneficiary and which is implementing the project on its own account without recourse to engineers and other firms. The expenditure must be certified on the basis of documents which permit the identification of real costs paid by the public administration concerned in relation to the project. Charge out rates are not eligible.
- where staff are engaged part-time on a co-financed project, only the proportion of staff costs directly attributable to the project can be declared as eligible expenditure. Costs must be supported by timesheets and payroll details which identify the real cost paid by the public administration concerned in relation to the project.

#### 4.1.4 State Aid

**Additional rules concerning the eligibility of expenditure may apply where the funding is deemed to be State Aid. In particular categories of expenditure can be very limited for certain activities.**

#### 4.2 Capital and Revenue expenditure

For administrative reasons project finance is divided into capital and revenue expenditure. Full guidance is given at the application stage and the categories are set out in the offer of grant letter.

The following section identifies types of project costs which can be included as eligible expenditure. **The list is not prescriptive or exhaustive and will be supplemented by guidance.**

#### 4.3 Eligible expenditure on Capital projects – ERDF specific

##### 4.3.1 Preliminary expenditure

Preliminary expenditure for capital projects may include expenditure such as the costs of site investigation works, site surveys, environmental appraisals, cost benefit analysis, feasibility studies, project design, preparation of tender documents and procurement. The costs will be incurred in the Programme period i.e. 1 January 2007 – 31 December 2015 and agreed with WEFO prior to the offer of grant.

### 4.3.2 Professional Fees

Professional fees, including project management and supervision costs, are an eligible expense. Fees for external consultants are eligible, where it can be demonstrated that they have been incurred as a result of a procurement exercise or where best value can be demonstrated in line with a project sponsor's 'standing orders'. Fees that have been subject to an approved tender process may be included at the market rate resulting from that exercise.

### 4.3.3 Purchase of land and buildings

The purchase of land and buildings is eligible, provided the following requirements are met:

- there is a direct link with the objectives of the project;
- the land purchase (freehold or leasehold) does not represent more than 10% of the total eligible expenditure of the individual project; in "exceptional and duly justified cases" a higher percentage may be permitted for environmental conservation projects – see 4.3.4.
- a certificate from an independent qualified valuer or duly authorised official body confirms that the purchase price does not exceed the market value;
- buildings purchased should not have received, within the previous 5 years, a national or EU grant which would result in a duplication of grant aid

### 4.3.4 Environmental conservation projects

For environmental conservation projects the land costs are not limited to 10% of the total eligible expenditure. However the following conditions apply:

- there is a direct link between the land purchase and the objectives of the project;
- where land costs exceed 10% of the total eligible expenditure, this cost will need to be agreed by WEFO;
- the land is devoted to the intended use for a time determined by WEFO;
- a certificate from an independent qualified valuer or duly authorised official body confirms that the purchase price does not exceed the market value;
- the land is not for the purpose of agriculture, forestry or fisheries;
- the purchase is made by or on behalf of a public sponsor

### 4.3.5 Housing / the residential sector.

Expenditure on building and renovating housing is generally ineligible.

Expenditure, *in the form of grants*, on energy efficiency improvements and the use of renewable energy in housing is eligible in *existing* housing in order to support social cohesion. Expenditure on such activity is eligible from 10 June 2009.

Categories of housing eligible for funding include:

- Low income, fuel poor households
- The social sector, where investment can demonstrate additionality over and above the energy efficiency standards set out in the Welsh Housing Quality Standard (WHQS)
- Private sector tenants, where the investment can be shown to benefit the tenant rather than the landlord.
- “Able to pay” households where this is necessary to deliver area based community interventions.

Isolated interventions in the housing sector are ineligible – expenditure in the residential sector is only eligible where it forms part of a wider integrated plan. Interventions in new housing are also ineligible.

In the case of testing the viability of a new technology an isolated intervention in a “model” or “demonstration” house may be eligible where it is genuinely innovative, limited in scale and closely monitored and evaluated by competent scientific bodies.

In multi-family residential buildings, all parts of the residence (e.g. public / common areas and private areas) are eligible for investment in energy efficiency and renewable energy.

Financial Engineering Instruments (as detailed at section 1.8), will also provide the opportunity to fund energy efficiency and use of renewable energy in housing, where such schemes have been approved for co-financing by WEFO. In such circumstances project sponsors must seek advice from WEFO as to eligibility of expenditure.

#### **4.3.6 Site Preparation**

Eligible expenditure includes site investigation, site clearance and site servicing including preliminaries as detailed in the Bill of Quantities. Site decontamination can be funded where it forms an essential part of a wider project delivering an eligible economic benefit e.g. SME business park.

#### **4.3.7 Contract Works**

Eligible expenditure can include execution of the building contract, internal services, environmental works, specialist treatments, security provision and signage including acknowledgement of the Structural Funds contribution to the project. The inclusion of contingency sums in building contracts will be subject to a detailed appraisal.

#### **4.3.8 Purchase of Equipment**

The purchase of equipment is eligible providing that there is a clear link with the delivery of the project. In the case of moveable equipment there must be an assurance that the equipment is for the sole use of the project and the benefit is maintained in the Programme area. All equipment must be properly procured.

In cases where items of equipment have been purchased, an inventory must be retained for audit purposes. Equipment with an asset life of less than one year can be regarded as a revenue cost.

**Discounts given on the purchase of items of equipment cannot be included as match funding**

#### **4.3.9 Purchase of Second-Hand Equipment**

The purchase cost of second-hand equipment is eligible provided that:

- it has not previously been purchased with the aid of national or European grants;
- the price of the equipment does not exceed its market value and is less than the cost of similar new equipment; and
- the equipment is technically appropriate and complies with any relevant legislation (e.g. health and safety)

The calculation of the eligible expenditure relating to the purchase of second-hand equipment should be based on its current value.

#### **4.3.10 Unforeseen costs**

Unforeseen costs can be eligible for support from the Structural Funds where they are genuine and agreed by WEFO.

#### **4.3.11 Retentions**

Retentions, held in accordance with a procured/tendered contract, can be considered eligible if paid within the eligible expenditure period of the Programme, and defrayed no later than final claim stage.

### **4.4 Revenue costs – ERDF and ESF**

#### **4.4.1 Staffing**

Staffing costs are eligible for personnel directly engaged in a project, whether full or part time. Specific supporting documents required to evidence staffing costs include job descriptions, staff contracts, timesheets for part-time staff, BACS/Payroll reports and bank statements (please see point 1 of WEFO guidance note entitled, 'Retention and Management of Documents'). Staff costs are calculated on the basis of actual payroll costs



which include gross salary, national insurance contributions and may include employers' pension costs where there is an established pension scheme which applies to all staff.

Staff costs can include reasonable costs arising from the contract of employment including expected increases in grade or pay scales for the staff involved.

Sick or maternity / paternity / adoption pay can be claimed if it is in line with the organisation's staff policy or contained within the individual's contract of employment. Any payment of statutory sick pay or maternity/paternity pay must be offset against a payment claim submitted to WEFO.

Staff training costs can only be claimed if an individual has specific needs for training that relate to the acquisition of specialist knowledge to enable them to effectively deliver the project. Staff recruitment costs are eligible where incurred in line with the guidance and necessary for the delivery of the project.

Relocation expenditure can be considered eligible expenditure where they are evidenced and reasonable in the opinion of WEFO.

Redundancy expenditure can be considered eligible on a case by case basis where the following criteria **all** apply:

- staff have been employed on and salary costs have been co-financed via a project supported under the 2007-2013 programmes and their *posts* are being made redundant;
- where there is a statutory requirement to pay redundancy costs under UK Employment law; and
- redundancy payments are made in line with statutory provision and thresholds;

Additional / special payments that form part of a redundancy package, but are at the discretion of the employer and in excess of statutory requirements are ineligible. Payments in the case of voluntary redundancy where the *post* is not being made redundant and will be back-filled are not eligible.

Eligible expenditure on redundancy costs should be calculated pro-rata in relation to the length of employment on the project and contracted hours.

Staff seconded on to an EU-funded project i.e. not new project staff, must have been employed on the project for a minimum of 2 years to be eligible. However, the Terms and Conditions of the home organisation often apply in the case of redundancy and contractual obligations may override the provisions of this section.

Travel and subsistence expenditure will be eligible in accordance with the guidance produced by WEFO. This will include guidance for the European Territorial Cooperation objective.

Childcare or crèche payments that are taxable are eligible.

Staff bonuses or incentive payments are ineligible costs.

**See WEFO Guidance Notes:**

- Guidance Note on Eligible Staffing and Participant Costs
- Guidance Note on Retention and Management of Documents

#### 4.4.2 Professional/Consultancy Fees and Sub-Contractors Charges

Expenditure for work carried out by a consultant or sub-contractor is eligible if the work is essential to the project and the costs are in WEFO's opinion reasonable. All consultancy fees and sub-contractors costs must be properly procured in accordance with good practice and relevant procurement rules and regulations.

Where consultancy fees and contractors charges have been subject to an approved tender process, the market rate resulting from that exercise may be included for support, provided the original tender is no more than 3 years old.

Consultancy fees can include legal, technical, accountancy and audit services which are required for the delivery of the project. The proposed costs will be agreed during the appraisal process. Expenditure associated with the payment of consultants who provide support in completion of application / claim forms and with management fees are **not eligible**.

#### 4.4.3 Accommodation expenditure

Eligible expenditure can include:

- rental or short term leasing of property
- rates
- services including electricity, water, heating, telephones, broadband and other ICT
- maintenance, cleaning and security - providing that the costs relate exclusively to the project

Refurbishment costs of premises are considered a capital expenditure involving the execution of a building contract – see 4.3.6

#### 4.4.4 Consumables

Expenditure on consumables is eligible subject to the expenditure being agreed at the appraisal stage.

#### 4.4.5 Equipment – ESF specific

The ESF Regulation precludes “purchase of furniture, equipment, vehicles, infrastructure, real estate and land”. It is recognised that for ESF projects there might be a need to purchase small items of equipment **in the form of non capital items** and the purchase of

these items is eligible subject to a maximum value of £1,300 per item (inclusive of VAT). There is no set limit for the number of items of equipment under £1,300 which can be included in a project but the total expenditure on small items of equipment will be considered and agreed by WEFO as part of the appraisal process.

#### 4.4.6 Information and Communication Technology

Expenditure on ICT (including hardware, software, website costs, licences, support, and consumables) is eligible where it has been demonstrated that its use is required for the effective delivery of the project.

#### 4.4.7 Depreciation

The depreciation costs of tangible assets, including furniture, equipment, vehicles, infrastructure, real estate and land, allocated exclusively for the duration of a project are eligible costs. No depreciation can be claimed in respect of property / goods, which have benefited from national or European grants at the time of their purchase i.e. there must be no double funding.

Depreciation is calculated in line with a project sponsor's accounting policy. Claims for depreciation should be based on the actual costs of the owned equipment. Where deferred credits are used to offset depreciation costs, the amount of the deferred credit must be deducted from the depreciation costs for grant purposes.

Depreciation may be claimed on second-hand equipment provided the equipment was not originally purchased using a national or European grant.

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; and, where relevant, the estimated residual value.

#### 4.4.8 Simplified Costs

**In the case of grants**, the following can be considered eligible where established in advance through a fair, equitable and verifiable calculation:

- Indirect costs on a flat-rate basis of up to 20% of the direct costs of an operation;
- Standard Scale of Unit Cost ;
- Lump sums of up to €50,000 per project.

Indirect costs are considered eligible expenditure provided that they are based on real costs which relate to the implementation of the project and they are incurred in accordance with WEFO guidance. Wherever possible the direct costs of a project should be identified.

Grant-funded projects will be permitted to use these methods for costs in accordance with EU and WEFO guidance and where agreed in advance with WEFO.

**See WEFO Guidance Note:**

- Guidance Note on the Calculation of Indirect Costs

#### **4.4.9 Insurance**

Insurance of buildings, contents and for public indemnity are eligible provided it can be clearly demonstrated that these are directly related to the delivery of the project and are **additional** costs.

#### **4.4.10 Marketing and Promotion**

Eligible expenditure can include costs related to appropriate and proportionate aspects of marketing specific to a project on, for example, design and production of marketing materials, facilitation of appropriate conferences and seminars, and targeted advertising campaigns.

#### **4.4.11 Project Evaluation Fees**

Costs for independent project evaluations will be eligible if the work is essential to the project and / or a condition of grant. All project sponsors that are awarded £2 million grant or more (ERDF or ESF) for a single project and all projects involved in implementing ERDF supported innovative or experimental actions, will be required to procure an external evaluation by independent contractors.

**See WEFO Guidance Note:**

- [Project and Programme Monitoring and Evaluation Guidance](#)<sup>2</sup>

#### **4.4.12 Leasing**

Expenditure incurred and defrayed in relation to leasing operations is eligible for co-financing under the Structural Funds subject to the conditions set out in WEFO guidance.

**See WEFO Guidance Note:**

- Leasing

#### **4.4.13 Preliminary expenditure**

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<sup>2</sup> <http://wefo.wales.gov.uk/delivering/monitoringandevaluating/monitoringevaluationguidance>  
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Preliminary expenditure means costs which, subject to WEFO's approval may be considered as eligible costs, the project sponsor has incurred and defrayed prior to the start date which enable the project sponsor to obtain a realistic estimate of project expenditure. Preliminary expenditure is distinct from retrospective expenditure.

#### **4.4.14 Hospitality expenditure**

Expenditure on hospitality, in particular with regard to projects supported by the European Territorial Cooperation objective and territorial cooperation aspects of projects, is eligible subject to agreement of the reasonableness of the costs, by WEFO, as part of the project appraisal process.

#### **4.4.15 Publicity and Information**

Expenditure related to the EU and WEFO requirements to effectively publicise and provide information on projects and Programmes is eligible.

### **4.5 Eligible participant costs and allowances – ESF specific**

#### **4.5.1 Participant costs**

For employed participants, wages and allowances paid by their employer for the time they spend on the ESF funded activity are eligible expenditure. This can include employers' national insurance and superannuation contributions. Alternatively, the cost of employing replacement staff to cover for staff absence on ESF funded activity may be claimed but not both. All costs must have supporting evidence of actual salary costs and timesheets.

#### **4.5.2 Wages for wage subsidy schemes**

- wages and allowances may include employers' national insurance and superannuation costs
- ESF can contribute towards a wage subsidy
- the employer may pay beneficiaries a higher sum but the difference should be entered under ineligible costs in the delivery profile
- where intermediate labour market projects also provide training allowances, allowances should be equivalent to the minimum wage
- 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 see 2.1. 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

## **Participant allowances**

Participant allowances can, if used as part of the project, be claimed to purchase specialist items (such as - purchase of a suit to attend an interview or tools), but must specifically relate to delivery of the project, and cannot be used for general capital costs. All such allowances must conform to average / standard levels within the region and represent value for money. WEFO will consider the use of allowances on a case by case basis. Project sponsors should ensure that allowance levels are established that conform with JobCentre Plus and HMRC requirements.

## **Participant Travel Expenses**

Participant travel costs must be directly related to, and essential for, the effective delivery of the project. Certified travel claims must be retained and must show the actual cost for each participant for each day. Only actual costs, up to a maximum of mileage at the public sector rate per mile or economy class travel on public transport may be claimed.

Travel outside of the EU would need additional justification.

## **Participant Subsistence**

For external courses, only the actual costs of travel, board and lodgings may be claimed. Claims should be submitted on the basis of actual expenditure and supported by receipts.

## **Participant costs for caring for children or other dependents**

The real costs must be evidenced for them to be considered eligible. Evidence can be in the form of signed receipts from childcare/care providers receiving payment for caring for participant's children/dependants while the participant is involved in the project.

## **See WEFO Guidance Notes:**

- Guidance Note on Eligible Staffing and Participant Costs

## Section 5 – What expenditure is ineligible?

The eligibility of expenditure for a project will be determined at the project appraisal stage and confirmed at the payment verification stage. In determining the eligibility of the expenditure, these Rules will be taken into consideration alongside the EU legislation and the relevant Operational Programme Priority and theme. As part of this consideration the following costs are agreed as being **ineligible** for support:

- interest on debt (other than expenditure on interest subsidies to reduce the cost of borrowing for businesses under an approved State Aid scheme)
- bank charges on accounts (**except** where it is necessary to set up a separate account(s) for the project where the cost for opening and administering the account(s) is eligible)
- costs of guarantees provided by a bank or other financial institution under all projects except Financial Engineering Instruments (FEIs); under FEIs only those guarantees for the benefit of the fund are ineligible
- charges for financial transactions, foreign exchange commissions and losses (including interest rate and currency exposure hedging), and other purely financial expenses (**but** see Annex 1 for European Territorial Cooperation projects)
- loan charges; in the case of FEIs only loan charges made to the fund;
- interest or 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 / fund,
- bad debts arising from loans to employees, proprietors, partners, directors, guarantors or shareholders
- fines, financial penalties and expenses of litigation
- staff costs that are not directly attributable to project delivery
- training that is mandatory under statutory provision
- payment for gifts and donations
- entertainment costs (excluding Hospitality expenditure see 4.4.14)
- repairs and maintenance unless directly related to project delivery
- stand alone civic sculpture
- stand alone car parks
- stand alone costs of works being carried out as a statutory requirement
- notional costs
- payments for activity of a direct political nature
- dividends for shareholders or distributions to partners
- costs incurred by individuals in setting up and contributing towards private pension schemes, or the setting up of such schemes by organisations in receipt of structural funds
- payments for unfunded pensions
- discounts (see 4.1.1)

This list is not exhaustive and will be refined from time to time.



## **Section 6 - Technical Assistance**

In accordance with Article 46(1) of Regulation 1083/2006:

‘At the initiative of the Member State, the funds may finance the preparatory, management, monitoring, evaluation, information and control activities of operational programmes together with activities to reinforce the administrative capacity for implementing the Funds within the limit of 4% of the total amount allocated under the Convergence and Regional Competitiveness and Employment objectives’.

### **6.1 Staffing costs**

Staffing costs are eligible for personnel directly engaged in a technical assistance project whether part time or full time (see 4.4.1).

Eligible expenditure under technical assistance includes salary and other costs of civil servants and other public officials carrying out the preparatory, management, monitoring, evaluation, information and control activities of the Operational Programmes together with activities to reinforce the administrative capacity for implementing the funds. Staff costs will be supported by payroll details which identify the real cost paid by the public service concerned in relation to the technical assistance activity.

### **6.2 Information and Publicity**

Technical assistance funds will support the information and publicity activities set out in the WEFO Communication Plan.

### **6.3 Evaluation**

Technical assistance funds will support the evaluation activities set out in the WEFO Evaluation Plan.

### **6.4 Purchase of equipment – ESF specific**

For the ESF Operational Programmes the ESF Regulation explicitly excludes the purchase of furniture, equipment, vehicles, infrastructure, real estate and land as eligible expenditure. Technical assistance activities giving rise to such costs will be financed indirectly via depreciation provisions of Article 11(3) (c) of Regulation (EC) No 1081/2006 or directly in the context of the 10% flexibility facility.

## 6.5 Closure of Programmes

Eligible expenditure under technical assistance also includes costs relating to the closure of the 2000-2006 Programmes in the following conditions:-

- they are incurred after the final date for the eligibility of expenditure under an intervention of the 2000-2006 Programming period
- there is a consistency between the new Operational Programmes and those of the 2000-2006 period as follows:
  - ERDF Convergence technical assistance will support the closure of the Objective 1 Programme, URBAN and INTERREG
  - ESF Convergence will support the closure of the Objective 1 ESF and EQUAL Programme
  - ERDF Regional Competitiveness and Employment will support the closure of the Objective 2 Programme
  - ESF Regional Competitiveness and Employment will support the closure of the Objective 3 Programme.

## **Annex 1 – European Territorial Cooperation Objective**

EC Regulations state that **common rules on the eligibility of expenditure should be laid down which are applicable to Operational Programmes under the European Territorial Cooperation objective**, in order to ensure consistency between the rules applicable to projects implemented in different Members States.

**Please note that, where the individual Programme eligibility guidance does not address specific expenditure issues for Welsh organisations, the Welsh National Rules as already set out in this document shall apply.** Should any queries arise, the advice of WEFO's Territorial Cooperation Unit should be sought.

The European Territorial Cooperation 2007-2013 Operational Programmes in which Welsh organisations can participate, are:

- Ireland/Wales Cross border Programme – (Managing Authority based in the Southern and Eastern Regional Assembly, Waterford, Ireland). Programme web-site: [www.irelandwales.ie](http://www.irelandwales.ie)
- Inter-Regional Co-operational Programme (INTERREG IVC) – (Managing Authority based in The Conseil Regional Nord – Pas-de-Calais, France). Programme web-site: [www.interreg4c.net](http://www.interreg4c.net)
- Trans-national Atlantic Area Programme – (Managing Authority based in The North Regional Coordination and Development Commission (CCDR-N), Porto, Portugal). Programme web-site: [atlanticarea.inescporto.pt](http://atlanticarea.inescporto.pt)
- Trans-national North-West Europe Programme – (Managing Authority based in The Conseil Regional Nord-Pas de Calais, Lille, France). Programme web-site: [www.nweurope.org](http://www.nweurope.org)

<p><b>Specific eligibility guidance that has been agreed for each Programme can be subject for review and should be checked periodically.</b></p>
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