



Scottish Rural
Development
Programme



Scottish Government
Riaghaltas na h-Alba
gov.scot



**LEADER - Local LEADER teams: Project
Assessment & General Guidance**

2014 - 2020

Issue date	Author	Revision details
07/03/2016	A Prior/V Dunlop	Version 1 (archived 08/12/16)
05/12/2016	M Collins/V Dunlop	Version 2 (archived 05/01/17)
04/01/2017	Marion Collins	Version 3 (archived 13/02/18)
13/02/2018	Vicky Dunlop	Version 4 (archived 12/08/2019)
12/08/2019	G Allan	Version 5 (archived 20/01/22)
22/01/2021	L Douglas	Version 6 Amendment Section 2.6 as below.
Section	Amendment	
Section 2.6	State Aid Under Article 61 page 16 - eligible costs of projects amended from €50,000 to €100,000	

Contents

1. Background	4
1.1 Delivery Structure	4
1.2 Legal Framework	4
1.3 European Union Legislation	4
1.4 National Documentation	6
1.4.1 Scottish Chapter of the UK Partnership Agreement	6
1.4.2 Scottish Rural Development Programme (SRDP)	6
1.4.3 Scottish Statutory Instrument (SSI) No 192/2015	6
1.4.4 Service Level Agreement (SLA)	7
1.4.5 Guidance	7
1.5 Local Action Groups (LAG)	7
1.6 Local Development Strategy (LDS)	8
1.7 Local Actions in Rural Communities system (LARCs)	8
2. Technical Assessment/Checklist	8
2.1 Expression of Interest	8
2.2 Project Applications - basics	8
2.3 Micro and Small Enterprises	9
2.4 Project Applications	10
2.4.1 Standard Applications	10
2.4.2 Co-operation Applications	11
2.4.2.1 Preparatory support	12
2.4.2.2 Inter-territorial Scotland	13
2.4.2.3 Inter-territorial UK	13
2.4.2.4 Transnational	14
2.4.2.5 Co-operation Agreements	14
2.4.3 Scottish Government (SG) co-operation checks	14
2.4.4 Early termination of projects	14
2.5 Intervention rates	15
2.6 State Aid	15
2.6.1 Agricultural Block Exemption (ABER) – Regulation EU 702/2014	18
2.6.2 General Block Exemption (GBER) – Regulation EU 651/2014	20
2.6.3 De Minimis	23
2.7 Financials/Additionality	23

2.8	Match funding	24
2.9	Reasonableness of costs/Procurement	24
2.9.1	Admin checks	25
2.9.2	Demonstrating Project Costs	25
2.10	Demonstrating project outputs/targets	26
2.11	Alternative funding options	27
2.11.1	Broadband Infrastructure	27
2.11.2	Food & Drink	28
2.11.3	Access	28
2.11.4	Skills Development & Knowledge Transfer	29
2.11.5	European Regional Development Fund & European Social Fund	29
2.11.6	Strategic Interventions and the Lead Partners	29
3.	Assessing applications by the LAG Committee	32
3.1	Application Decisions	33
4.	Complaints	33
4.1	Complaints against the general standard of service	33
4.2	Complaints against non-selection or percentage of the Grant Offer	34
4.3	Complaints Process	34
5.	Appeals	34
6.	Breaches and penalties	34
6.1	Penalties	35
6.2	Breaches	35
6.3	Exceptions to breaches and penalties	36
6.3.1	Force majeure	36
6.3.2	Obvious error	36
	Annex A - LAG Project Assessment & Matrix - Example	37
	Annex B - LEADER and State Aid	41

1. Background

1.1 Delivery Structure

In the 2014-20 programming period the LEADER approach has been mainstreamed across all ESI (European Structural Investment) funds - i.e. LDS (Local Development Strategies) can be supported by more than one fund. In Scotland this means that some LDSs have set objectives to allow them to support EMFF (European Maritime & Fisheries Fund) funded actions.

Under the Scottish Rural Development Programme (SRDP) the Scottish Government (SG) is the Paying Agency (PA) & Managing Authority (MA). Under the EMFF the SG is the Accountable Body responsible for project approval (validating FLAG (Fisheries Local Action Group) recommendations), and project claims. Running costs for FLAG activity are funded through the SRDP (LEADER).

1.2 Legal Framework

Local Development Strategies are governed by EU law, principally Regulations 1303/2013 and 1305/2013. The Development and implementation of LDS are governed by the SRDP, domestic regulation and guidance. Local Action Groups, Accountable Bodies and local LEADER staff must be familiar with the legal framework, which is set out below.

1.3 European Union Legislation

The European Union Legislation is set out in a series of regulations.

The key regulations relating to LEADER are:

Number	Summary
1303/2013	The Common Provisions Regulation. Lays down the common provisions on the European Regional Development Fund (ERDF), the European Social Fund (ESF), the Cohesion Fund, the European Agricultural Fund for Rural Development (EAFRD) and the European Maritime Fisheries Fund (EMFF). Funds are known as the European Structural and Investment Funds (ESI).
1305/2013	Regulation on support for rural development by the European Agricultural Fund for Rural Development (EAFRD).
1306/2013	Regulation on the financing, management and monitoring of the common agricultural policy (CAP)

2017/2393	Amending regulations 1305/2013 on support for rural development by EAFRD and 1306/2013 on finance, management and monitoring of CAP (regulation also includes amendments to 1307/2013, 1308/2013 and 652/2014)
966/2012	On the financial rules applicable to the general budget of the Union. This is the financial regulation.

The key regulations are supplemented by further implementing regulations:

Number	Summary
480/2014	Supplementing Regulation EU No 1303/2013. Provides information on financial corrections.
640/2014	Supplementing Regulation EU 1306/2013 with regard to the integrated administration and control system and conditions for the refusal of withdrawal of payments and administrative penalties applicable to direct payments, rural development support and cross compliance.
807/2014	Supplementing Regulation EU 1305/2013 on support for rural development by the EAFRD. Provides further details relating to measures and intervention rates as outlined in 1305/2013.
808/2014	Lays down the rules for the application of Regulation EU No. 1305/2013 on support for rural development by EAFRD. Rules as regards the member state rural development programmes. Also information and publicity for rural development programmes, implementation of certain rural development measures, monitoring, evaluation and reporting.
809/2014	Lays down rules for the application of Regulation (EU) No. 1306/2013 with regard to the integrated administration and controls systems, rural development measures and cross compliance.
2017/1242	Amendment, which came in to effect on 01 January 2018 to 809/2014, laying down rules for the application of Regulation (EU) No 1306/2013 with regard to the integrated administration and control system, rural development measures and cross compliance

821/2014	Lays down the rules for the application of Regulation (EU) 1303/2013 for the transfer and management of programme contributions, the reporting on financial instruments, technical characteristics of information and communication measures and the system to record and store data.
907/2014	Supplementing Regulation (EU) No 1306/2013 with regard to paying agencies and other bodies, financial management, clearance of accounts, securities and use of the euro. Details paying agency activities and accreditation requirements.
908/2014	Lays down the rules for the application of Regulation (EU) 1306/2013 with regard to paying agencies and other bodies, financial management, clearance of accounts, rules on checks, securities and transparency.
651/2014	General Block Exemption Regulation in relation to State Aid
702/2014	Agricultural Block Exemption Regulation in relation to State Aid
1407/2013	De minimis regulations in relation to State Aid
2003/361	Definition of micro, small and medium-sized enterprises

1.4 National Documentation

1.4.1 Scottish Chapter of the UK Partnership Agreement

The Scottish Chapter of the UK Partnership Agreement¹ sets the overall strategy for all European Structural Investment Funds. There is a specific section on territorial development

1.4.2 Scottish Rural Development Programme (SRDP)

"M19 - Support for LEADER local development (CLLD - community-led local development) (art 35 Regulation (EU) No 1303/2013)" (pages 627-648 - page numbers may change throughout programme) of the approved SRDP² sets out the details for the design & implementation of LEADER under the SRDP.

1.4.3 Scottish Statutory Instrument (SSI) No 192/2015

The Rural Development (Scotland) Regulations 2015³ apply to LEADER with respect to payments and Service Level Agreements between the SG and Accountable Bodies.

¹ <http://www.gov.scot/Resource/0044/00449277.pdf>

² <http://www.gov.scot/Topics/farmingrural/SRDP/SRDPprogramme>

³ http://www.legislation.gov.uk/ssi/2015/192/pdfs/ssi_20150192_en.pdf?text=Scottish%20Rural%20Development%20-%20match-1

1.4.4 Service Level Agreement (SLA)

The SLA is signed between Scottish Ministers and Accountable Bodies. It defines the responsibilities and obligations, duties and accountabilities of the SG (PA/MA) and the Accountable Body.

The SLA is a “live” document, alongside the Data Sharing Agreement (DSA-31), and may evolve throughout the 2014-20 programming period and will require formal approval via the SG LEADER team and Accountable Bodies Board.

1.4.5 Guidance

All Applicants, LAGs and local LEADER teams must follow all guidance produced to support the implementation of Local Development Strategies and administration of LEADER funding – targeted at a range of audiences including local LEADER teams, LAGs, Accountable Bodies and applicants.

- LEADER Admin & Animation Guidance
- Expression Of Interest (EOI) applicant and LAG guidance
- Pre/Post Service Level Agreement (SLA) Claims Admin Guidance
- General applicant guidance
- Local LEADER teams General & project assessment guidance
- LARCs – Applicant & LAG (within LARCs help files)

Additional guidance, training and support will be provided where necessary, the SRN will also provide toolkits to help provide evidence of best practice and support the delivery of LEADER.

1.5 Local Action Groups (LAG)

Local Action Groups⁴ (collectively local LEADER teams and LAG committees) are responsible for the implementation of Local Development Strategies (LDSs). The minimum activities and responsibilities of the LAG are specified in the EU regulations and are set out in regulation (EU) 1303/2013 ([European Union Legislation](#)). Please refer to LEADER Admin and Animation Guidance.

For each LAG there is an Accountable Body (this may be the Local Authority, LAG or another organisation). The Accountable Body signs a Service Level Agreement with the SG and is responsible for:

- compliance with the SRDP and relevant regulations
- the financial accountability of the programme at a local level
- employment and management of staff supporting LDS implementation on behalf of the LAG

⁴ Regulation (EU) [1303/2013](#) Article 34

1.6 Local Development Strategy (LDS)

Each LDS is approved by the SG. The LAG (or wider partnership as well as LAG/FLAG) is responsible for delivering the LDS.

The minimum contents of the strategy are defined by EU regulations and are set out in regulation 1305/2013⁵. The LDS is the strategic document for the utilisation of LEADER funds by the LAG and must be well understood by LEADER staff and LAGs.

The Local Development Strategy, business plan and any supporting documentation are 'live' documents that will evolve over the lifetime of the 2014-20 programming period. Formal changes must be notified to the SG LEADER team, changes to LDS and Business Plans in general will require approval. For example, changes to Farm Diversification, Enterprise and Cooperation target percentages to reflect an alternative minimum target, otherwise those within the approved LDS will still be operational.

Amendments to Local Development Strategies or Business Plans should be made through the Change Request process available in LARCs.

1.7 Local Actions in Rural Communities system (LARCs)

The IT system on which projects applications should be submitted following consideration of an Expression of Interest. Further guidance/desk instruction to assist with using LARCs is available within LARCs help files.

2. Technical Assessment/Checklist

2.1 Expression of Interest

Separate EOI applicant guidance⁶ has been produced and should be referred to by LAGs when engaging with prospective applicants.

2.2 Project Applications - basics

Applications should be fully completed and submitted via LARCs by any locally implemented deadlines. Applicants must be registered with the Rural Payments and Inspections Division (RPID) before they apply for a grant. Checks should be undertaken to ensure the business details registered match the details entered on the application form.

⁵ Regulation (EU) [1303/2013](#) Article 33

⁶<http://www.ruralnetwork.scot/leader-2014-2020-expression-interest-guidance-applicant-version-2-31-march-2017>

The person who signs the application form must also be registered with RPID including agents - multiple people can be registered as a “responsible person” for the business. Business registration guidance⁷ is available on the RP&S website.

Applicants could provide RPID confirmation letter(s) as evidence or where required LAG may contact the RPID Local Area Office who will be able to provide details relating to the BRN. Details should clearly evidence that the information has been provided and/or confirmed by RPID and may be in the form of a formal letter or email signed by, or on behalf of, the officer in charge of the local RPID area office

2.3 Micro and Small Enterprises

Micro and small enterprises are eligible - micro and small enterprises are defined in EU recommendation [2003/361](#)⁸.

The main factors determining whether enterprises are Micro or Small are:

1. staff headcount and
2. either turnover or balance sheet total.

Company category	Staff headcount	Turnover	or	Balance sheet total
Small	< 50	≤ € 10 m		≤ € 10 m
Micro	< 10	≤ € 2 m		≤ € 2 m

These ceilings apply to the figures for individual firms only. A firm that is part of a larger group may need to include staff headcount/turnover/balance sheet data from that group too. If the applicant is part of a wider group (umbrella/has parent organisation etc.) you should refer to the EC definition and regulations.

Useful links:

- Definitions: [EC Business Friendly Environment](#)⁹

The different business or enterprise sizes are defined by turnover in euros, balance sheet and number of employees. If you need to, you can convert your turnover and balance sheet information to euros by using the [currency conversion](#)¹⁰ tool on the European Commission website. The conversation date should be the date the accounts were audited or certified, or in the case of new businesses the date of the application.

⁷ <https://www.ruralpayments.org/publicsite/futures/topics/your-business/business-registration/>

⁸ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32003H0361&from=EN>

⁹ <http://ec.europa.eu/growth/smes/business-friendly-environment/sme-definition/>

¹⁰ http://ec.europa.eu/budget/contracts_grants/info_contracts/inforeuro/index_en.cfm

The currency convertor tool can be used for a number of purposes:

- to convert the value of the offer of grant (particularly where the project has been determined to be de minimis – determined by the date of the grant offer)
- to convert project quotations provided, that are in a different currency (determined by the date of the quote)

2.4 Project Applications

The application and assessment process is the same regardless of the application type i.e. project selection will be based on a documented assessment process that demonstrates the soundness and fairness of the decision using consistent and relevant criteria. LAGs may wish to produce appropriate criteria specific to co-operation, for example: collective interest, collective beneficiary, public access to the results of the operation, potentially innovative features of the project.

Project application type and sub-type details are set out in the applicant guidance. LAGs should prioritise expenditure and be clear about the targeting of funding e.g. investing in collective actions such as agri-tourism or cross sectorial initiatives such as food & drink networks as well as supporting individual businesses and communities.

LAGs should all consider whether investments are more appropriate for other funds within the SRDP, further details can be found at [Alternative funding options](#) below.

2.4.1 Standard Applications

- Community
- Enterprise
- Farm Diversification

The applicant guidance sets out details of application type/sub-types. LEADER project types and sub-types are categorised by community, farm diversification or enterprise in order to identify and report against the project types and funding approved (i.e. target spend as set out in the SLA sign-off letter).

All projects require to be aligned with the SRDP and associated EU regulations, guidance and fit within the LDS. Farm diversification may be further defined locally to prioritise activities/actions in order to reflect LDS strategic priorities if necessary.

Where a farm diversification project is determined to be a state aid an alternative would be to treat the application as an investment in an 'enterprise' (rural business). If state aid cover is required the [General](#)

Block Exemption (GBER) – Regulation EU 651/2014 (651/2014) the cover which has been obtained for LEADER sets out the articles and maximum aid intensities. A business operating in the agricultural sector which receives industrial de minimis for diversification purposes requires to produce separate accounts for the non-agricultural business.

Where a farm diversification project is assessed not to be State Aid this must be clearly evidenced and justified, forming part of the project technical assessment undertaken by the local LEADER team. In such circumstances the project may be approved up to 100% or the relevant lower maximum intervention rate(s) as set out in your LDS.

2.4.2 Co-operation Applications

The following co-operation guidance and associated materials were informed by a significant amount of work across the UK and the Republic of Ireland. The aim was to harmonise the 5 nations' approaches to LEADER Co-operation, as much as possible, within the confines of each country's decision making framework.

It is also worth noting that the Funding Agreements have also been informed by this process, essentially ensuring that the Scottish approach is consistent with other parts of the UK and EU.

You may also wish to refer to The European Network for Rural Development (ENRD) Co-operation guides¹¹.

- Guidance for implementation of LEADER Co-operation activities¹²
- LEADER Transnational Co-operation Guide¹³

Co-operation application types:

- Preparatory support
- Inter-territorial Scotland
- Inter-territorial UK
- Transnational

Points to note:

- Co-operation projects must be approved within four months¹⁴ after the application submission date.
- The Scottish Rural Network Support Unity should be able to work with you and the applicant to find potential partners (particularly in other

¹¹ https://enrd.ec.europa.eu/leader-clld/leader-cooperation_en

¹² https://enrd.ec.europa.eu/sites/enrd/files/20141119_leader_cooperation_guide_2014-20.pdf

¹³ <https://enrd.ec.europa.eu/sites/enrd/files/fms/pdf/2A9A7348-B2CD-A9FB-620D-67CE880700D6.pdf>

¹⁴ Regulation (EU) 1305/2013 Article 44(3)

parts of the UK/EU/Third Countries), per details on the ENRD link above:

Scotland & LAG Code (allocated by the EU) https://enrd.ec.europa.eu/leader-clld/lag-database/Scotland_en	
Country	Country Reference Code
Scotland	UK02
LAG	LAG Number
Aberdeenshire North	UK-098
Aberdeenshire South	UK-099
Angus	UK-100
Argyll & the Islands	UK-101
Ayrshire	UK-102
Cairngorms	UK-103
Dumfries & Galloway	UK-104
Fife	UK-105
Forth Valley and Lomond	UK-106
Greater Renfrewshire and Inverclyde	UK-107
Highland	UK-108
Kelvin Valley and Falkirk	UK-109
Lanarkshire	UK-110
Moray	UK-111
Orkney	UK-112
Outer Hebrides	UK-113
Rural Perth & Kinross	UK-114
Scottish Borders	UK-115
Shetland	UK-116
Tyne Esk	UK-117
West Lothian	UK-118

- The Scottish Rural Network (SRN) will be available to support LAGs in the development of Co-operation proposals.

2.4.2.1 Preparatory support

Preparatory support must precede the Co-operation projects i.e. should not finance expenditure after a Co-operation partnership has been established.

The intervention rate for preparatory support will be 100% up to a maximum of £5,000 per application. As in all circumstances, reasonableness of costs must be demonstrated, please see the relevant section of this guidance and that of the applicant guidance.

2.4.2.2 Inter-territorial Scotland

For Co-operation involving more than one Scottish LAG the process will involve:

- Where there is a delivery partnership the applicant will be the main point of contact throughout the project, the LAG Co-operation Funding Agreement should reflect the roles and responsibilities of all LAGs.
- Participating LAGs will agree a Lead LAG to administer the project and act as the main point of contact for the applicant.
- Completing a LAG Co-operation Funding Agreement.
- A single application will be submitted to all selected LAGs.
- All LAGs should consider the LAG Co-operation Funding Agreement in line with their Local Development Strategy but the lead LAG is required to assess the full application.

Lead LAGs will:

- Be the main point of contact for the applicant/s, LAG Partners & Paying Agency
- Liaise with all Partner LAGs through their representative and where necessary convene and chair meetings of partner LAGs
- Assume overall accountability other than that which is stated in the LAG Co-operation Funding Agreement
- Issue grant award notifications and contracts on behalf of all partner LAGs
- Liaise with partner LAGs regarding local project progress, monitoring final financial reconciliation and proposed changes to projects

LAG partners will:

- Confirm LAG Co-operation Funding Agreement fits with LDS
- Be represented on LAG Partner group meetings
- Monitor and verify progress of projects at local level and report to lead LAG
- Support and co-operate with Lead LAG

2.4.2.3 Inter-territorial UK

LAGs in Scotland who are involved with an Inter-territorial (UK) Co-operation project will be responsible for assessing and approving their part of the overall project. This will include issuing the grant award, processing claims and making payments to the lead applicant. This will be based on their agreed financial contribution towards the project as defined by the LAG Co-operation Funding Agreement.

LAGs must be assured that sufficient evidence has been provided to demonstrate the partner is a LAG-type partner delivering an LDS.

2.4.2.4 Transnational

LAGs in Scotland who are involved with a Transnational Co-operation project will be responsible for assessing and approving their part of the overall project. This will include issuing the grant award, processing claims and making payments to the lead applicant. This will be based on their agreed financial contribution towards the project as defined by the LAG Co-operation Funding Agreement.

Applicants may co-operate with partners from anywhere. Partners from within the EU may be located in both rural and urban areas (subject to local rules). Partners outside the EU must be located in rural areas. They must be a group of local public and private partners in a rural territory that is implementing a strategy akin to a Local Development Strategy.

2.4.2.5 Co-operation Agreements

Co-operation Agreements (see LARCs help files) should be used to set out the roles and responsibilities of the LAGs and partners involved. There are two types of funding agreements:

- LAG Co-operation Funding Agreement between Scottish LAG Partners
- Transnational and UK LAG Co-operation Agreement

LAG Co-operation Funding Agreements for Transnational and Inter-territorial co-operation is not mandatory unless more than one Scottish LAG is involved. Where only one Scottish LAG is involved they may choose to use a template provided by one of the other countries involved in the project.

2.4.3 Scottish Government (SG) co-operation checks

The SG recognises the need for assessments to be robust, particularly where LAGs/LAG Partners or Accountable Bodies are the applicants. To provide reassurance, the SG LEADER team will undertake a 100% pre-approval check on applications from LAGs or LAG Partners/Accountable Bodies.

The SG LEADER team will also undertake financial checks on up to 5% of co-operation claims submitted, prior to payment, to ensure audit compliance and to reduce the risk of financial penalty.

2.4.4 Early termination of projects

A project terminating before completion may result in a breach of conditions of grant or undertaking (see [National Documentation](#) and [Breaches and penalties](#) sections).

2.5 Intervention rates

Applicants may receive up to 100 per cent of their eligible costs subject to consideration of State Aid. Where the project is considered to be a State Aid project, the maximum intervention rate will be determined by [State Aid](#) limits; however, the Local Action Group may choose to use de minimis cover or offer a lower intervention rate. State Aid rules may apply and this could limit how much the project can apply for, and in some circumstances depend on whether other public funding has been received.

2.6 State Aid

Establishing whether or not a project is State Aid in the first instance is critical. The Annex B - LEADER [and State Aid](#) sections ([Annex B](#)) provide guidance including details of the 4 State Aid tests. State Aid should always be considered on a case-by-case basis, ensuring the decisions are clearly justified and evidenced.

The technical checklist, within LARCs help files, helps to ensure all questions to determine whether the funding is a State Aid are considered, evidenced and justified. It also ensures the relevant State Aid cover is available for annual State Aid reporting.

The LEADER and State Aid Guidance ([Annex B - LEADER and State Aid](#)) covers this in greater depth and explain the maximum rates of grant (percentage and/or value). Where the tests confirm the funding is a State Aid, the ABER or GBER rates of grant supersede the maximum rates of grant set locally (these rates of grant may be lower than the programme permits).

Projects that are not State Aid

If you determine that a LEADER project is not State Aid as it does not have the potential to distort trade or competition you will be required to evidence this before project assessment by the LAG.

Note: If the project will generate revenue either during or after completion this information will also have to be provided with the state aid assessment to assist with any non-aid decision - the necessary requirements in such circumstances are detailed in Article 61 and 65 of [1303/2013](#)¹⁵, The Common Provisions Regulation.

Article 61 and 65

- If the project is not generating any revenue during implementation or afterwards, then these articles do not apply.

¹⁵ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R1303&from=EN>

- If the funding is subject to the State Aid rules or under de minimis then neither Article 61 or 65 apply because it has already undergone that scrutiny e.g. ABER or GBER, which set certain aid intensities, deducting revenue from the funding would take it below the aid intensity.
- If the project is generating net revenue after completion of the project, look at Article 61:
 - If the total eligible costs of the project (before the deduction of any net revenue) is less than €1,000,000 Euro, then Article 61 does not apply and you turn to Article 65. If the project is generating net revenue during implementation, in accordance with Article 65, LAGs must deduct the net revenue by the final claim, unless the total eligible costs are less than €100,000. If the total eligible costs are less than €100,000 then you do not have to deduct any net revenue.
 - If the total eligible costs of the project (before the deduction of any net revenue) is more than €1,000,000 then Article 61 does apply and LAGs must deduct net revenue in advance.
- If the project is generating net revenue during implementation of the project, but will not after completion, then go straight to article 65.

If the total eligible expenditure is less than €1,000,000 but more than €50,000, LAGs must, under Article 65, deduct actual net revenue generated by the point the final claim is submitted, unless funding is State Aid and provided the project is generating revenue during implementation.

Projects that are State Aid

Block exemption cover - the LEADER programme has State Aid cover under:

- 651/2014¹⁶ General block exemption regulation (GBER) - Aid number SA.41930¹⁷ (2015/X) and
- 702/2014¹⁸ the Agricultural block exemption regulation (ABER) - Aid number SA.41968¹⁹ (2015/XA)

¹⁶ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014R0651&from=EN>

¹⁷ http://ec.europa.eu/competition/state_aid/cases/258648/258648_1652790_11_1.pdf

¹⁸ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014R0702&from=GA>

¹⁹ http://ec.europa.eu/competition/state_aid/cases/258695/258695_1653872_35_1.pdf

Note: Where using the block exemption cover you must also ensure the aid intensity does not exceed that laid out in 1305/2013 Annex II.

Please remember that the stated aid intensities in each Article must be adhered to. All public funding going into a specific project must be cumulated and together cannot exceed the relevant aid intensity. Therefore you will have to establish if the match funding proposed for the LEADER project is coming from a public or private funder.

If either the ABER/GBER allows an aid intensity of 50% then all the public funding received for the same project must be cumulated and must not breach the 50% limit. Cumulation between RDP cover & ABER/GBER cover and between sectors (Agricultural/Industrial/Fisheries) is not permitted. Money provided by the private sector is not State Aid.

The State Aid Unit provides advice to the public sector and should be contacted if you have any queries.

Contact details:

State Aid Unit (SAU)

Tel: 0300 244 1372

Email: State Aid External Mail@gov.scot

Other useful links:

Tests	http://www.gov.scot/Topics/Government/State-Aid/About/state-aid-tests
Examples	http://www.gov.scot/Topics/Government/State-Aid/About/Examples
De Minimis	http://www.gov.scot/Topics/Government/State-Aid/if-its-aid/deminimis
FAQs	http://www.gov.scot/Topics/Government/State-Aid/About/FAQ
De Minimis FAQs	http://www.gov.scot/Topics/Government/State-Aid/if-its-aid/deminimis/DeMinimis-FAQ

2.6.1 Agricultural Block Exemption (ABER) – Regulation EU 702/2014

Description	Art	Intervention Rate	Comments
Investments concerning the relocation of farm buildings	16	100%	The relocation of the farm building shall pursue an objective of public interest.
Investments in connection with the processing of agricultural products Annex I <i>[to the Treaty of the Functioning of the EU]</i> and the marketing of agricultural products	17	Varied by region	Refer to regulation for eligibility conditions and aid intensities.
Start-up aid for young farmers and the development of small farms	18	Per young farmer: Eur 70,000 Per small farm: Eur 15,000	Refer to regulation for eligibility conditions and aid intensities.
Start-up aid for producer groups and organisations in the agricultural sector	19	100% Max Eur 500,000	Refer to regulation for eligibility conditions and aid intensities.
Knowledge transfer and information actions – farmers	21	100%	Aid shall cover vocational training and skills acquisition actions, including training courses, workshops and coaching, demonstration activities and information actions. Aid may also cover short-term farm management exchange and farm visits.
Aid for advisory services	22	Eur 1,500 / advice	The aid shall be designed to help undertakings active in the agricultural sector and young farmers benefit from the use of advisory services for the improvement of their undertaking or investment.
Promotion measures in favour of agricultural products	24	100%	Must meet specific requirements.
Investments in favour of the conservation of cultural and natural heritage located on agricultural holdings	29	100% Eur 10,000 / year for capital works	Refer to regulation for eligibility conditions and aid intensities.

Business start-up aid for non-agricultural activities in rural areas	45	Eur 70,000 / beneficiary	Aid granted to the following beneficiaries: (a) farmers or members of a farm household in rural areas diversifying into non-agricultural activities (must exercise an agricultural activity on the farm at the time of applying) (b) micro and small enterprises in rural areas (c) natural persons in rural areas Aid shall be conditional on the submission of a business plan.
Knowledge transfer and information actions in favour of SMEs in rural areas	47	60% medium sized enterprises 70% micro and small enterprises	The aid shall cover vocational training and skills acquisition actions, including training courses, workshops and coaching, demonstration activities and information actions. Aid to demonstration activities may cover relevant investment costs.

2.6.2 General Block Exemption (GBER) – Regulation EU 651/2014

Description	Art.	Intervention Rate	Comments
Investment aid to SMEs	17	20% small/micro enterprises 10% medium enterprises	The eligible costs shall be either or both of the following: (a) the costs of investment in tangible and intangible assets (b) the estimated wage costs of employment directly created by the investment project, calculated over a 2-year period
Aid for start-ups	22	Refer to regulation aid intensities (various depending on circumstances)	Start-up aid shall take the form of: (a) loans with interest rates which do not conform with market conditions (b) grantees with premium which do not conform with market conditions (c) grants, including equity or quasi equity investment Refer to regulation for eligibility conditions and aid intensities.
Aid for research and development projects	25	100% of the eligible costs for fundamental research; 50% of the eligible costs for industrial research; 25% of the eligible costs for experimental development; 50% of the eligible costs for feasibility studies.	The aided part of the research and development project shall completely fall within one or more of the following categories: (a) fundamental research (b) industrial research (c) experimental development (d) feasibility studies The eligible costs are personnel costs, instruments and equipment, buildings and land (depreciation and transfer costs), contractual research, materials, supplies and similar products. The eligible costs for feasibility studies shall be the costs of the study.
Innovation aid for SMEs	28	The aid intensity will not exceed 50% of eligible costs. In the particular case of aid for innovation advisory and support services, the aid intensity can be increased up to 100% of the	Eligible costs are: - costs for obtaining, validating and defending patents and other intangible assets - costs for secondment of highly qualified personnel from a research and knowledge-dissemination organisation or a large enterprise, working on research, development and innovation

		eligible costs provided that the total amount of aid for innovation advisory and support services does not exceed EUR 200,000 per undertaking within any three-year period.	activities in a newly created function within the beneficiary and not replacing other personnel - costs for innovation advisory and support services
Training aid	31	The aid intensity will not exceed 50% of eligible costs. It may be increased up to maximum aid intensity of 70% of eligible costs as follows: (a) by 10% if the training is given to workers with disabilities or disadvantaged workers (b) by 10% if the aid is granted to medium-sized enterprises and by 20% if the aid is granted to small enterprises	Aid shall not be granted for training which undertakings carry out to comply with national mandatory standards on training or are supported by any other EU or National funding. Refer to regulation for eligibility conditions and aid intensities.
Investment Aid for Energy Infrastructure	48	The amount shall not exceed the difference between the eligible costs and the operating profit of the investment.	Aid shall be granted for energy infrastructure located in assisted areas. The energy infrastructure shall be subject to full tariff and access regulation according to internal energy market legislation.
Aid for Broadband Infrastructure	52	100% Member States shall put in place a monitoring and claw-back mechanism if the amount of aid granted to the project exceeds EUR 10 million.	The eligible costs shall be the following: (a) investment costs for the deployment of a passive broadband infrastructure (b) investment costs of broadband-related civil engineering works (c) investment costs for the deployment of basic broadband networks (d) investment costs for the deployment of next generation access (NGA) networks

			The investment shall be located in areas where there is no infrastructure of the same category (either basic broadband or NGA network) and where no such infrastructure is likely to be developed on commercial terms within three years from the moment of publication of the planned aid measure, which shall also be verified through an open public consultation.
Aid for culture and heritage conservation	53	The amount shall not exceed the difference between the eligible costs and the operating profit of the investment and shall not exceed what is necessary to cover the operating losses and reasonable profit over the relevant period. For aid not exceeding EUR 1 million, the maximum amount of aid may be set, alternatively to the method referred to in regulations, at 80% of eligible costs.	The aid shall be granted for the following cultural purposes and activities: - museums, archives, libraries, artistic and cultural centres or spaces, theatres, opera houses, concert halls Refer to regulation for eligibility conditions and aid intensities.
Aid for sport and multifunctional recreational infrastructures	55	For aid not exceeding EUR 1 million, the maximum amount of aid may be set, alternatively to the method referred to in regulations, at 80% of eligible costs.	Sport infrastructure shall not be used exclusively by a single professional sport user. Refer to regulation for eligibility conditions and aid intensities.
Investment aid for local infrastructure	56	The amount shall not exceed the difference between the eligible costs and the operating profit of the investment and shall not exceed what is necessary to cover the operating losses and reasonable profit over the relevant period.	The infrastructure shall be made available to interested users on an open, transparent and non-discriminatory basis. The price charged for the use or the sale of the infrastructure shall correspond to market price. The eligible costs shall be the investment costs in tangible and intangible assets.

2.6.3 De Minimis

Depending on the type of project and the sector you are supporting, up to 100% of eligible activities can be funded. If you want to fund at higher aid intensity than allowed under the exemption regulations, then you could consider using the de minimis regulations.

However, we would advise only using de minimis if there is no scope under the block exemption regulations due to the reporting obligations and the commitment required from applicants regarding previous de minimis funding in the relevant sectors. You will again also be required to identify the sector LEADER will support as the de minimis limits are different for each sector and cannot be cumulated between sectors.

2.7 Financials/Additionality

Funds are limited and you must therefore make sure that support is directed only to those projects that require it to proceed. UK and European Union legislation requires that the “incentive principle” (or “additionality”) is met in all cases. Applications should not be approved where this is not evidenced.

This may be demonstrated by bank statements, accounts, cash flow forecasts etc. An investment appraisal or financial statement which addresses the question: “Is LEADER funding essential for the project to take place?” could also be considered. The main issues to be covered in considering the need for public funding:

'Additionality'

Government finance rules on appraisal indicate that additionality is present when something happens as a result of an intervention (e.g. a government grant) that would not have occurred in the absence of that intervention.

At its simplest level, additionality rules are met when evidence is provided to show the project would not proceed without funding. It can also be met where the intervention allows the project to proceed more quickly or to a greater extent than would otherwise be the case were there no intervention. Clear and verifiable evidence from a quantitative and/or qualitative perspective should be provided to demonstrate additionality, i.e. that it ‘procures’ tangible outputs/deliverables in support of the LDS that could, for example, be:

- undertaken at a larger scale had the grant support not been provided
- carried out to a higher standard than would otherwise be affordable
- deliver to more beneficiaries
- deliver multiple outcomes

For economic undertakings, applicants should be asked to indicate what steps were taken to secure commercial lending, if any (e.g. approach banks) – this could include copies of correspondence with potential lenders.

Small grants for large scale projects would typically fail the added value test and as a rule of thumb we would not expect to fund projects where the grant requested or required is less than 10%.

2.8 Match funding

Why we need to know: as set out in the applicant guidance, there are two types of match funding:

- private match funding, such as private trusts, charities, businesses, donations and personal donations
- public match funding, such as lottery, local or central government, public bodies (SNH, SEPA, Visit Scotland, Enterprise Agencies)

Below sets out the status of key funders where doubts have existed in the past:

- Crown Estate: Private
- “Seafish” (Industry Authority): Public
- Community Councils: Public
- Common Good Funds: Public
- Colleges/Universities: Public
- Wind Farm incomes: Private (in general this will be private however applicants should provide evidence)

Ultimately it is for the applicant to check, confirm and declare whether match funding is public or private.

2.9 Reasonableness of costs/Procurement

Consideration (admin checks²⁰) of reasonableness of costs must be given to all the evidence and justifications provided by the applicant to support the costs detailed in project applications, claims and any other declarations submitted by the applicant.

The ways in which an applicant can demonstrate project costs is set out in the applicant guidance and includes ensuring public procurement processes or any additional LAG specific requirements have been followed where relevant.

²⁰ Regulation (EU) [809/2014](#) article 48(1)

2.9.1 Admin checks

Admin checks²¹ (referred to in the SLA), undertaken on all applications for support, must include verification of reasonableness of the costs submitted (i.e. costs which LEADER funding is sought to support²²) in the application - see exceptions to the requirement to determine this at application stage below.

Attention should be made where the cheapest quote/tender hasn't been selected and ensure the justification is acceptable, taking into consideration the details in the applicant guidance. Where one of the exceptions above applies, the quotes/tenders can be supplied prior to the payment of the relevant claim.

Note the following exceptions²³:

1. Where the project seeks an intervention rate of $\leq 30\%$ or is a co-operation application²⁴ the admin check to verify reasonableness of costs can be carried out at claim stage (before the grantee is reimbursed) rather than at the application for support stage.
2. Where total eligible project costs are less than €5,000 then reasonableness of costs can be established by a draft budget, with the normal verification check being undertaken on claims²⁵.
3. For projects undertaken by a LAG (i.e. LAG/AB led projects) and covering a group of projects under a common theme²⁶ (this must be clearly demonstrated in the application for support). The admin check to verify reasonableness of costs on each application can be done at the claim stage for that group of projects under a common theme.

2.9.2 Demonstrating Project Costs

The applicant guidance sets out the approach to project costings and associated documentation of applications - also refer to "Demonstrating Project Costs".

For organisations subject to the Public Contracts (Scotland) Regulations, public sector procurement rules apply for the purchases of any goods and services funded under LEADER. We have listed some key organisations below:

²¹ Regulation (EU) [809/2014](#) article 48(1)

²² Regulation (EU) 1303/2013 article 67(1)(a)

²³ Regulation (EU) [809/2014](#) article 48(2)(e) & [2017/1242](#) article 1(2) (amendment to [809/2014](#)(2)(e))

²⁴ 1305/2013 article 35 ("Cooperation")

²⁵ [809/2014](#) article 48(3)

²⁶ [2017/1242](#) article 1(6), an amendment to [809/2014](#) article 60

- Local Authorities
- Architecture & Design Scotland
- Crofting Commission
- Food Standards Scotland
- Health Boards
- Health Improvement Scotland
- Health & Social Care Partnerships
- Historic Environment Scotland
- National Library of Scotland
- National Museums of Scotland
- Scottish Further & Higher Education Funding Council
- Scottish Natural Heritage
- Scottish Fire & Rescue Service
- Police Scotland
- National Park Authorities
- Organisations established by any of the above (or combination)
- Organisations financed wholly or mainly by a contracting authority
- Organisations subject to supervision by another contracting authority (or where more than half of the board of directors/members/individuals are appointed by a contracting authority)

Further details:

- The Public Contracts (Scotland) Regulations 2015²⁷
- Procurement Journey²⁸

2.10 Demonstrating project outputs/targets

Project Monitoring is essential, helping the LAG understand how a project is contributing to the LDS, and should include a suite of LDS specific indicators that are designed to ensure projects can capture and report the relevant data.

The application submitted via LARCs gives prospective applicants the opportunity to set out what they anticipate the project outputs/targets to be and to set out how they consider the project to be aligned to the LDS.

At the assessment stage local LEADER teams must consider how best to assess an application against the LDS objectives and in doing so consider the most appropriate indicator that LAG will wish the project to report against. This may require discussion with the applicant as part of the assessment process, however ultimately it will be for the local LEADER team to determine how the project should report against the LDS, EU and SG suite of indicators.

²⁷ <http://www.legislation.gov.uk/ssi/2015/446/schedule/1/made>

²⁸ <https://www.procurementjourney.scot/procurement-journey>

Each project will have individual outputs/targets which may form conditions of a grant award. These should be SMART – Specific, Measureable, Achievable, Relevant and Time-bound in order to monitor these during delivery and following completion. The monitoring and evaluation data may also be used to help determine measurement.

2.11 Alternative funding options

The applicant guidance sets out what is eligible under the LEADER programme. LEADER teams need to ensure that an application sets out how the proposal contributes to the priorities of the Local Development Strategy.

LAGs also need to be aware of alternative funding opportunities that applicants can apply to. Details of other SRDP schemes are available using the following link:

<https://www.ruralpayments.org/publicsite/futures/topics/all-schemes/>.

Details of some of the most common SRDP schemes that may be closely linked to LEADER are listed below. If an application for the same project has been formally rejected by the relevant decision making committee/group of another SRDP scheme in the same programme period (i.e. 2014-2020) it must not be considered for LEADER funding.

For projects which are more suited to implementation through other Scottish Rural Development Programme funding streams, or which can be funded through other funding programmes, you should explain how the rules on demarcation of funds are being complied with. If other funding is available LAGs should obtain clearance from the relevant funder or funders to ensure no double funding will take place.

2.11.1 Broadband Infrastructure

Funding is available for the development of digital infrastructure through Community Broadband Scotland. This should be considered before being considered by LEADER.

Community Broadband Scotland

Fraser House

Friar's Lane

Inverness

IV1 1RN

Tel: 0800 917 3688

Email: info@communitybroadbandscotland.org

Website:

<https://www.ruralpayments.org/publicsite/futures/topics/all-schemes/broadband/>

2.11.2 Food & Drink

Food processing and manufacturing proposals (including on farm manufacturing and processing) may be referred to the Food Processing, Marketing and Co-operation scheme (FPMC). It is possible that relatively small scale processing and manufacturing may be appropriate for LEADER where there is greater focus on the actions listed below.

Food Processing Marketing and Co-operation Grant Scheme Team
The Scottish Government

Tel: 0300 244 9288

Email: FoodProcessingGrant_Enquiries@gov.scot

Website:

<https://www.ruralpayments.org/publicsite/futures/topics/all-schemes/food-processing--marketing-and-co-operation/>

LAGs may wish to focus in the following areas within the context of the LDS:

- Networks, promotion (e.g. Trails)
- Event(s)
- Hospitality (e.g. cafés, restaurants)
- Retailing (e.g. farmers' markets, farm shops)
- Tourism (e.g. agri-tourism)
- Knowledge Exchange (e.g. learning journeys, attendance at events)

2.11.3 Access

LAGs should consider whether an access proposal is more suited to funding under Agri-Environment Climate Scheme (AECS) (Improving public access) or the Forestry Grant Scheme (FGS - Woodland Improvement Grant - Woods in and around towns) before a proposal goes to full application.

Contact:

- Rural Payments & Inspection Division Area offices²⁹
- Scottish Natural Heritage³⁰

Scheme websites:

- [Agri-environment Climate Scheme - Improving Public Access](#)³¹
- [Forestry Grant Scheme: Woodland Improvement Grant](#)³²

Projects that do not satisfy AECS/FGS are those where:

²⁹ <https://www.ruralpayments.org/publicsite/futures/topics/customer-services/contact/>

³⁰ <http://www.snh.gov.uk/land-and-sea/srdp/srdp-contacts/>

³¹ <https://www.ruralpayments.org/publicsite/futures/topics/all-schemes/agri-environment-climate-scheme/management-options-and-capital-items/improving-public-access/>

³² <https://www.ruralpayments.org/publicsite/futures/topics/all-schemes/forestry-grant-scheme/woodland-improvement-grant/woods-in-and-around-towns/>

- The project is taking place in a settlement with a population over 3000, unless it is in woodland
- The project is a feasibility study
- The paths in question have a sealed or tarmac surface
- Project meets the requirements of other funders & requires match from SRDP
- The project is for interpretation, websites etc.

Therefore there is an opportunity for LEADER to consider these types of project.

2.11.4 Skills Development & Knowledge Transfer

The Knowledge Transfer Innovation Fund (KTIF) scheme provides funding to those involved in primary agriculture to support delivery of vocational training, coaching, workshops, courses and farm visits. KTIF also supports the delivery of on-the-ground improvements in agricultural competitiveness, resource efficiency, environmental performance and sustainability through the funding of partnerships (operational groups). LEADER can support similar actions; however, LAGs should determine whether certain types of actions are more appropriate for KTIF.

Agricultural Development and Crofting Branch
The Scottish Government
Agriculture, Food and Rural Communities Directorate
Tel: 0300 244 6777

Email: ktif@gov.scot

Website:

<https://www.ruralpayments.org/publicsite/futures/topics/all-schemes/knowledge-transfer-and-innovation-fund/>

Note: The delivery of courses will not be eligible where they normally form part of a primary/secondary school, college or university education programme (i.e. National Curriculum) – e.g. HNCs, HNDs, Nationals, Degree etc. per Article 14 of 1305/2013.

2.11.5 European Regional Development Fund & European Social Fund

You should also consider how a funding proposal fits with other wider funding programmes, such as European Rural Development Fund (ERDF) and European Social Fund (ESF). LEADER is better suited to supporting projects that focus on aspects of employability, skills or business growth pipelines that are not funded under ESF or ERDF.

2.11.6 Strategic Interventions and the Lead Partners

Strategic Interventions³³ (SI) are large-scale funding amounts allocated to Lead Partners to distribute to individual projects and organisations seeking financial support for activity deemed eligible based on the strategic aims of the particular SI.

Useful links:

- [Lead partner organisation contact details](#)³⁴
- [European Structural and Investment Funds](#)³⁵

Strategic Intervention	What will it deliver?	Lead partners
Employability Pipeline	<ul style="list-style-type: none"> • Increasing employment opportunities for job seekers, including long-term unemployed and people with multiple employment barriers through the provision of tailored education, training and direct routes into sustainable work. 	Local authorities, Skills Development Scotland
Social Inclusion and Poverty Reduction	<ul style="list-style-type: none"> • Increasing the financial capacity of the most disadvantaged individuals and households in Scotland through targeted training and employment opportunities for lone parent and low income households • Increasing the sustainability and capacity of Scotland's social economy, and enabling disadvantaged communities to develop their own long-term solutions to reduce poverty and social exclusion 	Big Lottery, Local authorities, Scottish Government
Youth Employment Initiative	<ul style="list-style-type: none"> • Providing tailored training, education and skills development to reduce the number of unemployed, long-term unemployed and inactive and socially excluded young people in south west Scotland 	Scottish Funding Council, Local authorities
Resource Efficient Circular Economy	<ul style="list-style-type: none"> • Preserving and protecting Scotland's environment and promoting resource efficiency in business through support for green business growth, eco-innovation and improved environmental performance management in the public and private sectors 	Zero Waste Scotland
Green Infrastructure	<ul style="list-style-type: none"> • Increasing the amount, quality and accessibility of green space in Scotland's towns and cities to benefit health and well-being of people and communities, and to address inequality in deprived areas 	Scottish Natural Heritage

³³ <http://www.gov.scot/Topics/Business-Industry/support/17404/EuropeanStructuralFunds/StrategicInterventions>

³⁴ <http://www.gov.scot/Resource/0048/00485830.pdf>

³⁵ <https://beta.gov.scot/policies/european-structural-funds/>

<p>Low Carbon Infrastructure Transition Programme</p>	<ul style="list-style-type: none"> • Supporting the shift towards a low-carbon economy in all sectors • Promoting low-carbon strategies for all types of territories, and particularly urban areas, including the promotion of sustainable multimodal urban mobility and mitigation-relevant adaptation measures • Promoting research and innovation in, and adoption of, low-carbon technology • Encourage investment in low carbon technology and development to exploit Scotland's vast potential 	<p>Scottish Government</p>
<p>Low Carbon Travel and Transport Programme</p>	<ul style="list-style-type: none"> • Making Scotland a progressive low carbon nation by developing new services and routes for walking, cycling and public transport • Developing a national Smart Ticketing scheme • Creating low carbon transport hubs to increase levels of active travel, reduce car use, and establish a network of low carbon refuelling services across Scotland 	<p>Transport Scotland</p>
<p>Broadband Infrastructure</p>	<ul style="list-style-type: none"> • Enable individuals and businesses across Scotland to access digital services and related business opportunities by extending broadband availability, high speed networks and support for emerging digital technology 	<p>Scottish Government</p>
<p>Smart Cities</p>	<ul style="list-style-type: none"> • Providing support for Scotland's cities to innovate through use of new technology, and to boost the transformation of city services • Develop new infrastructure to support data sharing and open up opportunities for new applications and services based on this data • Piloting smart city technology to allow wider and responsive city management 	<p>Glasgow City Council (Scottish Cities Alliance)</p>
<p>Business Innovation</p>	<p>Strengthening Scotland's research and development activity by:</p> <ul style="list-style-type: none"> • Improving links and collaboration between enterprise, research and development centres and Scotland's higher education sector • Increase the investment in new products and services, technology transfer, social innovation, eco-innovation, public service applications and open innovation 	<p>Scottish Enterprise, Highlands and Islands Enterprise, Scottish Funding Council</p>

Business Competitiveness	<ul style="list-style-type: none"> Enhancing the competitiveness of SMEs by developing their capacity to grow in regional, national and international markets, stimulating economic growth and increasing employment 	Scottish Enterprise, Highlands and Islands Enterprise, West Lothian Council
Developing Scotland's Workforce	<p>Modernising and strengthening Scotland's workforce to increase employment and meet the needs of growth sectors through:</p> <ul style="list-style-type: none"> Strategic expansion of the Modern Apprenticeship scheme Increased further and higher education places for school leavers and adults Flexible approach to education and learning to narrow the gap between vocational and academic activity and better equip Scotland's workforce to meet labour market needs 	Skills Development Scotland, Scottish Funding Council
Financial Instruments		Scottish Government

3. Assessing applications by the LAG Committee

All LAGs must develop a non-discriminatory and transparent process³⁶ to inform decision making, this process may already be defined in the LDS/business plan.

The local LEADER team will undertake a technical assessment of the submitted application, including detailed quotes/tenders as appropriate, providing the LAG with relevant material to allow the LAG committee to then assess the application on an individual basis based on the criteria agreed by them. The LAG will develop their own scoring matrix to inform decision making by LAG committee members.

The attached LEADER scoring matrix offers an example of a possible approach - utilising both eligibility and technical criteria, with each element weighted by the LAG with a total of 100% for each of the 2 categories.

Application of the Matrix:

An example of a LAG Project Assessment and Matrix can be found at [Annex A - LAG Project Assessment & Matrix - Example](#). The suggested matrix sets out how scores might be applied. For example, project scores of '1' are more likely to stimulate project conditions or changes to the project before an offer is made. Project scores of '2' or '3' will generally mean that an application is more likely to succeed once it goes to the full LAG.

³⁶ Regulation (EU) [1303/2013](#) Article 34(3)(b)

The LAG may wish to consider how the scoring criteria can be utilised to meet priorities and/or budget demands, e.g. proportion of High Scores/overall threshold scores.

In this example, LAG members' individual scores and commentary will inform any refinement (to be undertaken by the LEADER team and project assessment group) of the application assessment prior to it being considered by a quorate decision making group.

3.1 Application Decisions

All applications must be decided by a quorate decision making group as defined by the LDS business plan. This means that decisions must be made by a group that is made up of not more than 49%³⁷ public sector representation, and a minimum number of 5 members per decision making group in attendance is required.

Note: The chair of any decision making body and / or overall partnership associated with the LDS must be completely independent. This means they cannot be an employee or representative of the Accountable Body, such as a board member or elected member.

Decisions must be made in an open and transparent way with a well-documented minute of the meeting elaborating fully on the discussions about each application. A well-documented minute is essential to ensuring that there is a very clear and consistent rationale for decisions being made. It is highly recommended that the minute of the decision making meeting clearly sets out who was at the meeting and whether they are representatives from the public or private sector.

4. Complaints

Applicants can complain about:

1. the general standard of service
2. the decision to reject an application
3. the decision to lower the rate of grant from the applied for

4.1 Complaints against the general standard of service

Where an applicant submits a complaint regarding the general standard of service this should be processed through the local Accountable Body's complaints process.

³⁷ Regulation (EU) [1303/2013](#) Article 32(2)(b)

4.2 Complaints against non-selection or percentage of the Grant Offer

Applicants may complain where their project has been rejected or where the rate of grant awarded has been restricted. Further information is available in the applicant guidance. Details about undertaking an independent review are within the complaints section of the applicant guidance.

The independent review should be undertaken by a member of the local LEADER team, LAG, or Accountable Body. They must not have been involved in either processing the original application nor in the decision making process. They must have the appropriate knowledge of the regulations, scheme guidance and application processes.

4.3 Complaints Process

Applicants may submit a complaint up to 60 days from the issue of the outcome letter. Complaints against the general standard of service should be in line with the Accountable Body/internal complaints processes.

Where a complaint is received in relation to the non-selection or the percentage of the Grant Offer, details of Stage One (Frontline resolution) and Stage Two (Investigation) are covered within the complaints section of the applicant guidance.

5. Appeals

Appeals relate to the claims and payment process where a decision to refuse, reduce or recover payments has been made.

6. Breaches and penalties

As set out in the breaches and penalties section of the applicant guidance SG and LAGs have to apply the Commissions procedures for dealing with non-compliance. The powers of recovery are set out in The Rural Development (Scotland) Regulation 2015, making the provision for revocation and variation of approval³⁸, the powers of recovery³⁹ and recovery of undue payments, interest and off set⁴⁰. It also sets out the provision to determine whether a beneficiary has breached the terms of funding, including the applicable regulations⁴¹.

[The Rural Development \(Scotland\) Regulations 2015](#) (SSI 2015 No. 192):

³⁸ Part 2 – regulation 4

³⁹ Part 4 – regulation 17

⁴⁰ Part 4 – regulation 18

⁴¹ Part 4 – regulation 16

The above will apply, where applicable, to payment claims submitted by the applicant to the LAG and reimbursement drawdowns submitted by the Accountable Body to the Paying Agency.

The decision taken to reduce, refuse or recover payments can be applied to an entire project or payment claim. Deductions can be identified in various ways:

- Administrative checks carried out by the local LEADER team and/or the Paying Agency
- Identified during an inspection⁴²

6.1 Penalties

Payments are calculated on the basis of what is found to be eligible during administrative checks and inspections. Any claim submitted that includes costs which were not approved or that are in excess of the amount approved in the grant award (i.e. ineligible costs) by a value of over 10%, will be subject to a penalty.

The penalty will reduce the amount due for payment by the value of the ineligible cost (see example). Where a penalty is applied it should be no more than 100% of the payment claim i.e. the reduction should not exceed the total claim value.

6.2 Breaches

Non-compliance with eligibility criteria or non-compliance with commitments (i.e. the actions which the beneficiary agreed to undertake in return for payments) are considered to be a breach. A breach may result in support being refused or withdrawn in whole or in part, where necessary any payments already made may need to be recovered.

Where there is non-compliance and ineligible expenditure, deductions due to non-compliance shall be applied first.

- Where non-compliance results in the full withdrawal of support (i.e. refusal and/or recovery) there is no further requirement to apply penalties.
- Where non-compliance results in the partial withdrawal of support administrative penalties should then be applied unless the beneficiary is able to remedy the non-compliance within three months - until remedial action is evidenced, support by the paying agency (SG) will be suspended.

⁴² Regulation (EU) [809/2014](#) article 48(5), 49, 50, 51, 52, 53 and 63

Note: The Paying Agency may only suspend support where the non-compliance does not prejudice the achievement of the overall purpose and if it is expected that the beneficiary is able to remedy the situation during the three months.

6.3 Exceptions to breaches and penalties

There may be exceptions to applying breaches and/or penalties i.e. where the beneficiary is able to demonstrate they have been prevented from meeting certain obligations set out below:

6.3.1 Force majeure

Force majeure relates to exceptional circumstances, examples of a force majeure event are highlighted in the [applicant guidance](#). Beneficiaries must write to the local LEADER team within 10 working days knowledge of the event/incident. Force majeure should be considered on a case by case basis and you must carefully consider and evidence decisions taken.

6.3.2 Obvious error

Obvious errors, as detailed in the [applicant guidance](#), may be accepted under the European Commission legislation, obvious errors can only be accepted where the applicant identified it before being notified by the competent authority undertaking the check i.e. local LEADER team or paying agency (SG).

An obvious error can be accepted where you are satisfied that the beneficiary acted in good faith and there is no risk of fraud. In such circumstances penalties need not be applied to any payment due. You must carefully consider and evidence decisions taken.

Annex A - LAG Project Assessment & Matrix - Example

LAG Project Assessment

Project Name:	
Project ID:	
LDS Area:	
LAG Meeting Date:	
LAG Member Name:	
Score Awarded:	

Member Comments

Eligibility Criteria	Assessment Criteria	Weighting	High (3)	Medium (2)	Low (1)	None (0) (no evidence to support the criteria)	Project Score
	Strategic Fit Extent to which the project aligns and delivers against the LDS and is integrated with other related activity and other EU, national and local strategies		There is clear fit with at least 2 LDS aims and clear links with related activities or strategies	There is a fit with 2 LDS aims; however, there is minimal link with related activity or strategies	There is a fit with 1 LDS aim. No link with related activity or strategies		
	Return on Investment Extent to which the project will deliver positive economic benefits - including leverage of funding, economic growth and rural development		Clear demonstration of a high value contribution and significant economic benefits including leverage against level of investment, economic growth and rural development	Demonstrated return on investment proportionate to level of investment sought	Return on investment will be low and added value is unclear for economic rural development		
	Equality Extent to which the project has considered and can demonstrate a positive impact for groups identified as vulnerable to exclusion or hard to reach in the LDS (and its Equality Impact Assessment) - (e.g. young people, elderly and disabled, business community, carers often women, communities which have had little engagement with CLLD, people on low wages, ethnic minority groups)		Clear demonstration of equality consideration in project development and strong, measurable and direct impact for vulnerable and hard-to-reach groups	Demonstration of equality consideration in project and measurable impact for vulnerable and hard-to-reach groups	Some impact demonstrated for vulnerable and hard-to-reach groups but not directly measurable		
	Knowledge sharing Extent to which the project stimulates knowledge sharing between sectors and individuals		Project demonstrates a clear plan for knowledge sharing to inform project design, delivery and future rural development which crosses sectors and supports peer to peer learning	Project involves an element of knowledge sharing between more than one sector and between individuals in the development, delivery or evaluation phase	Project identifies an element of knowledge sharing between individuals in delivery of the project		

Fostering Innovation * Extent to which the project is fostering novel approaches and ideas.		The application of the approach or idea is novel and/or the learning will be applied more widely	The application of the approach or idea has the potential to stimulate wider application beyond the project	The approach or idea is not particularly novel		
Partnership and collaborative working Extent to which project has identified, engaged and involved appropriate delivery partners to maximise impact and ensure broad-based buy-in and support to avoid duplication of effort		The project is delivered by a comprehensive stakeholder partnership across sectors to ensure effective project delivery and demonstrate best practice	The project is delivered through a partnership of stakeholders to ensure successful delivery	The applicant has identified partners which have agreed to engage in delivery of the project to ensure successful delivery		
Legacy Extent to which the project will deliver impact/benefit beyond the funding period		The project will have impact beyond the funding period	The project is likely to have impact beyond the end of the funding period	The project will deliver minimal impact		
Engagement and support - Extent to which project has comprehensive stakeholder buy-in, participation or ownership		There is strong rationale and evidence of stakeholder analysis with key stakeholders supportive of and involved in the project	There is sound and adequate rationale and evidence (consultations, statistics, research) that key stakeholders have been engaged and involved and support the project	There is some limited anecdotal or out of date evidence that key stakeholders have been engaged and involved and support the project		
Meeting a Need or Demand Extent to which the project is responding to evidence of need or gap in provision		The project has presented strong and comprehensive evidence of need or gap in provision	The project has presented significant evidence of need or gap in provision	The project has presented limited evidence of need or gap in provision		
Additionality Extent to which the need for LEADER investment is evidenced in terms of allowing the project to proceed and enhancing the project through the LEADER approach and investment		Clear and compelling evidence that the project cannot proceed without LEADER investment	Evidence that the project requires LEADER investment to deliver desired impact and outcomes	Evidence that LEADER investment will enhance project delivery		

Technical Criteria	Organisational Competence Extent to which the right level of resources with the necessary skills and organisational capability are in place and effective	The organisation has a well-established track record of project management/delivery in this area and has evidenced its capability to deliver	The organisation has a known track record of project management /delivery in this area and has presented some evidence of capability to deliver	The organisation has presented some evidence of experience and capability to deliver in this field		
	Robust delivery plans Extent to which the project plan (deliverables, timescales and milestones) can be relied upon	The project has robust plans in place and there are sound reasons to expect that delivery performance will be good	The project plans are mostly in place and reliable and any identified delivery issues are believed to be manageable	The project plans are partially in place but significant delivery issues are apparent and not mitigated within the plan		
	Outputs Degree of certainty that the projected outputs for the project are deliverable, measureable and achievable	There are clear and convincing reasons to trust the project projections as presented	The assumptions underpinning the project projections are well founded	There is limited evidence presented that projections are deliverable, achievable or measureable		
	Exit Strategy Extent to which there is a clear and sustainable exit strategy in place and there is no risk of grant dependency whilst ensuring the legacy remains	There is a robust and convincing Exit Strategy with no risk of dependency	There is a clear Exit Strategy and organisational dependency is unlikely	The Exit Strategy for this project is unclear and there is a possible risk of dependency		
	Displacement/distortion Extent to which there is evidence of distortion and/or displacement and extent to which distortion and/or displacement will be managed	All distortion / displacement issues have been fully explored and mitigated	Displacement/distortion issues evident; however, clear mitigation strategy in place and community benefit justification given	Distortion/ Displacement and some justification given		
	Organisational compliance Is the project compliant with all relevant rules and regulations?	There is clear evidence of compliance	The project appears compliant	There are some concerns/unknowns in the field of compliance		

*Innovation - For the use of LEADER LAGs Fostering Innovation may also be demarcated as follows:

- 1) Product Extension: supporting the same basic initiative, perhaps with some slight modifications; or using the same initiative in a new location.
- 2) New Platform Product: supporting the development of a new initiative (based on existing) which may itself result in product extensions, as in 1 above.
- 3) New to the Company Products: importing initiatives that have proved successful elsewhere but have not before been tried in the area.
- 4) New to the World product: supporting the development of something that has never been done before, for which at present no market exists.

Annex B - LEADER and State Aid

This document should be used by LAG staff during the Technical Assessment of applications. Before approving any proposal for funding you need to assess whether or not the funding constitutes State Aid.

When State Aid does not apply

State Aid does not apply to non-economic activity. For example: the renovation of a village hall which will then be used by the local populace for meetings, youth clubs and playing sports e.g. a local badminton club.

If you are certain that the activity is non-economic then you do not need to assess for State Aid any further.

When State Aid applies

State Aid rules apply to actions involving economic activity (the offering of goods and/or services in a given market).

State Aid rules do not distinguish between the legal status of organisations (e.g. charities, social enterprises, private businesses), it is the activity they are involved in and what they intend to do with the funding that is important.

This means that when you are assessing whether State Aid is to be considered or not it is the proposed actions to be funded which are the most important criteria. What will the organisation be doing with the funding? Will the activity be economic?

Economic activity

If we take the example of non-economic activity used previously, i.e. the renovation of the village hall for community use, if that village hall is renovated with the intention of people paying to use the facilities for a range of purposes then this would be regarded as economic activity.

The State Aid Tests

If an action is regarded as an economic activity then the assessor needs to consider the application for funding against the four State Aid tests. If all four State Aid tests are met then State Aid is present.

The four State Aid tests are:

1. Has there been an intervention by the State or through State resources? (This test will always be met because LEADER funding constitutes a state resource)
2. Does the intervention give the recipient an advantage on a selective basis? This test will be met because LEADER funding is seen as being selective.

3. Will the intervention distort / or be likely to distort competition?
4. Is the intervention likely to affect trade between Member States?

It is likely that some LEADER projects may not meet the 3rd test. If there is a likelihood of distorting competition it may then fail the 4th test because any distortion has to be likely to affect trade between Member States.

Definition of distortion:

A measure granted by the State is considered to distort or threaten to distort competition when it is liable to improve the competitive position of the recipient compared to other undertakings with which it competes. For all practical purposes, a distortion of competition within the meaning of Article 107 Treaty on the Functioning of the European Union (TFEU) is assumed as soon as the State grants a financial advantage to an undertaking in a liberalised sector where there is, or could be, competition.

For a measure to be considered as not having any effect on intra-Community trade, there should be the following features:

- a) that the aid does not lead to investments being attracted in the region concerned and;
- b) that the goods/services produced by the beneficiary are purely local and/or have a geographically limited attraction zone and;
- c) that there is no more than marginal effect on consumers from neighbouring Member States and;
- d) that the market share of the beneficiary is minimal on any relevant market definition used and that the beneficiary does not belong to a wider group of undertakings.”

No aid case examples

In some cases it may be possible to argue that undertakings operating in a remote location will be unlikely to affect intra community trade, depending on factors such as size and access to markets i.e. how large is the geographical scope of the economic activity If it is small (e.g. low turnover, low number of people using the service, users predominantly local) then it will not be likely to distort intra community trade.

The cases detailed in [EXAMPLES: No Aid](#) lists some Commission State Aid decisions which may have similarities to the projects which you wish to fund. They may be helpful for evidencing a no aid argument.

If you feel that a no aid argument can be evidenced then you do not need to assess for State Aid any further. If you are unsure and would rather explore options to fund the activity as compatible State Aid or feel that the funding would constitute State Aid then you will need to explore how the aid can be granted. [EXAMPLES: State Aid](#) provides some analysis on previous LEADER projects.

Next steps

If you feel that the activity which you wish to fund is State Aid then the next step is to decide the best way to do this in compatibility with State Aid rules. We would initially advise looking at the cover available in the block exemption regulations. Depending on the type of project, up to 100% of eligible activities can be funded. If you want to fund at a higher aid intensity than allowed under the exemption, then you could look at utilising de minimis. However, we would advise only using de minimis if there is no scope under the block exemption regulations.

Block exemption cover

The LEADER programme has State Aid cover under the General block exemption regulation (GBER) scheme number SA 41930 and ABER the Agricultural block exemption regulation (ABER) scheme number SA 41968. More information on what activities can be funded and applicable aid intensities can be found through the following links:

GBER

<https://www.ruralpayments.org/publicsite/futures/topics/customer-services/common-agricultural-policy/state-aid-and-legal-base/state-aid--leader/reg-651-2014/>

ABER:

<https://www.ruralpayments.org/publicsite/futures/topics/customer-services/common-agricultural-policy/state-aid-and-legal-base/state-aid--leader/reg-702-2014-/>

Annexes (4) and (5) provide a summary of the activities which can be funded under the relevant articles which have been notified under the regulations; the full text of the regulations can be found here:

http://ec.europa.eu/agriculture/stateaid/policy/feedback-aber/draft-aber-2_en.pdf

http://ec.europa.eu/competition/state_aid/legislation/gber_regulation_en.pdf

Please remember that the stated aid intensities in each Article must be adhered to (all public funding going into a specific project must be cumulated and together cannot exceed the relevant aid intensity).

Reporting

If you choose to award the aid under one of the block exemptions you must keep a record of how much aid was given and under what Article of the regulation as you will be required to report this on an annual basis. Any individual aid amount granted under the ABER which exceeds €60,000 for beneficiaries active in primary agricultural production and €500,000 for those active in the processing and marketing of agricultural products and forestry products has to be published on a website at national or regional level.

Information required by the Commission is detailed in Annex III of the ABER and GBER. SG LEADER team will gather this information on an annual basis and report to the State Aid Unit for publication on their website.

There is a similar provision in the GBER where any aid amount exceeding €500,000 will have to be published on a website. Again, Annex III has to be completed if this is the case.

De minimis

If the aid given through LEADER (plus any other de minimis funding to the same beneficiary) does not exceed €200,000 over any consecutive three-year period, then this may be able to be given as de minimis funding in conformity with Regulation (EC) No 1407/2013. (The limit for activities related to agricultural production is €15,000.) If an entity is involved in both agricultural production and non-agricultural activities they can receive both agricultural and industrial de minimis but cumulation rules will apply i.e.:

€200,000 Industrial de minimis aid considered to fund a project
- €15,000 Applicant has received €15,000 during a 3-year fiscal period
€185,000 Maximum de minimis which can be awarded

The European Commission considers that public funding to a single recipient of up to €200,000, for entities not involved in agricultural or fisheries production, over a 3-year period has a negligible impact on trade and competition, and does not require notification. The aid can be given for any purpose, including operating aid.

This does not mean that all funding under the €200,000 ceiling should be awarded as de minimis. It is strongly recommended to give even small amounts as aid under a specific approved scheme, if possible, and to keep de minimis cover as a back-up for when there are no other options.

- The de minimis limit for the agriculture sector is €15,000 during the fiscal year of the award and the two preceding fiscal years.
- The de minimis limit for the industrial sector is €200,000 during the fiscal year of the award and the two preceding fiscal years.
- The de minimis limit for the Fisheries sector is €30,000 during the fiscal year of the award and the two preceding fiscal years.

The de minimis ceiling takes into account all public funding given as de minimis over the previous 2 years and the year in which it is given. The funding doesn't need to have been given as a grant; it can be in the form of a loan, or a guarantee. Aid given under an approved scheme does not have to be cumulated with de minimis aid, provided any such de minimis aid is not awarded towards the same eligible costs as those supported via that approved scheme.

Administration of Industrial de minimis

When granting de minimis aid you must ensure that the new award does not breach the relevant ceiling over a 3-year fiscal period.

You must ask the beneficiary concerned about any de minimis aid received during their own current and the previous 2 years and determine how much de minimis aid can still be awarded without breaching the relevant ceiling.

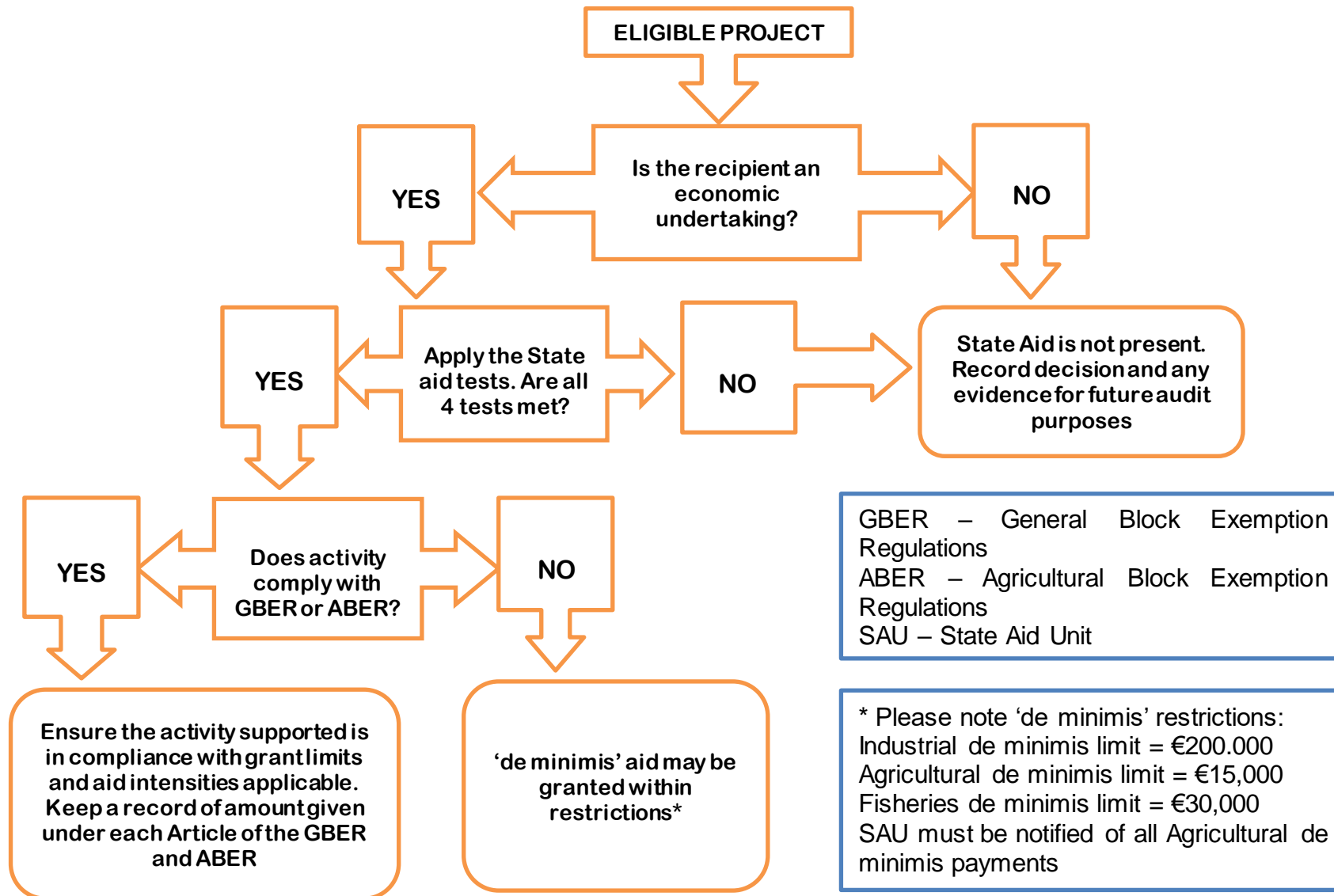
You must also inform the recipient explicitly that it is de minimis aid you are giving them, for their future reference. The offer letter should include the value of the award in Euros and the following paragraph (which can be adapted depending on the relevant ceiling being employed):

“Under EC regulation No 1407/2013 (de minimis aid regulation); this is a de minimis aid. There is a ceiling of €200,000 for all de minimis aid provided to any one firm over a 3-year period. Any de minimis aid awarded to you under this offer letter will be relevant if you wish to apply, or have applied, for any other de minimis aid. For the purposes of the de minimis regulation, you must retain this letter for 3 years from the date on this letter and produce it on any request by the UK public authorities or the European Commission. (You may need to keep this letter for longer than three years for other purposes.)”

Agricultural de minimis

This regulation allows limited amounts of aid to be given for activities related to the production of agricultural products (e.g. live animals, meat, fruit, vegetables, etc.). It does not apply to the processing and/or marketing of these products. The maximum that can be given to any beneficiary is €15,000 over any consecutive three-year fiscal period. Each Member State also has a limit on the total amount of aid that can be given under this Regulation, which means that all agricultural de minimis awards must be registered with the State Aid Unit. It doesn't have to be given in the form of a grant, but must be in a form that is quantifiable in advance e.g. a loan. It cannot be given to 'top up' aid for the same activity under any other provision if the total aid breaches the maximum allowed under that provision.

LEADER - State Aid Process



'No Aid' – Case Examples where the Commission decided that no State Aid was present:

1. Cultural Aid for multifunctional community cultural centres, museums, public libraries and complementary higher education centres (N 293/2008 & SA 37043)

In this case the Hungarian authorities wanted to fund libraries, cultural centres (community centres) and museums. The Commission concluded that the following activities did not constitute aid:

“First, concerning cultural centres, aid will be available for the modernization, i.e. the extension, renovation and conversion of existing cultural centres. Exceptionally the creation of a new centre can also be financed. The scheme defines in detail the investments which may be supported by the aid. These are as follows: creation of spaces for hobby courses, classes, lectures for the popularisation of sciences; creation of spaces for ethnic and national minority cultural events; creation of audience halls for drama, dance, musical performances with the appropriate audio and lighting equipment; creation of rooms for practicing fine arts, i.e. painting, sculpting with necessary equipment; creation of rooms for free public education activities on health, environmental protection, family life; creation of classrooms and laboratories for extracurricular activities for elementary and secondary school students, which form a part of the state's public education obligations; installation of mobile stages with necessary audio and lighting equipment; creation of small libraries and other public collections; creation of spaces suitable for café and restaurant; creation of spaces and installation of tools necessary for interactive, free exhibitions on the regional innovation activities; provision of free internet access; creation of playing rooms for little children and bicycle storage facilities.

Concerning museums, aid will be available to finance the following investments: creation of lecture rooms, resting corners, children rooms; equipping museums with audio-visual demonstration tools; conversion of stocks into spectacle stocks open to the public; installation of interactive multimedia equipment for demonstration purposes; installation of computer terminals giving access to the digitalized content of the museum; the making available in a digital format the content of the museum on the internet.”

Importantly the Commission distinguish between the activities which will not affect trade and those that will:

“Concerning the affectation of trade between Member States, the Commission acknowledges that many of the activities concerned are of a purely local nature. For example the improvement and upgrading of the community centre of a small village is very unlikely to affect intra-Community trade. However, support to these kinds of institutions is very different to public support going to large cultural and conference centres of large towns situated close to the border. The

performances (especially those not involving language barriers, i.e. music, dance), the exhibitions and the conferences can attract consumers from other Member States. Moreover the aid may hinder investments from abroad by undertakings that might consider providing similar services in Hungary.”

In its assessment of a measure in Poland^①, the European Commission found that public funding of commercially used infrastructure did not constitute State aid because they were of a scale (two rooms for training and conference purposes with a capacity of 20 people and accommodation facilities also with a capacity of 20) that wouldn't distort tourist flows from other Member States.

In another example^②, when the Commission investigated several non-profit organisations (mostly sailing clubs) that had received public funding to improve marinas, it concluded that some local distortion of competition was probable but that this was not on a scale sufficient to distort intra-EU trade. The key criterion that assisted this conclusion was that foreign tourists used only 0.25% - 14% of moorings in these marinas.

2. Irish Rural Development Programme (SA 34223)

This scheme was notified to cover 'basic services for the economy and rural population' and 'village renewal and development'. Fundable activities were listed as:

- amenity and leisure facilities
- support for cultural activities
- certain arts facilities
- general community and recreational infrastructure
- innovative activities in local communities, e.g. social and information networks, etc.

Examples of projects were listed as:

- the building or renovation of indoor multi-purpose facilities used by voluntary organisations for social, training, cultural and sporting activities
- Family and Community Resource Centres which provide meeting space for community groups and rooms for voluntary organisations to offer counselling
- environmental upgrading of parks, civic areas, river walks, etc.
- public utilities such as street lighting, etc.
- general surface upgrading and renovation of derelict buildings, excluding traditional farm buildings
- farmers' markets

The only activity which the Commission highlighted as being economic was the farmers' markets and even then they did not advise that it would be distortive. Helped by the fact that the Irish promised to limit any aid

^① State aid case SA.34891 (2012/N) State support to Przemysl Stronghold

^② OJ C 69, 22.3.2003, p4

to undertakings to de minimis levels €200,000, nevertheless, the Commission did not express any concern over distortion of trade. They specifically stated that the environmental upgrading of parks, civic areas, and river walks is not aid and neither is the provision of public utilities such as street lighting.

3. Czech Republic – Infrastructure for Tourism (SA 35909)

This scheme was notified in 2013 and runs until 2015. It has an annual budget of approximately €9m. The funding is for 4 different categories of aid:

- 1) Renovation of cultural monuments and developing them for tourism purposes
- 2) Reconstruction of access routes and building of parking areas, restrooms etc.
- 3) Nature trails and paths for hikers and cyclists
- 4) Centres for recreational, educational and leisure activities

All of the listed activities above were deemed not to be State Aid by the Commission. The construction and renovation of cultural monuments was seen as a non-commercial project and the planned number of visitors was on a small scale in the context of the EU internal market, and was not aimed at attracting visitors from outwith the Czech Republic. The associated infrastructure including a ticket office, a souvenir shop and a multifunctional space for rest and relaxation was also not deemed to be state aid.

The construction of nature trails and paths for cyclists and hikers, was not aid and neither was the construction of centres for recreational, educational and leisure activities. One such project, an eco-technic centre in Trebic, involved the construction of an interactive entertainment/educational centre with exhibitions focused on the development of the energy sector. The grant amounts vary from a minimum of €80,000 to €3.3m.

4. Latvian Culture Programme (SA 34462)

This scheme supports civic centres, museums, cultural educational institutions, theatres and libraries.

The Commission believed that the funding which was going to large scale cultural institutions such as the National Opera and the New Theatre of Riga was state aid because “they were organising cultural events which may attract a wide number of foreign visitors e.g. the Latvian Song and Dance Festival” which could attract cross border tourism and therefore could have an impact on trade between Member States. The Commission concluded that funding towards these activities was compatible aid under the cultural derogation Article 107 3 (d).

Importantly the Commission concluded that many of the activities being supported were of a local nature, and the “probability that they would affect intra-EU trade, in particular by attracting cross border tourism, is negligible”. They believed that the following activities fell into this category “cultural infrastructure of local significance, institutions of local municipalities such as civic centres, or local museums, libraries or local cultural events”.

5. Glenmore Lodge (SA.37963)

Glenmore Lodge, which is operated and subsidised by SportScotland, a public body, is Scotland's "National Outdoor Training Centre". It is active in two areas: certification courses for mountain coaches and instructors, offering qualifications recognised by sports governing bodies in the UK and, to a lesser extent, training in mountain skills and mountain sports for the general public. The Commission found that the support from SportScotland does not have an effect on trade between Member States and therefore does not constitute State aid because the major part of Glenmore Lodge's activity is targeted at a regional or at most national customer base, and because there is no positive evidence of cross-border investments or establishment for the sort of services offered by Glenmore Lodge.

6. Investment aid for Lauwersoog Port, The Netherlands (SA.39403)

The investment project in the port of Lauwersoog consists in a lengthening of the quay in its fishing port, modernising its marina for pleasure boats and constructing a floating platform for recreational fishing. Lauwersoog port is mainly used by small fishing vessels which choose a port mainly in view of its geographical proximity to the relevant fishing grounds. The investment will not lead to a significant increase in the port's capacities and, in particular, will not increase its capacity to cater for larger ships. Thus, the investment in the fishing port is targeted at a local market and will not have any significant effect on the patterns of trade between Member States in the sense that it would not provide incentives to fishermen from other Member States to use the Port of Lauwersoog rather than fishing ports in other Member States. The parts of the project aimed at recreational activities are also clearly targeted at a local market (the marina only has 60 moorings) and, as such, will not have any negative effect on cross-border trade.

7. Germany, Urban project Society - Kiel" (SA.33149)

"Projektgesellschaft Kiel-Gaarden GmbH" is owned and run by the City of Kiel. It provides, on a very small scale, free information, advisory and consultancy services to interested individuals, newly created firms and SMEs in order to increase the attractiveness and economic activity in Kiel-Gaarden. Its services are exclusively provided locally, in Kiel-Gaarden, which is a disadvantaged part of Kiel benefitting from urban development measures. In addition, the Commission found that there was no evidence of relevant cross-border investments for such services which provide basic advice to very small businesses in socially disadvantaged urban areas.

State Aid Example 1

Applicant Organisation: Independent Business Group

Project: Developing a website

Total Project Costs: £25,000

LEADER Grant: £12,500

Overview - To establish a marketing body to promote a local island area as a destination for leisure sailing by providing information on harbour, community facilities and attractions throughout the islands. Target market is the Scottish, UK and international leisure sailing market and other marine environment users.

Project Activities - To commission a marketing resource for six months to gather and collate community and facility information; develop web presence and undertake initial marketing launch activities; design and creation of map based brochure/flyer highlighting existing facilities and attractions and possible sailing routes around the islands. The brochure/flyer will be launched and available on-line and at key marketing outlets.

State Aid Tests

1. *State resource?* Leader funding is imputable (e.g. attributable) to the state. Test met.
2. *Selective advantage?* The business group are the sole recipients of the funding and the funding pays for the creation and publishing of a marketing resource for their business and geographic area. Test met.
3. *Distorts trade?* If the marketing tools provide information on all harbour and community facilities on a non-discriminatory basis, the opportunity to be part of the brochure/web presence is open to all, the activity is not profit making, entries are neutral with standard information and does not promote one facility over another, this could be deemed as public purpose destination marketing and information provision and will not distort trade as a private player would not provide the same level of information on a commercial market. However, if there are similar publications and websites that offer the same type and level of information on services without public funding, then the funded activity may distort the market and it may be challenged as to why public resources are required. Risk based decision.
4. *Likely to affect intra-community trade?* The activity targets the international leisure sailing market which is more likely to be deemed to have an effect on intra-community trade. However, it could be argued, as test 3 above, that there is no market for the level of information provision the funding supports. Also, the Commission has in several cases considered that, due to their specific circumstances, certain activities had a purely local impact and consequently did not affect trade between Member States. Common features of such decisions are that: there is at most a marginal effect on the markets and on consumers in neighbouring Member States so the activity may not be likely to affect intra community trade if data can be provided to show that

international visitor numbers are expected to be very low. See Dutch Marina cases below³. Risk based decision.

State Aid advice

If the activity fits with and strengthens the authorities public purpose of destination marketing and information provision and the information provided covers all local facilities on a neutral basis, a 'no aid' position could be taken as the measure is unlikely to distort the market.

However, if the marketing materials and website include commercial activity that is not part of information provision or destination marketing e.g. offering online accommodation booking services or charging for advertising, this would distort the market for tourism/sailing goods and services and will be deemed as 'aid'. The activity may be able to be funded only if it is not provided by a commercial market and it complies with State Aid rules (see page 4 of this guidance for de minimis aid) or is on a wholly commercial basis with separation of accounts.

Risk of Aid - Low to Medium

Low - At least one of the four tests does not appear to be met and evidence supports this.

Medium - Possible presence of aid. State Aid cover may be appropriate but is a risk based decision dependent on available evidence.

State Aid Example 2

Organisation: Mountain biking

Project: Mountain bike trails

Total Project Costs: £387,556

LEADER Grant: £93,778

Overview: Mountain biking is a partnership organisation with Scottish Enterprise and Forestry Commission Scotland as founding members. The Mountain biking company run and maintains seven mountain biking centers spanning the south of Scotland, from the heart of the Scottish Borders to Dumfries and Galloway. It was established to sustain the future management of mountain biking in the South of Scotland.

Project Activities: The main aim of the project is to maintain and run the 7 mountain bike trails owned by FCS. The trails are open to all and are free to access. However, part of the project involves funding of an on-line shop and retail sales. Other companies can advertise on the website but they pay a market rate to do this. The aim of the website is to encourage more people to use the trails.

³ **Dutch Marina cases Marina** in the Netherlands improving pontoon infrastructure produced data to show that 14% of their moorings were used by international visitors. The Commission concluded that, even if some distortion of (local) competition is not excluded, the support (if any) to the alleged marina has no effect on trade. A link to the full decision can be found here:

http://ec.europa.eu/competition/publications/cpn/2004_1_86.pdf

State Aid Tests

1. *State resource?* Leader funding is imputable to the state. Test met.
2. *Selective advantage?* Mountain biking are the sole recipients of the funding and the funding pays for the maintenance of the trails, an online shop and retail activities. Test met.
3. *Distorts trade?* Much of what Mountain biking does could be classed as non-economic. Maintaining and operating the mountain bike trails with free access to all on behalf of the public funders is unlikely to be classed as economic. However the marketing and retail activities are economic. Risk based decision, for the retail activity this test is likely to be met.
4. *Likely to affect intra-community trade?* In relation to the retail activity and marketing if it is aimed at the local community and not overseas then there would be a strong case to suggest that this test would not be met. If overseas business was a tiny proportion of the overall custom then again it could be argued that this test was not met. However, overseas marketing would increase the risk of state aid being present. Risk based decision.

State Aid advice

Funding for the non-economic aspects of the organisation would not be classed as State aid. For the economic activities, retail, marketing, State Aid would have to be considered. If the marketing was solely aimed at the local area then a no aid argument would be possible. If it is aimed at attracting business from overseas it becomes more difficult to maintain a no aid position. For certainty the funding could be split into no aid for the non-economic activities and de minimis aid for the economic activities.

State Aid example 3

Organisation: Regeneration Ltd

Project: CAN Regenerate

Total project costs: £54,110

LEADER grant: £27,055

Overview: Regeneration Ltd is a social enterprise focusing on environmental projects, including recycling and local food growing. It became apparent to the organisation that furniture was a part of the waste stream that could be dealt with much better and that young people just starting out, are always in need of cheap but good quality furniture. Therefore, the obvious thing to do was to set up a furniture re-use center.

Project Activities: This project aims to offer workplace experience and train young unemployed people in electrical repairs and furniture restoration, by establishing a repair workshop. The project will employ an electrician and an assistant who will be trained in furniture restoration. The two recruited staff will organise training, workplace experience and volunteering for 20 young unemployed people. The project will produce furniture and domestic electrical appliances for sale at affordable prices to people on a low income.

Before we look at the tests it is important to assess whether the recipient is an undertaking. The selling of furniture and electrical goods is an economic activity. However, for this project it could perhaps be argued that the training of the unemployed people is not an economic activity.

State Aid Tests

1. *State resource?* Leader funding is imputable to the state. Test met.
2. *Selective advantage?* The organisation is the sole recipient of the funding and the funding pays for two members of staff and training for 20 unemployed people. Test met.
3. *Distorts trade?* Any distortion of trade seems unlikely. The project is operating in a very small area, and the main aim is to train the unemployed, so they will be the main beneficiaries. However, it could potentially affect other furniture/electrical retailers in the local area. Unlikely to be met
4. *Likely to affect intra-community trade?* The retail activity appears to be aimed at the local community and not any further afield than this. If the trading area went beyond the local area then the risk of state aid being present becomes greater. Highly unlikely to be met

State Aid advice

Regeneration Ltd is an undertaking, however it appears to operate in a very localised area. In this particular project the beneficiary organisation is getting 2 members of staff paid for who will help produce electrical and furniture products for sale. However, the main beneficiaries seem to be the unemployed people getting the benefit of the training. On that basis and the local nature of the project, the funding seems highly unlikely to constitute State Aid.