

'CO-FINANCING GUIDE (Last Updated February 2007) - Guidance for applicants - Part 1C'

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Beneficiaries for ESF purposes

A beneficiary is someone taking part in an ESF-funded project who is legally resident in Britain (or Gibraltar for those covered by applications submitted by the Government of Gibraltar) and satisfies the criteria appropriate to the Measure for the particular Objective. Employers, employees and companies may also be beneficiaries where the project is funded under a Measure aimed at helping companies.

Small and medium-sized enterprises (SMEs) (Last updated April 2006)



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Both in the UK and Europe research indicates that the need for ESF-type activities is greater in smaller organisations. So ESF will be targeted at SMEs. That is not to say that larger companies do not have a very positive role to play in helping the smaller ones. For further guidance on what type of activity is eligible, see under the individual measures.

For ESF purposes an SME is defined as an enterprise which has:

- fewer than 250 employees; and **either**
- an annual turnover of 50 million euros or less; **or**
- an annual balance-sheet total of 43 million euros or less.

Where it is necessary to distinguish between small and medium enterprises, the 'small enterprise' is defined as an enterprise which has:

- fewer than 50 employees; and **either**
- an annual turnover of 10 million euros or less; **or**
- an annual balance-sheet total of 10 million euros or less.

Where it is necessary to distinguish between small and micro enterprises, the 'micro enterprise' is defined as an enterprise which has:

- fewer than 10 employees; and **either**
- an annual turnover of 2 million euros or less; **or**
- an annual balance-sheet total of 2 million euros or less.

The European Commission's definition of micro, small and medium-sized enterprises was revised on 1 January 2005 in Commission Recommendation 2003/361/EC (6 May 2003), and are as described above. The new definition also sets out the types of enterprises, such as 'autonomous' (or independent) or 'partner', to be taken into consideration when calculating staff numbers and financial amounts.

Commission Recommendation 2003/361/EC can be found in the "[Regulations](#)" section of the "Library".

ESF and large companies

ESF funding can, among other things, be used for training employed people. Employed people benefiting from ESF funding will almost always be employees of SMEs. Large companies may exceptionally apply for funding if they are working in partnership with SMEs and the majority of beneficiaries are from SMEs. In special circumstances, large companies may receive ESF funding if, for instance, there is an immediate danger of large-scale redundancies which will impact on SMEs within the local community.

Unemployment

Within certain measures, ESF can only be used to support either unemployed or long-term unemployed beneficiaries. If you apply under these measures, you must make sure that the beneficiaries meet these criteria and you should be able to show that they meet them.

For ESF purposes unemployment is a period where a person is not in paid employment (subject to certain exceptions). Claiming a benefit allowance from Jobcentre Plus is not needed as evidence of unemployment. However, it is your responsibility to make sure that you accurately record the length of time all the beneficiaries were unemployed before they started on an ESF project.

The following are considered as periods of unemployment. Time spent: on Jobseeker's Allowance;

- on Income Support;
- on Incapacity Benefits;
- on Invalid Care Allowance;
- on a New Deal Option or Gateway (except the employment option);
- in custody.

The following conditions **do not affect** qualifying periods of unemployment for beneficiaries:

- periods of unpaid work;
- casual or temporary work of not more than four weeks;
- part-time work of less than 16 hours a week in total, provided that the skills needed for the work will not lead to greater involvement in the labour market;
- time spent on an earlier ESF project where the current project will develop the previous one. Where you cannot clearly show this, the beneficiaries will need to serve the qualifying period again. Beneficiaries may only continue to work on the current project if you agree; and
- time spent on government-funded programmes under four weeks long such as New Deals or work-based learning where people are not considered part of the workforce.

The following **do not count** as periods of unemployment:

- time spent on work-related government programmes such as New Deal where people are considered to form part of the workforce;
- days for which Statutory Sick Pay or Statutory Maternity Pay have been claimed;
- time spent in compulsory education; and
- time spent on training or education courses that last longer than four weeks.

ESF for people in prison

We recognise the value that vocational and other training can have on people while they are in custody. But ESF is primarily aimed at people who are available to work in the job market.

The following eligibility criteria apply to people in custody:

- People sentenced to less than two years can access ESF at any point during their sentence.
- People sentenced to more than two years can only access ESF during the last two years of their sentence.

Changes to approved Measure-level applications

You will be given full details of how and when to notify changes to approved applications in the Measure-level application contract. It is your responsibility to make sure that you fully comply with these conditions.

Publicity (Last updated April 2006)



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All successful project promoters are required to acknowledge financial help from the ESF for their projects. You are responsible for making sure that enough publicity is given to all ESF-supported activity so that beneficiaries and the general public get to know about the ESF and what it does.

For example, literature, materials used by beneficiaries and important correspondence must include an acknowledgement of ESF support. Any publicity material, for example, advertisements and information leaflets about ESF projects must acknowledge ESF support and should display the ESF logo.

Publicity plaques should be displayed by all CFOs and their providers (however much ESF they are receiving) at sites that can be seen by both beneficiaries and the general public. The [publicity section](#) on this website gives more information on how to get plaques at no cost to your organisation.

You can get the ESF logo in a variety of formats on the ESF Division and Government Office websites. These also provide guidance and advice on other publicity requirements.

It is strongly recommended that you write a formal publicity policy which clearly sets out the publicity requirements for your projects and makes sure that if third parties are involved in the delivery, they also keep to the requirement.

Wage subsidy (Last updated July 2006)



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Wage subsidies may support either temporary or permanent jobs, but must lead to improved chances of employment or stable employment (you cannot use ESF to support or act as a substitute for permanent jobs in the public sector).

From July 2006 the maximum ESF contribution towards a wage subsidy is up to 45% or appropriate intervention rate of a £6 hourly wage multiplied by 40 hours. This rate will be used until the end of the current ESF programme.

For example, the calculation for an Objective 3 project where the intervention rate is 45% is:

The calculation is: £6.00 x 40 hours x

45

100

= £108.00

The maximum period for which a wage subsidy is payable is 52 weeks.

Work experience

Work experience:

- **must** include structured help to prepare beneficiaries to move into a stable job or take up vocational training opportunities;
- **must not** substitute for paid employment; and
- **must not** last longer than 12 months.

People from other countries including refugees and asylum seekers (Last updated February 2007)



[Document showing all changes to this page \(Updated April 2006\)](#)

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To be eligible for support from the European Social Fund an individual must be:

- legally resident in Britain (or Gibraltar for those projects submitted by the Government of Gibraltar);
- able to take paid employment in a European Union member state; and
- satisfy the criteria appropriate for the Measure of the particular Objective.
Refugees and asylum seekers

Asylum seekers are people who want to stay in the United Kingdom. Refugees are people who have already been given permission to stay. Asylum seekers are not usually eligible for ESF support, but refugees are.

Until May 2003, if an application from an asylum seeker was not dealt with within six months they were granted special status. This status enabled them to take paid employment while their application was being assessed and meant they could be supported by ESF.

Decisions on asylum applications are now being made more quickly, so from June 2003 there is no need for asylum seekers to be granted special status. Those asylum seekers who already have permission to work are not affected as these arrangements are not retrospective (cannot be applied to past cases).

New asylum seekers cannot be ESF beneficiaries unless they were granted permission to work before this policy change. There are two exceptions to this:

- The Equal Programme where orientation provision is available to asylum seekers. This supports asylum seekers in becoming familiar with the institutions and social structures of the United Kingdom and includes the provision of ESOL. From June 2003 Objective 1, 2, and 3 pre-vocational projects (excluding vocational guidance).
- Objective 1, 2, and 3 allowable activities include:
 - initial English for speakers of other languages, other basic skills (literacy, numeracy and IT) where they are not part of provision that leads to employment;
 - orientation provisions to raise awareness of the rights and responsibilities of asylum seekers and labour market needs;
 - provision of information about further education and voluntary work they can participate in;
 - general advice about what awaits those given leave to remain in Britain (information about law, culture, housing, welfare, health, educating and employment); and
 - involvement in voluntary activity within the asylum community.

Eligibility for ESF programmes for new EU Member States

Ten countries became EU members on 1 May 2004. Nationals from these accession countries have been eligible to benefit from ESF programmes in England since 1 May 2004 if they are legally resident in the UK, and fulfil the normal ESF eligibility requirements for the Measure concerned.

From 1 May 2004, nationals from Cyprus and Malta have the same access to ESF programmes as nationals from the existing 15 EU Member States.

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

- in work and registered under the Home Office Worker's Registration Scheme; or
- seeking work and self-sufficient; or
- not required to register.

If a national from the eight central and eastern European countries is an employee benefiting from ESF they must have a worker's registration certificate from the Worker's Registration Scheme or be able to prove that they are exempt from the requirement to register. For further information on the Worker's Registration Scheme contact.

Home Office Worker Registration Team,
Moorfoot,
Sheffield
S1 4PQ.
Tel: 0114 259 6262.
E-mail: wpcustomers@ind.homeoffice.gov.uk.
Website: www.workingintheuk.gov.uk.

This does not apply to nationals from Malta and Cyprus or nationals from the eight accession countries who are already working legally in the UK and have been in the labour market for an uninterrupted period of twelve months or longer on 1 May 2004.

Nationals from the eight central and eastern European accession countries who are not registered, but who are seeking work and who are self-sufficient also have the right to reside in the UK and so are eligible for ESF. By self-sufficient, we mean that individuals are not a burden on public funds by getting benefits. ESF cannot be used to provide Income Support to nationals from the eight central and eastern European accession countries who would not otherwise be self sufficient.

Romanian and Bulgarian Citizens

Romania and Bulgaria became EU members on 1 January 2007. From that date the United Kingdom labour market will be opened gradually to citizens of Romania and Bulgaria. Initially this will mainly be restricted to highly skilled workers and low skilled workers to fill vacancies in the agriculture and food processing sectors. Romanian and Bulgarian citizens will not generally have the right to work in the United Kingdom.

Bulgarian and Romanian citizens, except where exempt from the requirement, will need to obtain a work authorisation document before they commence employment. Workers should hold either an accession work card or a Seasonal Agricultural Workers Scheme work card in order to be legally employed in the United Kingdom.

3. The following groups are exempt from the requirement to obtain these work authorisation documents.

- Those with permission to work by means of a work permit or leave to remain giving permission to work in the UK
- Those who are spouses of an European Economic Area (EEA) country or a British citizens
- Individuals who have completed, on or after 31 December 2006, 12 months continuous lawful employment in the UK
- Individuals who have leave to remain in the UK and that leave is not subjected to restrictions on taking employment
- Those who are highly skilled and in possession of a registration certificate confirming that they have unrestricted access to the labour market.
- Students who intend to work less than 20 hours a week and are in possession of a registration certificate confirming that they have this restricted permission to take employment

From 1 January 2007 to be eligible for ESF support as an employee Bulgarian and Romanian citizens must provide

- An accession workers card, or a;
- seasonal Agricultural Workers Scheme work card, or;
- proof that they are exempt from the requirement to obtain a work authorisation document or a Seasonal Agricultural Workers Scheme work card.

Those who are self employed and wish to access ESF must be able to show that they are genuinely self employed and that their business activities are registered with HM Revenue and Customs.

Bulgarian and Romanian citizens like all ESF beneficiaries will also need to comply with:

- The general ESF eligibility conditions
- The eligibility conditions for the relevant ESF Measure
- Any regional criteria

These arrangements do not apply to citizens of those member states that joined the European Union on 1 May 2004. The arrangements described in the ESF Applicant Guidance at page 88 should continue to be observed.

The Worker Registration Scheme does not apply to Bulgarian and Romanian nationals. It will however continue to apply to citizens of those countries that joined the European Union on 1 May 2004 with the exception of Malta and Cyprus.

Further information can be found on the Home Office website www.homeoffice.gov.uk.

Training for the public sector (Last updated April 2006)



[Document showing all changes to this page \(Updated October 2006\)](#)

ESF is not usually available for training individuals who have permanent jobs in the public sector, as the Commission believe that direct training of public employees should be supported by the Member State.

However there are some exceptions. These include:

- training people to allow them to enter the public sector;
- if the public sector contracts out work to private companies, the contracted company is not considered part of the public sector so training activity will be eligible;
- support for public sector workers who have either been given or are threatened with redundancy which requires them to carry out vocational training to fit them for a new post;
- lifelong learning for public sector workers employed in traditionally low skilled work who need career development in their current post;
- training Jobcentre Plus staff working on modernising or providing activity which is additional to normal Jobcentre Plus activity; and
- funding teachers for activity beyond the standard support available to help the teachers meet the needs of stated ESF client groups.

The following are considered to be part of the public sector:

- Central Government;
- local authorities;
- the armed forces;
- NHS Trusts; and
- grant-maintained schools.

We cannot cover every situation where training in the public sector is considered eligible activity. If you have any doubts about either the activity or what is considered to be part of the public sector, please contact your Government Office for further advice.

Statutory training

ESF can only support activity over and above that necessary to meet statutory requirements. You must show how the activity is additional to statutory requirements. There may be local exceptions to this. You should consult your Government Office before developing your application.

State aids (Last updated July 2006)



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CO-FINANCING GUIDE - State aids

This section applies to Objective 3 projects. For advice on state aid issues for Objectives 1 and 2 please contact your Government Office. The current arrangements for handling state aid issues in the ESF Objective 3 Programme are through de minimis (not regarded as significant) aid (Commission regulation 69/2001). There are concerns however that the current arrangements are restrictive.

CFOs are responsible for making sure that state aid provisions are met. There is no precise definition to explain what a state aid is. However there is a very clear statement of principle that any form of aid to a commercial organisation - whether provided directly by the state or provided indirectly through 'state resources' - does not meet single market principles if it distorts, or threatens to distort competition within the community. Aid to individuals and most grants to public and not-for-profit organisations, such as voluntary, charitable and cultural bodies, are not affected by state aid rules unless they are involved

in commercial activities or compete with commercial organisations. You can find further guidance on state aid in the DTI document European Community State Aids - Guidance for all Departments and Agencies (www.dti.gov.uk).

For significant parts of the Objective 3 programme, the ESF and public match funding provided to projects does not constitute state aid. Where ESF activity is supporting individuals to improve their employability and help them move closer to the labour market, the aid is being provided to the individual and there are no direct benefits for enterprises. However, there are elements of the programme which provide support to individuals in employment and in these cases there may be state aid implications because their employers are receiving support towards the costs of training.

There will be cases where aid provided is available to all enterprises, for example through New Deal and Modern Apprenticeships. In these circumstances the aid does not favour certain enterprises and so does not constitute a state aid.

De minimis

Currently state aid issues in ESF Objective 3 are dealt with largely through providing de minimis aid. This enables an enterprise to receive up to 100,000 euros in aid (any public resources including ESF) over a three-year rolling period. Providing this aid is given within the de minimis rules there is no requirement to notify it to the Commission. Where aid cannot be met within the de minimis criteria, it must comply with state aid rules either by meeting the conditions of the other block exemption regulations or through being notified to the Commission.

To make sure that the requirements of the de minimis regulation are met, scheme administrators must make sure that any award of ESF and other public match funding given under the terms of the de minimis block exemption does not go over the 100,000 euros ceiling (approximately £62,000 at current exchange rates) over a three-year rolling period. Member States are required to keep detailed records of any de minimis aid paid for 10 years.

Applicants who want to use the de minimis rules **must** put in place a monitoring system to make sure the limit is not exceeded. Typically, such a monitoring system will involve:

- asking enterprises receiving support under their scheme to identify all other sources of support (either in cash or in kind) that they have received in the last three years; and
- checking if previous de minimis aid is involved, to make sure that the combined assistance does not exceed 100,000 euros over any three-year rolling period. The enterprise receiving support will need to calculate the cash equivalent of any aid in kind (the organisation which provided the aid may be able to help them in this). If the limit is exceeded, the aid may have to be reduced or refused to keep it within the 100,000 euros limit.

The DTI State Aid Branch advise writing the following to each recipient:

"The assistance for [...] constitutes State Aid as defined under Articles 87 and 88 of the Treaty of Rome and is being granted as 'de minimis' aid under Commission Regulation EC/69/2001. European Commission rules prohibit any undertaking from receiving more than 100,000 euros (approximately £60,000) 'de minimis' aid over a rolling three-year period. Any 'de minimis' aid granted over the 100,000 euro limit may be subject to repayment with interest. If you have received any 'de minimis' aid over the last three years (from any source) you should inform us immediately with details of the dates and amounts of aid received. Furthermore, information on this aid must be supplied to any other public authority or agency asking for information on 'de minimis' aid for the next

three years."

The de minimis exemption cannot be used in the following four areas:

- the transport sector;
- activities linked to the production, processing and marketing of agricultural goods;
- aid to export-related industries; and
- aid which depends on using domestic rather than imported goods.

Although de minimis rules are straightforward in principle, they are difficult to operate in practice because they are not project related. They rely on individual enterprises being able to identify how much aid they have received and under which schemes over a rolling three-year period. Money received from notified and approved schemes such as New Deal does not have to be included with de minimis aid. When enterprises have received the aid they are allowed under de minimis, they can receive no more through ESF. Because of these difficulties, the DTI State Aid Branch does not normally recommend the use of de minimis aid if other alternatives are available.

Training aid

Because of the issues raised above about de minimis aid, ESF Division has covered relevant parts of the Objective 3 programme in England and Gibraltar under the Training Aid block exemption regulation. This will not replace de minimis, but will provide an additional option within certain Policy Fields and Measures in Objective 3.

We believe that training aid provides a better option than de minimis for dealing with aid to enterprises in Objective 3. The Training Aid block exemption regulation covers all sectors and there is no need to monitor levels of de minimus aid provided to individual enterprises. However, dealing with aid through this regulation will result in a number of administrative issues for final beneficiaries and scheme administrators. This is because permitted aid levels vary depending on:

- the size of an enterprise;
- whether support is provided in assisted or non-assisted areas;
- whether the training supported is general or specific; and
- whether aid is provided to disadvantaged workers.

Individual notification by the Government Office to the EU will also be required where aid to one enterprise exceeds 1,000,000 euros. Because the Commission has been notified, there will be no need to pre-notify the European Commission separately of any aid that complies with all the terms of the regulation.

The Objective 3 programme measures in England and Gibraltar that are eligible for training aid are those measures that can support employed people and so are likely to provide aid to enterprises. These following measures are eligible.

Policy Field 3, Measure 1

- This Measure promotes wider access to lifelong learning (especially for those groups least likely to take part in lifelong learning activities and lacking basic and key skills). It supports the key policy developments in lifelong learning to improve the numbers taking part.

Policy Field 3, Measure 2

- This Measure improves the employability of those in work by providing the opportunity for lifelong learning. It develops their skills and helps them meet the changing needs of employers, such as in the fields of IT, management and the environment.

Policy Field 4, Measure 1

- This Measure supports companies, especially SMEs, to update and upgrade their employees' vocational skills, including basic and key skills.

Policy Field 4, Measure 3

- This Measure encourages people to become entrepreneurs and businesses to compete with each other, particularly SMEs.

Policy Field 5, Measure 1

- This Measure improves access to learning and removes barriers to employment.

The training aid exemption applies to all sectors.

There are different levels of aid allowed under this exemption depending on three factors:

- the size of the enterprise;
- the location of the enterprise; and
- whether the training offered is general or specific.

For Objective 3 areas, permitted aid levels are as follows.

Large enterprises	Specific training	General training
Outside an assisted area	25%	50%
In an assisted area(Art 87(3)(c))	30%	55%
Small and medium-sized enterprises	Specific training	General training
Outside an assisted area	35%	70%
In an assisted area(Art 87(3)(c))	40%	75%

Where aid is provided to a 'disadvantaged worker' the level can be increased by 10%.

- When working out the permitted levels of aid, you should remember that levels include both ESF and public match funding. And it is a requirement of ESF that:
- at least 10% of eligible expenditure must be public match funding; and
- total ESF awarded must be a minimum of 25% of the total public cost (ESF and public match funding).

The following examples illustrate how aid can be awarded under the regulations:

- Where it is proposed to provide training aid for general training to an SME outside an assisted area, the maximum ESF and public match funding would be 70%.

The SMEs should provide the remaining 30% themselves as private match funding.

- Specific training for a large enterprise outside an assisted area would attract a maximum public intervention of 25%. This is made up of at least 10% public match funding and the remaining 15% from ESF. The remaining 75% would be provided by the large enterprise as private match funding.

Employment aid

As outlined in Action Note 32 ESF Division introduced the employment aid block exemption regulation to cover the Objective 3 programme in England and Gibraltar. This does not replace de minimis, but will provide an additional option for dealing with state aid issues in Objective 3 especially in programmes that support employment, for example wage subsidy schemes.

The employment aid block exemption regulation covers all sectors except coal and shipbuilding. It does not apply to aid for creating employment in the transport sector. Aid to export related activity is also excluded. However as with the training aid block exemption dealing with aid through this regulation will result in a number of administrative issues for final beneficiaries and scheme administrators. This is partly because permitted aid levels vary depending on the size of an enterprise, whether support is provided in assisted or non-assisted areas, and where support is provided to disabled or disadvantaged workers.

As ESF Objective 3 in England and Gibraltar is an employment and training programme and most of the Policy Fields and Measures are able to offer employment support in some form we intend to notify the whole programme and not just certain Measures.

The employment aid block exemption covers two types of support - creation of employment, and recruitment of disabled and disadvantaged workers.

Creation of employment

The employment created must represent a net increase in the number of employees in the enterprise concerned. The employment created must be maintained for two years. The new workers employed as a result of the employment created must have never had a job or have lost or be losing their previous job.

For the purposes of this exemption, creation of employment does not include aid:

- to retain workers who would otherwise have been laid off;
- to convert temporary or fixed-term contracts into permanent jobs; and
- for job sharing, working parents and similar employment measures.

Levels of aid intensities allowed under this exemption for creating employment depend on two factors - size of the enterprise and location of the enterprise.

For Objective 3 areas, permitted gross aid intensity levels are as follows:

Outside assisted areas:

- 15% in the case of small enterprises;
- 7.5% in the case of medium-sized enterprises.

Inside assisted areas:

- 10% above the permitted aid ceiling in article 87(3)(c) areas provided the net aid intensity (level) does not exceed 30%.

Note:

- no single enterprise may receive more than 15m euros in aid under this regulation over a three-year period.
- Article 87(3)(c) areas are not coterminous with Objective 2 areas in England.
- Large companies are not eligible for aid to create employment aid. The distinction between small and medium sized enterprises is:
 - Medium sized enterprises are enterprises which:
 - have fewer than 249 employees; and
 - have an annual turnover of not more than 50m euros; or
 - an annual balance-sheet total not exceeding 43m euros.
 - Small enterprises are enterprises which:
 - have fewer than 50 employees; and
 - have an annual turnover not exceeding 10m euros; or
 - an annual balance-sheet total not exceeding 10m euros.

(The full definition of an SME is given in Commission Regulation (EC) No 361/ 2003 (SME block exemption regulation).)

We think it is unlikely that Objective 3 ESF will provide significant support for creating employment directly. There may be occasions where, for example, ESF wage subsidies are used to support recruiting workers into job-creating sectors. In such circumstances you must keep to the above rules, which will be complex to administer.

Recruitment of disabled and disadvantaged workers

Objective 3 is far more likely to support recruiting disabled and disadvantaged workers. This will impact on ESF projects that are providing, for example, wage subsidy schemes, projects delivered by specialist training providers, job trials and supported job placements.

The employment aid block exemption allows for the following levels of support:

- up to 50% of wage costs over a period of one year for **disadvantaged** workers; and
- up to 60% of wage costs over a period one year for **disabled** workers.

A full definition of a disadvantaged worker is given in article 2 of regulation 2204/2002 paragraph (f). The regulation enables a wide range of disadvantaged workers to be supported who have difficulty entering the labour market without assistance. These categories are:

- people under 25 or within two years of leaving full-time education who have not previously had regular paid employment;
- migrant workers;
- any member of an ethnic minority who needs to develop their linguistic, vocational training or work experience profile to improve their prospects of gaining access to steady employment;
- returners to work who have been absent from work or education for at least two years;
- lone parents;
- unemployed people without educational qualifications or those about to lose their jobs;

- any person over 50 who does not have or is losing a job;
- long-term unemployed people;
- people with addiction problems;
- ex-offenders; and
- women from areas of high unemployment where women are more likely to be unemployed than men.

A disabled worker is defined in article 2 of regulation 2204/2002 paragraph (g) as a person:

- recognised as disabled under national law; or
 - having a recognised, serious, physical, mental or psychological impairment.
- Additional costs of employing disabled workers can be claimed including:
- costs of employing staff for time spent solely on assisting disabled workers; and
 - costs of adapting or acquiring equipment for their use.

Additionally, in sheltered employment the administration and transport costs which result in the employment of disabled workers can be supported.

Note: These additional support costs for employing disabled people are allowed under this exemption but must be within the ESF eligibility rules.

As an example, a company recruits a disadvantaged worker under a wage subsidy programme with an annual salary of £12,000 (full employment costs). A maximum of £108 a week can be paid (45% of a £6.00 hourly wage) as a wage subsidy for a maximum of 52 weeks. This equals £5,616 a year.

Under the employment aid block exemption for recruiting disadvantaged workers the maximum aid (including ESF) that could be provided is 50% of wage costs for up to one year, that is £6,000 (of which a maximum of £5,616 could be ESF).

In applying the permitted levels of aid it should be remembered that intensities include both ESF and public match funding. In addition it is a requirement of ESF that at least 10% of eligible expenditure must be public match funding and that total ESF awarded must be a minimum of 25% of the total public cost (ESF and public match funding).

Reporting and monitoring

ESF Division has to report annually to the European Commission on the amount of aid granted under both the employment aid block exemption and the training aid block exemption, which was introduced in October 2002.

You the law and ESF (Last updated October 2006)



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You are responsible for making sure that your project does not break the law. We recommend that you read the following acts before sending your application. These are:

- The Race Relations Act 1976 (www.homeoffice.gov.uk)
- The Sex Discrimination Act 1975 - Single Sex training (www.hmso.gov.uk)
- The Disability Discrimination Act 1995 (www.hmso.gov.uk)
- The Data Protection Act (www.dataprotection.gov.uk)

- Employment Equality (sexual orientation) Regulation 2003 (www.dti.gov.uk/er/equality/eeregs)
- Employment Equality (religion and belief) Regulation 2003 (www.dti.gov.uk/er/equality/eeregs)
- Employment Equality (Age) Regulation 2006 (<http://www.dti.gov.uk/administration/page13625.html>)

If you are in any doubt that your project is legal, contact your legal adviser.

Getting rid of discrimination

Removing discrimination:

- gives everyone an equal opportunity to work and develop their skills;
- provides a diverse workforce made up of people of all abilities and from all age groups, ethnic and religious backgrounds;
- contributes to high levels of employment; and
- allows people to access all available services.

The Employment Equality (Age) Regulation 2006

As a general principle the Employment Equality Age regulation means that you will not be allowed to set age limits or age-related conditions for vocational training, guidance and employment-support schemes.

However, the regulation does recognise that certain age restrictions could be justified if they are a way of achieving a legitimate aim. You would have to support such restrictions with relevant evidence.

You may find that you want to target certain age groups to meet a specific ESF aim. For example, a project funded under Objective 3 Measure 2.2 may be specifically aimed at improving the chances of young people entering the labour market. Although you may be justified in refusing an older person a place on that project, if challenged, you would have to be able to provide clear evidence of how disadvantaged the young people are.

Payment arrangements (Last updated April 2006)



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Summary

Government Offices will make payments to CFOs. You should claim an advance payment when you have received a signed contract and have completed a profile for each Measure-level application. This will be 30% of the first 12 months' ESF costs. After that, you should make regular claims for money, which you have actually spent. The Government Office will retain 20% of the ESF costs for the last 12 months of the project until you have sent them all the information they need to check the final project costs.

Funding to providers should be paid using the same method as for domestic funding. CFOs will discuss funding needs on an individual basis with providers, and make advance payments where there is a need to help cash flow, particularly for voluntary sector organisations. There is no automatic entitlement to an advance payment. Funds should not be withheld until a final claim is received.

There will be different combinations of funding for individual projects. Some providers may receive a mix of ESF and domestic funding, other providers may be wholly funded from domestic funds and others entirely through ESF. However, the correct intervention rate must be managed throughout the life of the Measure-level project.

ESF claims and corresponding match funding can only be backdated to the date that the CFO plan is received in your Government Office. Your Government Office will advise you of this date.

Advance payment

You will be entitled to claim an advance payment once you have:

- signed and returned the contract; and
- let the Government Office have your project profile and advance claim form.

You should fill in the project profile and advance payment form and send it to the Government Office. Providing you have filled it in correctly and you have sent in all the information above, and your project has actually started, you will receive the advance payment. This will be 30% of the first 12 months' ESF costs.

The Government Office will work out the first 12 months' ESF costs by applying the rate of ESF support for the project (the intervention rate) to the expected project costs for the first 12 months. You will receive 30% of this amount.

You must send your profile and advance payment form to the Government Office within 20 working days of the deadline stated in your contract. If the Government Office does not receive it within another five working days from this date, they reserve the right to withdraw your project. Your profiled expenditure and activity should be the same as in the approved application.

Example of advance payment calculation

If:

- your total project cost over 2 years was £444,444; and
- the ESF approved amount was £200,000;

we would work out your advance payment with the following calculation:

1. ESF approved amount £200,000 divided by the total project costs £444,444 multiplied by 100 = 45% (we call this the intervention rate).
2. If the first 12 months' expenditure (taken from profiles (estimates) was £222,222 we would work out the ESF costs for the first 12 months by multiplying £222,222 by 45% = £100,000.
3. Your project's advance payment is £100,000 x 30% = £30,000.

The advance is intended to be used as a 'float', and counts towards the maximum amount you are entitled to before you complete your project closure report. Interim claims

The interim claims will take the form of project progress reports. This report is available either as a paper (hard) copy or Excel version. You are strongly advised to use the Excel version as this contains some validation. It will not allow you to input figures that do not add up and this will minimise the need to return inaccurate forms.

As part of this report, you must tell the Government Office how much you have actually

spent on the project to date, divided between ESF, public and private match funding, and give details of the project activity. Applicants have a legal obligation to provide accurate output and expenditure information. Supplying incorrect information will cause you additional administrative work and considerably delay any future payments to you.

You may submit your project progress and advance payment form at monthly, three-monthly or six-monthly intervals. However, the timing of your claims should match the intervals at which you identified your costs on the project profile and advance claim form. For example, if you identified your costs at three-monthly intervals, then you should submit interim claims at the end of each three months. You must send the form to your Government Office on time even if you are not making an interim claim or if no payment is due.

The Government Office will work out the interim payment by applying the project intervention rate to the amount you have spent to date. From this they will deduct any interim payments you have already received and retain the 20% payment which is payable at the end of the project. The balance will be the amount you are due.

Examples of interim payment calculations

First claim

Project started 1 January

Profile at 31 March	£55,555
Total spend at 31 March	£50,000
Revenue	Nil

Payment due is:

The total spend (£50,000) x the intervention rate (45%) = £22,500

Second claim

Estimate at 30 June	£111,110
Total spend by 30 June	£111,110
The payment due is: £111,110 x 45%	£50,000
Less payments already made	<u>£22,500</u>
Balance now due	£27,500

The Government Office will keep 20% of your last 12 months' ESF costs until they have received and checked your project closure report. For a two-year project, this means that the maximum you will receive up to that point will be 100% of the first years' ESF costs and 80% of the second years' ESF costs. These amounts include the advance payment.

Example of the most that can be paid before your project closure report has been approved

Examples of interim payment calculations

First claim

Total project costs for months 1 to 12	£222,222
Total project costs for months 13 to 24	<u>£222,222</u>
Total costs for 2 years	£444,444
ESF amount (£444,444 x 45%)	£200,000
The most ESF which can be paid is:	
£100,000	For year 1: £222,222 x 45% =
£ 80,000	For year 2: £222,222 x 45% x 80% =
	£180,000

(including the advance payment)

The Government Office will not be able to make interim payments unless you have satisfied the conditions relating to Public Match Funding Certificates and General Statements of Expenditure.

Final payments

The Government Office/ESFD will only make the final payment due on your project when they have received and checked your Project Closure Report and General Statement of Expenditure.

The final payment will be the total ESF you claimed for the project less payments you have already received (including the advance payment). The total ESF you claim for the project will be worked out by multiplying your total eligible project costs by the intervention rate. The total ESF you claim can never be more than the approval amount net of revenue for your project. Neither can it be more than the total eligible net expenditure, excluding contributions in kind.

You must send this report to the Government Office within the timescales agreed with your Government Office. If they have not heard from you within this time, we reserve the right to withdraw your project and ask you to pay back any funding that you may have already received.

You should make sure that you maintain records of the project as set out in your application form. This will include information on all the beneficiaries who have been helped by your project and who completed or left before the end of the project. It should reflect the beneficiary analysis and outcomes shown in the application form.

You will also need to show in your project closure report how your project was delivered and what outcomes were achieved.

If the information you give us is incomplete or inaccurate, it may delay any payments due **to you**.

We will also ask you to provide a detailed breakdown of actual expenditure incurred, which can be supported by documentation. For most CFOs using contract costs as the basis of the ESF claim, most of the claim will be contractual payments made to providers, which does not need further breakdown. You should use only actual information to calculate project closure entries. **You cannot use notional or estimated information for calculating ESF expenditure.**

The Government Office will not accept any items of expenditure in your project closure

report which you did not include in your application, unless you notified a change and agreed it with the Government Office three months before the end of the project.

Example of final payment calculation

Total eligible project costs (from project closure report)		£422,222
Revenue		
	Nil	
Total ESF costs for 2 years (422,222 x 45%)		£190,000
	Less: advance payment made	£30,000
	interim payments made	<u>£150,000</u>
		<u>£180,000</u>
Final payment due		£ 10,000

Declaring unused ESF promptly

It is in everyone's interests to make the best possible use of ESF funding. The current ESF programme is coming to an end, this means that there is very limited time to fund new projects. If you have been allocated ESF that you no longer need, it is important that you tell your Government Office immediately. If you delay, the monies will have to be returned to the Commission rather than being used to fund new projects.

Refunds

If you receive more money than you are entitled to, the Government Office will ask you to refund the overpayment. You must do this within 30 days of the request. The Government Office will suspend all further payments to your organisation until the money is refunded.

If you do not refund the money within 30 days, the Government Office will take the overpayment from any other payments due to you. It is very important that you make any repayments quickly as the money will be needed to pay other organisations.

If you fail to repay the money, you may be referred to a debit recovery agency.

Underspends and re-profiling

You must write to your Government Office as early as possible about any changes to the project or profiles (including changes of more than 15% in outputs or costs and alteration to its proposed use, project financing or ownership). You must respond to any requests for information about the progress of the project within a reasonable period. The Secretary of State, the European Commission and the European Court of Auditors or their representatives have the right to inspect the project and to ask for further information at any time. You must provide them with copies of any documents or items they require.

You must notify your Government Office about all changes no later than three months before the project ends. If you do not notify any changes promptly it may affect your ability to secure funding for applications in future years.

You must inform your Government Office as soon as you identify any money allocated to a project that you will not be using. This is particularly important as the

current Programmes are coming to an end and there is limited time in which to re-allocate any unused funds. This will result in a revised contract letter and will allow funds to be re-allocated for other applicants to use and cut down the total amount underspent at Programme level. If you fail to do this, it may mean that your future applications may be penalised.

Withdrawn projects

You must write to your Government Office as early as possible if you intend to withdraw from an approved project. This will allow funds to be re-allocated for other applicants to use and cut down the total underspend at Programme level. This is particularly important as the current Programmes are coming to an end and there is limited time to re-allocate funds. If you do not notify the Government Office that you are withdrawing your project, your future applications may be penalised.

You should refund all of the money received including the advance payment.

General Statements of Expenditure (GSEs) and payments

CFOs using contract costs now only need to provide GSEs at the end of the project and not every year as previously required. The GSE should cover the entire project and you should send it to the Government Office with your project closure report (PCR). Every match funder must complete a GSE. For those CFOs using actual costs and whose project lasts for a year or less, the GSE should cover the entire project. You should send it to the Government Office with your project closure report. Every match funder must complete a GSE.

If your project lasts for longer than a year, then a GSE will be required at 12-monthly intervals. The first GSE may cover any period from 1 month to 12 months of your project. The next should cover the following 12 months. If, by the 15th month of a project, the Government Office has not received the first GSE, they will suspend all payments to the project. You will have three months from the last date covered by each GSE to submit it to.
