

# **GUIDANCE AND REQUIREMENTS FOR THE ESF 2007 – 2013 PROGRAMME IN ENGLAND & GIBRALTAR**

## **Manual 4**

### **Managing Authority and Intermediate Bodies Guidance and Requirements**

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### 3.1 Introduction

This Guidance Manual covers the role, responsibilities and actions of the Managing Authority and Intermediate Bodies in England and Gibraltar for the 2007-2013 ESF programme. A checklist summarising Managing Authority responsibilities and actions is available at paragraph 3.43. This Manual will be a key source document for Managing Authority staff in ESF Division and Government Offices, and for Intermediate Body staff in the Government of Gibraltar and the London Development Agency European Programmes Management Unit.

At paragraph 4.21 of the agreed Operational Programme, the United Kingdom Government designated the European Social Fund Division of the Department for Work and Pensions (DWP) as the Managing Authority for the European Social Fund in England and Gibraltar for 2007–2013.

The central Managing Authority is located within the DWP's ESF Division and is supported by a regional presence in Government Offices. The London Development Agency and Gibraltar will contribute to the delivery of the programme as Intermediate Bodies. These organisations are responsible for managing and implementing delivery of ESF in accordance with the Operational Programme for the 2007-2013 programme.

This guidance takes full account of the ESF Operational Programme, national rules and the Structural Fund regulations. The Structural Fund regulations relevant to the delivery of ESF funded activity are:

- *Council Regulation (EC) No 1083/2006* – laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund
- *Regulation (EC) No 1081/2006* of the European Parliament and of the Council – on the European Social Fund
- *Commission Regulation (EC) No 1828/2006* – setting out rules for the implementation of Council Regulation (EC) No 1083/2006 – the “implementing regulations”

Section 3.43 of this Manual contains a checklist that summarises the actions required of the Managing Authority and Intermediate Bodies, their frequency, regulatory basis and reference section in this Manual.

Any changes to this guidance will be notified on the [ESF website](#). ESF Division has established a Guidance Review Board that will formally review changes to guidance every three months. Any changes made will be highlighted. Beneficiaries will be bound by any changes to the guidance notified on the ESF website. ESF Division will circulate any changes to this guidance in advance of its publication on the ESF website.

A glossary of terms used in this manual is available at **Annex 1**.

### **3.2 General principles of management and control**

The management and control systems and procedures operated by the Managing Authority and Intermediate Bodies referred to in this Manual will adhere to the following principles set out in Article 58 of Regulation 1083/2006:

- the functions of the bodies concerned in management and control will be clearly set out as will the allocation of functions within each body;
- the separation of functions between such bodies will be clearly defined;
- procedures for ensuring the correctness and regularity of declared expenditure will be in place;
- reliable accounting, monitoring and financial reporting systems (including computerised systems) will be in place;
- reporting and monitoring arrangements will be in place where the Managing Authority has delegated functions;
- systems and procedures will ensure an adequate audit trail including arrangements to report irregularities and recover amounts unduly paid;

The guidance and requirements in this Manual will ensure compliance with European and National regulations and good practice guidance issued by the European Commission. The following good practice documents issued by the European Commission are relevant to the work of the Managing Authority and Intermediate Bodies.

*COCOF 08/0020/00 EN Working document concerning good practice in relation to management verifications to be carried out by Member States on projects co-financed by the Structural Funds and the Cohesion Fund for the 2007–2013 programming period (31-03-2008).*

*COCOF 08/0019/00 EN Guidance on a common methodology for the assessment of management and control systems in the Member State (2007-2013 programming period).*

### **3.3 Role of the Managing Authority and Intermediate Bodies**

The Managing Authority and Intermediate Bodies are responsible for managing and implementing the ESF Operational Programme in accordance with the principle of sound financial management. The Managing Authority

and, where appropriate the Intermediate Bodies, will undertake all the tasks set out in Article 60 of Regulation 1083/2006. **See Annex 2 for details.**

Some of the Managing Authority functions are carried out centrally by staff located at the Head Office in Sheffield, whilst other functions are carried out by staff located in each of the eight Government Offices for the regions who carry out functions on behalf of central government departments in the English regions (see section 3.5 of this Manual). In London because of different institutional arrangements, some regional functions are undertaken by the London Development Agency as an Intermediate Body (see section 3.6). In Gibraltar some Managing Authority functions are undertaken by the Government of Gibraltar as an Intermediate Body (see section 3.7).

Responsibilities of the central Managing Authority teams are:-

#### *Development*

- development, agreement and subsequent changes to the Operational Programme;
- description and implementation of management and control systems;
- establishing national rules for ESF delivery and developing accompanying guidance;
- drawing up procedures to ensure that the Certifying Authority receives all necessary information on the procedures and verifications carried out in relation to expenditure;
- setting up procedures to ensure that there is an adequate audit trail at all levels;
- establishing procedures so that beneficiaries and other bodies involved in the implementation of operations maintain separately details of all transactions relating to the operation;
- allocation of ESF funds to the regions, the London Development Agency and Gibraltar together with indicative regional output and results targets;
- commissioning the Regional Skills Partnerships to develop regional ESF frameworks within the context of the Operational Programme;
- developing the selection criteria for CFOs;
- appraising applications for CFO status (jointly with regional staff) and designating successful applicants as CFOs;
- developing the criteria and format of CFO plans, funding and delivery arrangements so that they properly address regional ESF frameworks;
- establishing and guiding the work of the national programme monitoring committee, acting as the secretariat for the committee and providing regular and timely information on programme performance;
- developing the selection criteria for operations outside the scope of CFOs (applicable only in convergence and phasing-in areas);
- development and dissemination of an information and publicity strategy to ensure compliance with the requirements in the regulations; and
- developing a programme evaluation strategy so that evaluation conforms with the regulations;

- confirming that regional ESF frameworks conform with the Operational Programme and EU regulations;
- brokering agreement on the division of the regional allocation and targets between CFOs if it does not prove possible to reach agreement at regional level;

#### *Delivery*

- operating the ESF programme under the principles of good management;
- authorising quarterly payments to CFOs and other providers, for reimbursement of ESF;
- monitoring of CFOs and other providers on a quarterly basis. *(Note: this is a shared responsibility with regional staff and two monitoring visits a year will be carried out jointly by central and regional staff);*
- development and implementation of appropriate IT systems to store and transfer as necessary, the required financial, monitoring, management information, verification, audit and evaluation data for each operation under the Operational programme;
- co-ordinating arrangements for the verification of ESF funded activity (Article 13);
- annual on-the-spot checks of CFO claims for payment, looking at both ESF and match funding. This activity will be combined with one of the quarterly monitoring visits;
- making on-the-spot monitoring visits to a sample of CFO providers;
- making on the spot monitoring visits to a sample of non-CFO providers
- implementation of the cross-cutting themes;
- implementation of national publicity measures;
- preparation and submission of annual and final reports on implementation, after approval by the monitoring committee;
- providing necessary information to the certifying authority to enable it to certify claims to the Commission.; and
- establishing systems and procedures to prevent fraud and corruption, identify and record irregularities and cases of fraud, with escalation procedures in place to the DWP Special Investigations Team in the case of suspected fraud.

Responsibilities of the regional Managing Authority teams in Government Offices are:

#### *Programme development and implementation*

- working with the Regional Skills Partnership to develop the regional ESF framework to help ensure that it conforms with the Operational Programme, EU regulations and that there is synergy with other regional strategies and funding streams, including ERDF;
- appraising applications for CFO status (jointly with the central managing authority - ESFD Division in DWP) and designating successful applicants as CFOs;

- working with Co-Financing Organisations (CFOs) to establish CFO allocations that reflect their respective contributions to the delivery of priorities in the regional ESF framework;
- working with the central managing authority (ESFD Division in DWP) to confirm that CFO plans address regional ESF frameworks, regional ESF allocations, output and results targets and the cross-cutting themes of gender equality, equality of opportunity and sustainable development;
- in convergence and phasing-in regions, issuing limited calls for proposals for directly funded ESF activity if co-financing is not an option for some activities;
- in convergence and phasing-in regions, working with the central managing authority to appraise proposals for directly funded ESF activity against the agreed criteria;
- appraising applications for Technical Assistance (TA) against the regional TA strategy and national appraisal criteria.

#### *Programme management and delivery*

- carrying out negotiations with CFOs to conclude formal funding agreements, and ensuring that any subsequent variations to funding agreements are made accurately and timeously;
- concluding formal funding agreements with non CFO beneficiaries (project providers in convergence and phasing in areas, and TA beneficiaries), and ensuring that any subsequent variations to funding agreements are made accurately and timeously;
- acting as the managing authority first line of contact for CFOs and other regional partners;
- undertaking quarterly strategic monitoring of CFOs to confirm delivery in accordance with the CFO plan and reporting emerging issues to the centre (two monitoring visits a year will be carried out jointly by central and regional staff);
- identifying regional and local publicity opportunities and case studies, and ensuring that CFOs meet publicity requirements;
- disseminating good practice on the cross cutting themes to help CFOs fulfil their responsibilities;
- in convergence and phasing-in regions, maintaining a strategic relationship with organisations other than CFOs that manage ESFD funded operations;
- ensuring that the aims and objectives agreed for TA projects are being fulfilled;
- certifying the reasonableness of payment claims through desk checks based on monitoring feedback and management information (NOTE: Separation of the certifying and authorising functions for payments is a requirement of UK government accounting rules, so that regional staff will

certify, and central staff authorise payments; this should not be confused with the role of the certifying authority, which will be located in ESF Division;

- reporting irregularities;
- acting as the secretariat for the regional ESF committee and any sub-committees, producing regular and timely information on regional performance;
- subject to agreement by the regional ESF committee, representing the region at the England programme monitoring committee. If someone other than a GO representative is nominated by the regional ESF committee, ensuring that the nominee is briefed for the meeting of the England programme monitoring committee;
- reporting to ESFD quarterly on regional issues, regional performance and providing early warnings of emerging issues e.g. N+2, major redundancies;
- providing regional contributions to the annual implementation reports, after approval by the regional ESF committee;
- working with regional partners to ensure effective co-ordination with other regional funding including ERDF.

### **3.4 Organisation of the central Managing Authority**

An organisation chart setting out the organisation of the central Managing Authority including the indicative number of posts is included at **Annex 3** of this Manual. Within ESF Division the Managing Authority functions are divided between three teams which each taking responsibility for key elements of the managing authority's tasks:

The three central Managing Authority teams cover systems, policy and programmes. The three teams that make up the central Managing Authority report to the deputy head of the ESF Division. In addition to the 2007-2013 ESF programme they are also managing closure of the 2000-2006 ESF programme

In addition to the three teams that make up the central Managing Authority, the department's finance team within ESF Division, also led by a senior manager, is responsible for authorising ESF payments certified by the Managing Authority delivery team and taking associated accounting actions. The finance team is also responsible for maintenance of the debtor's and overpayment ledgers, and reporting irregularities to the Commission.

#### *Managing Authority: Delivery*

Responsible for:

- all the central Managing Authority activities listed under development and delivery in section 3.3.3 of this Manual except for the responsibilities of the Policy and Systems teams listed below.

#### *Managing Authority: Policy*

Responsible for:

- developing and managing a communication strategy to ensure compliance with the requirements in the regulations;
- ensuring that a programme evaluation strategy is developed and implemented so that evaluation conforms with the regulations;
- managing the cross-cutting themes;
- preparing and submitting annual and final reports on implementation, after approval by the monitoring committee.

#### *Managing Authority: Systems*

Responsible for:

- the development and implementation of appropriate IT systems to store and transfer as necessary, the required financial, monitoring, management information, verification, audit and evaluation data for each beneficiary under the Operational Programme.

### **3.5 Delegation of functions to Government Offices**

At regional level there will be a number of staff in each Government Office working with ESF Division to undertake Managing Authority functions. The central Managing Authority has formally delegated responsibilities to Government Office staff through a letter of delegation (**Annex 4**). In London the regional lead will be with the London Development Agency, an Intermediate Body (see section 3.6 for delegation arrangements).

In total there will be 25 full time equivalent staff posts across the regional network, including London, engaged in managing authority work. This will equate to 2 full time equivalent posts in those Government Office regions where there is no convergence or phasing-in funds to manage. There will be additional staff in the Government Offices in South West, North West and Yorkshire and the Humber to reflect the additional work arising from convergence and phasing-in funds. This will be equivalent to five full-time staff in the South West and four full-time staff each in the two regions with phasing-in funding.

### 3.6 Delegation of functions to the London Development Agency (LDA)

There are different institutional arrangements in London compared to other English regions and the central Managing Authority has formally delegated a number of regional ESF functions to an Intermediate Body, the London Development Agency to reflect this (**see Annex 4 for delegation letter**).

#### *ESF functions delegated to the LDA*

##### *Programme development*

- working with the London Skills and Employment Board to develop the regional ESF framework to help ensure that it conforms with the Operational Programme, EU regulations and that there is synergy with other regional strategies and funding streams, including ERDF;
- appraising applications for CFO status jointly with the managing authority in ESFD Division and designating successful applicants as CFOs;
- working with CFOs to establish allocations that reflect their respective contributions to the delivery of priorities in the regional ESF framework;
- working with the central Managing Authority to confirm that CFO plans address regional ESF frameworks, regional ESF allocations, output and results targets and the cross-cutting themes of gender equality, equality of opportunity, sustainable development and health;
- appraising applications for Technical Assistance (TA) against the regional TA strategy and national appraisal criteria;
- carrying out negotiations with CFOs to conclude formal funding agreements;
- conclude formal funding agreements with TA beneficiaries.

*Note: Some of the above activities were mainly completed for the first contracting round of 2007-2010 before formal delegation was made but they will be repeated (except for designation of CFOs) for the second half of the programme.*

##### *Programme management and delivery*

- operating the ESF programme under the principles of sound management;
- acting as the first line of contact for queries from CFOs and other regional partners;
- undertaking quarterly strategic monitoring of CFOs to confirm delivery in accordance with the CFO plan and reporting emerging issues to the centre *Note: two monitoring visits a year will be carried out jointly with ESFD staff*);
- ensuring that any variations to CFO and TA funding agreements are made accurately and timeously;
- identifying regional and local publicity opportunities and case studies, and ensuring that CFOs meet publicity requirements;
- disseminating good practice on the cross cutting themes of equal opportunities and gender equality, sustainable development and health, to help CFOs fulfil their responsibilities;
- ensuring that the aims and objectives agreed for TA projects are being

fulfilled;

- certifying the reasonableness of payment claims through desk checks based on monitoring feedback and management information  
(*Note: Separation of the certifying and authorising functions for payments is a requirement of UK government accounting rules, so that LDA staff will certify, and central staff authorise payments; this should not be confused with the role of the certifying authority, which will be located in ESF Division*);
- acting as the secretariat for the regional ESF committee and any sub-committees, producing regular and timely information on regional performance;
- representing the region at the England & Gibraltar programme monitoring committee;
- reporting to ESFD quarterly on regional issues, regional performance and providing early warnings of emerging issues e.g. N+2, major redundancies;
- providing regional contributions to the annual implementation reports, after approval by the regional ESF committee;
- working with regional partners to ensure effective co-ordination with other regional funding including ERDF;
- ensuring regional promotion of the London ESF programme; and
- arrangements and support for any Ministerial or European Commission visits.

#### *Organisation of the LDA*

The European Programme Management Unit within the LDA completely separate from the LDA Co-financing Organisation unit, with different reporting lines.

#### *Procedures for selecting and approving operations*

The procedures for the selection of CFOs in London are as described in section 3.12 of this Manual.

#### *Verification of operations*

The arrangements for the verification of operations in London are as described in section 3.29 of this Manual.

#### *Procedures for processing of applications for reimbursement*

The procedures for processing applications for reimbursement in London are as described in section 3.19 of this Manual.

### 3.7 Delegation of functions to the Government of Gibraltar

The institutional arrangements in Gibraltar are different from the English regions. The central Managing Authority has formally delegated a number of ESF functions to the Government of Gibraltar, an Intermediate Body, to reflect this (**see Annex 4**).

#### *Programme development*

- working with the Gibraltar Joint Local Advisory Group to develop the regional ESF framework to help ensure that it conforms with the Operational Programme, EU regulations and that there is synergy with other strategies and funding streams in Gibraltar, including ERDF;
- making calls for ESF applications and appraising them against the assessment criteria agreed by the England and Gibraltar ESF monitoring committee;
- working to standards agreed with the central managing authority to ensure that Gibraltar ESF applications address the Gibraltar ESF framework, ESF allocations, output and results targets and the cross-cutting themes of gender equality, equality of opportunity and sustainable development;
- appraising applications for Technical Assistance (TA) against the TA strategy and UK Member State appraisal criteria;
- concluding formal funding agreements with ESF beneficiaries.

#### *Programme management and delivery*

- acting as the first line of contact for queries in Gibraltar from ESF beneficiaries and partner organisations;
- undertaking quarterly monitoring of Gibraltar ESF beneficiaries to confirm delivery in accordance with the beneficiary agreements;
- ensuring that any variations to beneficiary agreements are made accurately and timeously;
- identifying publicity opportunities and ensuring that beneficiaries meet ESF publicity requirements;
- disseminating good practice on the cross cutting themes of equal opportunities and gender equality, sustainable development and health, to help beneficiaries fulfil their responsibilities;
- ensuring that the aims and objectives agreed for TA projects are being fulfilled;
- certifying the reasonableness of payment claims through desk checks based on monitoring feedback and management information taking account of the requirement for separation of the certifying and authorising functions in respect of payments;

- acting as the secretariat for the Gibraltar ESF committee, producing regular and timely information on regional performance;
- representing Gibraltar at the England and Gibraltar programme monitoring committee;
- reporting quarterly on issues, performance and providing early warnings of emerging issues;
- providing contributions to the annual implementation reports, after approval by the Gibraltar ESF committee;
- working with partners to ensure effective co-ordination with other regional funding including ERDF.

#### *Procedures for selecting and approving operations*

The procedures for the selection of beneficiaries in Gibraltar are as described in section 3.13 (non CFO operations) of this Manual.

#### *Verification of operations*

The arrangements for the verification of operations in Gibraltar are as described in section 3.29 of this Manual.

#### *Procedures for processing of applications for reimbursement*

The procedures for processing applications for reimbursement in Gibraltar are as described in section 3.19 of this Manual.

### **3.8 Monitoring of Government Offices and Intermediate Bodies**

In accordance with EC Regulation 1083/2006 Article 59(2), the Managing Authority will monitor the performance of those organisations given delegated authority to undertake certain tasks in connection with the delivery of the ESF programme: The Managing Authority will:

- convene quarterly programme meetings involving the Government Offices, Intermediate Bodies and other key partners to review performance;
- organise an Annual Review meeting with each GO and Intermediate Body to formally review their actions during the preceding year and to ensure compliance with ESF procedures;
- ensure programme reports submitted to the national and regional ESF programme monitoring committees by the Intermediate Bodies are fit for purpose and include relevant performance information.

### **3.9 Description of systems, organisation and procedures of the Managing Authority and Intermediate Bodies**

The Managing Authority shall, within twelve months of the approval of the ESF Operational Programme, produce a description of the systems, organisation and procedures of its operations in accordance with Article 71 of Regulation 1083/2006.

This document will be submitted to the Audit Authority for assessment and scrutiny. The final version of the Management & Control description together with Audit Authority assessment report and opinion was sent to the European Commission within the set deadline.

### **3.10 Regional ESF Frameworks**

The Managing Authority has overseen the development of regional ESF frameworks. These documents show how ESF can add value to existing regional strategies and plans within the context of the national priorities and targets in the Operational Programme. Final versions of each regional ESF framework were placed on the [ESF website](#).

Through regional ESF committees, the Managing Authority and Intermediate Bodies will ensure that ESF frameworks are reviewed and updated where necessary to ensure their continued relevance. The Managing Authority will consult the regional ESF monitoring committees on any subsequent changes that are considered necessary.

**It is for the monitoring committee chair to determine whether there are sufficient members present for the committee to go ahead and take decisions.**

### **3.11 Allocation of funding, targets and indicators**

#### *Budgets*

The technical annex to the UK National Strategic Reference Framework (NSRF) sets out the allocation of Structural Funds among the UK's nation and regions. The UK Government developed the allocation methodology in consultation with the devolved administrations. The ESF budget allocation methodology reflects the Government's priorities to tackle worklessness and low skills.

The Managing Authority has determined final England regional budget allocations by priority following consultation at regional level, within the parameters of the NSRF and the Operational Programme financial tables. **Annex 5** sets out the financial allocations for each English region.

### *Technical Assistance*

For the Convergence Objective, 2% of the available ESF has been allocated to Technical Assistance (TA) in Priority 6. The ESF intervention rate is 75% for convergence TA.

For the Competitiveness and Employment Objective, 4% of the available ESF funding has been allocated to TA in Priority 3. Within this allocation, 4% of the available ESF funding in phasing-in areas is ring-fenced for Merseyside and South Yorkshire. The ESF intervention rate is 50% for competitiveness and employment TA.

The Managing Authority has allocated regional TA on the following basis. For non phasing-in funding, half of the TA budget is retained by the Managing Authority to support a range of national activity such as evaluation and publicity. Of the remaining money, half is allocated to regions and half is held back for regions to apply for. In phasing-in regions three quarters of the TA money is allocated to the regions with the balance to be used to support national TA activity.

Details of eligible TA activity and the TA application process can be found in section 3.15 of this Manual. Annexes 4 to 6 in the non-CFO Manual deal with the application process.

### *Targets and Indicators*

The Operational Programme sets out output and results targets and indicators at programme level. The Managing Authority disaggregated the targets to regional level on the basis of regional financial allocations. The regional targets are reflected in the regional ESF framework documents. The purpose of the targets is to steer and stimulate programme performance. They are not a prediction of actual outputs and results and actual performance may be different, particularly if there are significant labour market changes. During the life of the ESF programme the managing authority may ask analysts to adjust the indicators in the light of significant socio-economic changes, changes to policy priorities, evaluation findings or experience of implementation.

### 3.12 Selection of Co-financing Operations

#### *Selection of Co-financing activity*

The vast majority of ESF provision in Priorities 1, 2, 4 and 5 will be delivered through co-financing, except in exceptional circumstances in the Convergence and phasing-in areas, where Co-Financing Organisations (CFOs) might not be able to deliver the full range of ESF activities. Innovative and transnational activity will also be delivered outside of co-financing.

The Managing Authority is responsible for the following aspects of CFO selection:

- The provision of advice, guidance and timetables for action covering every stage of the co-financing selection process;
- The selection of Co-financing Organisations;
- Appraisal of CFO plans;
- Reporting progress on co-financing selection to the national and regional ESF Monitoring Committees.

The ESF National Monitoring Committee has approved the criteria for selection of co-financing operations submitted by the Managing Authority.

#### *Selection of Co-financing Organisations*

ESF Guidance Manual 2 provides full details of CFO selection procedures and requirements.

The Managing Authority is responsible for the selection of CFOs. CFOs operating under the 2000-2006 programmes were able to apply to become CFOs for the 2007-2013 ESF programme. They had to demonstrate that they could continue to manage ESF effectively as a CFO and make a contribution, in conjunction with other CFOs, to regional employment and skills priorities set out in the regional ESF frameworks. Annex 1 of the CFO Guidance Manual lists the CFOs selected.

#### *Eligibility*

Other eligible public organisations were also able to apply to become a CFO and had to demonstrate the capacity to manage ESF and contribute to delivery of the regional ESF framework in conjunction with other CFOs to ensure coherent delivery of ESF provision. Organisational and accountability changes within the Department for Work and Pensions (DWP) meant that DWP Delivery Directorate had to apply for CFO status as a new applicant even though Jobcentre Plus (a part of DWP) is a CFO under the 2000-2006 programmes.

The Managing Authority drew up eligibility criteria to become a CFO. These were the same as for the 2000-2006 programmes, namely, that an organisation must:-

- a. have a legislative remit to deliver one or more of the activities described in the operational programme;
- b. be a public body (that is, it receives over 50% of its funding from central or local government);
- c. have sufficient cash resources to add to ESF as match funding for the duration of the co-financing plan. For the first round of the programme plans will cover ESF allocations for the calendar years 2007-2010; and
- d. deliver ESF and match funded activities by contracting with providers from the public, private and third sectors selected through competitive tender.

The following organisations were known to meet the above criteria:-

- Learning and Skills Council
- Dept for Work and Pensions
- Local Authorities
- Regional Development Agencies

Other organisations were required to contact the managing authority to discuss eligibility before completing an application.

#### *Assessment criteria*

The Managing Authority developed assessment criteria, which were shared with applicants. The capacity to deliver ESF funded activity in a way that met EU Regulations was fundamental to the award of CFO status.

Existing CFOs had to identify any changes that might have an impact on their ability to act as a CFO. The Managing Authority also took account of performance under the current ESF programme as well as any change factors when making an assessment about capacity.

New CFO applicants had to demonstrate that they had sufficient capacity across the following areas:-

*Match funding* – availability by amount and sources of clean cash match funding (that is, not in kind match funding).

*People* – enough people with the right skills, knowledge base and abilities to cover the range of functions required.

*Accounting systems* – that enabled ESF and match funding expenditure to be separately identified and to meet audit trail requirements.

*Audit* – providers will be audited to ensure that payment claims are eligible and the regulations respected.

*Management Information* – systems were in place to collect participant level data from providers, validate and collate and send it to the Managing Authority.

*Evaluation* – the contribution of delivering the CFO plan to the regional ESF framework and operational programme will have qualitative evaluation. The managing authority and regional ESF committees will be

given regular qualitative as well as quantitative reports on the delivery of regional employment and skills priorities.

*Contract management and monitoring* – providers from the public, private and third sectors will be managed so that they deliver what is expected of them contractually; and poor performance will be identified and rectified.

*Quality* – all provision will be subject to quality inspection by OFSTED where it falls within the OFSTED remit; providers will be supported to help them meet quality standards.

*Publicity* – the regulations will be met so that, amongst other requirements, all participants, funded both through ESF and match, are made aware that the provision is part funded by the European Union.

*State aids* – systems are to be in place to allow monitoring of state aids.

*Cross cutting themes* – implementing and mainstreaming the themes of equal opportunities and gender equality, and sustainable development are as required by EU regulations, and compliance with UK legislation on these themes including the equality public duties.

#### *Selection arrangements*

The deadline for the receipt of completed applications to become a CFO was 29 June 2007. All applications were assessed jointly by the Managing Authority national and regional teams.

The result of appraisal was to either:-

- confirmation of CFO status unconditionally; or
- confirmation of CFO status provisionally subject to supplying further information or rectifying weaknesses identified by the appraisal – this could be in the form of an action plan as to how and when weaknesses will be rectified; or
- rejection of CFO status.

CFO status was awarded for the life of the 2007-2013 ESF programme subject to effective performance, which will be assessed by the Managing Authority as part of ongoing monitoring. Future applications for CFO status may be considered by the central Managing Authority, though this will be kept under review. For example there may be future changes to policy or other circumstances that emerge that would warrant such consideration.

#### *CFO Plans*

CFO plans describe the planned activities and expected outputs and results needed to contribute to national and regional employment and skills priorities including the cross-cutting theme priorities. Plans must take full account of the England ESF operational programme and the regional ESF framework.

The central Managing Authority produced a common format for CFO Plans. CFO plans must cover all participants and activities, funded through both ESF and match funding, to demonstrate the totality of the CFO's provision and the

complementarity between ESF and match funded activity.

### *Timetable*

The first round of CFO plans covered financial allocations for the four calendar years 2007-2010. Activity and expenditure associated with the plan can continue beyond 2010 because spending profiles allow expenditure to take place for up to 2 years after funds have been allocated to meet the European Commission's N+2 spending targets.

The central Managing Authority will organise a second round of CFO plans covering financial allocations for the calendar years 2011-2013. Activity and expenditure relating to second round plans may continue until the end of 2015. Plans covering 2011-2013 will also take account of any ESF underspending from the first planning round. CFOs will need to manage any overlap of activity and spending between first and second round plans in 2011 and 2012.

### *Coverage*

CFO plans are normally developed at regional level. However, in the South West, CFOs will need to prepare separate plans for Convergence and Competitiveness and Employment funding. In the North West and Yorkshire and the Humber CFO plans cover the whole region, but show separately the specific activities, financial profiles, target groups, outputs and results for phasing-in funding in Merseyside and South Yorkshire.

There are separate CFO beneficiary agreements for Convergence and Phasing-in budgets. Where a CFO operates in two ESF Priorities, plans cover activities in both priorities but there are separate tables showing financial allocations, output and results targets for each Priority.

### *Appraisal of CFO Plans*

Appraisal of the first round of CFO plans was carried out by the Managing Authority central and regional teams (in London the LGA as the Intermediate Body) to ensure consistency across regions. Appraising staff also took account of information in the Operational Programme, regional ESF framework and the application for CFO status.

#### *CFO plans – appraisal: contribution to Operational Programme and regional ESF framework*

The plan must have had clear links to the OP and regional ESF framework. The appraisal needed to confirm that for each Priority covered:-

- planned activities were eligible and appropriate to meet national and regional priorities;
- key participant groups and regional priorities (e.g. in terms of geographical and sectoral targeting) were addressed;
- the delivery of the plan would contribute to regional output and results targets;
- planned activities would complement other CFO provision within the

region at Priority level.

Note that where there was more than one CFO plan at Priority level, appraising staff took account of other plans when determining contributions to regional priorities.

*CFO plans – appraisal: funding and value added*

The key issues for consideration in this section of the CFO plan were:-

- whether the ESF funding allocated at Priority level was justified in the context of proposed outputs and results;
- that domestic budgets/programmes to be used as match funding were clearly identified and contribute to Priority level activities;
- whether spending plans were realistic and capable of meeting regional expenditure targets;
- did the plan provide a detailed breakdown of administrative costs (by CFO if appropriate). Were planned administrative costs reasonable, eligible and within the 5% threshold;
- did the plan clearly demonstrate the added value that ESF funding will provide. The plan must show the relationship between ESF and the match funding and the added value that ESF provides in terms of, for example, additional outputs and results, extra support for the target groups specified in the operational programme and regional ESF framework, or enhancements to domestic provision.

*CFO plans – appraisal: project selection and tendering*

The appraisal confirmed that the plan fully covered the following points:

- how ESF and match funding would be subject to competitive tendering;
- that tendering complied with national tendering requirements (Statutory Instrument 2006/5);
- whether ESF and matched activity would be tendered separately or through a single stream;
- the arrangements and timing for calls for tender and selection of providers;
- how the CFO(s) would ensure that tendering documents addressed the priorities and targets set out in the plan;

*CFO plans – appraisal: provider funding and monitoring*

Issues for consideration:-

- did the plan explain how contract costs would be determined and were these satisfactory;
- were there any plans to reimburse providers using actual costs (for example travel and/or child care costs might be reimbursed on the basis of actual costs). If so, what were the reasons and how would costs be verified;

- did the plan set out the arrangements for monitoring ESF providers in terms of delivery arrangements, results and outputs and financial performance;
- how would quality standards be assured and OFSTED recommendations be addressed;
- how would core participant management information be collected from providers and provided to the Managing Authority.

*CFO plan – appraisal: cross cutting themes*

Plans demonstrated:-

- how gender equality and equal opportunities would be addressed including any particular regional priorities;
- how ESF would support approaches to sustainable development including environmental sustainability;
- how the cross cutting themes would be addressed in tender specifications and provider delivery.

*CFO plans – appraisal: implementation*

This section of the plan identified the key stages and milestones during the first year of the plan to enable monitoring and review of progress. CFOs identified milestones according to the nature and scope of the plan including:

- milestones for completing tendering and provider contracting;
- planned participant starts quarterly;
- progress towards the achievement of results targets.

*CFO plans - endorsement by the regional ESF committee*

Final CFO plans, including the ESF allocations and output and results targets, were endorsed by regional ESF committees before CFO beneficiary agreements were concluded.

*Supplementary CFO Plans*

If necessary, the Managing Authority may invite CFOs to develop supplementary CFO plans to take up any additional funds that are available. In these circumstances the Managing Authority will issue guidance in the form of an Action Note on the content and process for supplementary CFO plans.

*List of beneficiaries and operations*

The Managing Authority will maintain a list of beneficiaries and operations on the national ESF website. It will list the CFOs by region. Under each CFO, it will list the names of their projects and the project providers, the amount of funding (i.e. sum of ESF and match funding) allocated to the provider, and whether the agreed activity is live or closed. The list will be:

- generated from information supplied by CFOs to the Managing Authority.
- updated quarterly.

- shared with the European Commission and may also be used on the Commission's website

#### *Reviewing performance*

The Managing Authority will review each CFO's performance against their plan quarterly. The CFO will report progress to their regional ESF committee. The regional sub committee representative will report overall progress in their region when attending the ESF national monitoring committee. If there is underperformance the Managing Authority (or the LGA in London) will review the position with the CFO concerned and agree a remedial action plan. If there are significant changes to regional or national priorities, planned activities may need to be revised during the planning period.

### **3.13 Selection of non-co-financing operations**

ESF Guidance Manual 3 [\[web link\]](#) provides full details of non-CFO selection procedures and requirements.

Whilst the vast majority of ESF funded activity in the Convergence and phasing in areas will be delivered through co-financing, in exceptional circumstances some activities can be managed by a process of application for a grant. The types of circumstances where this might happen are, for example:-

- the CFO does not have sufficient match funding to cover all the activities within a priority – phasing-in areas have very heavily front loaded expenditure profiles;
- no CFO has a remit for the particular type of activity needed to deliver the regional ESF framework – the Convergence priorities cover a wider range of activities than those for the competitiveness and employment priorities.

In such circumstances, the Managing Authority will issue a very limited call for project proposals that might be confined to, for example,

- a specific type of activity;
- a specific target group;
- a specific geographical area;
- combinations of the above.

As there are no CFOs in Gibraltar, the guidance in this section applies to all Gibraltar projects. All activity except Technical Assistance and innovative and transnational projects in non phasing regional and competitiveness areas is fully co-financed.

The ESF national monitoring committee has approved the criteria for selection of operations outside of the co-financing model submitted by the Managing Authority.

Applications will be appraised by staff from the Managing Authority national and regional teams (and by government staff in Gibraltar) who will assess to what extent the expected criteria are met. The intention is not to judge how well the form has been completed, but whether the proposed project and delivery arrangements will provide a best fit with the provision that is required and will be delivered in a way that meets regulations. In order to have a transparent system that differentiates between separate applications, a rating system as follows will be used for the items in the business plan.

- **Excellent** – consistently strong in all aspects of the criterion
- **Good** – consistently good in all aspects of the criterion. Minor weaknesses are capable of remedy and compensated for by strengths in other areas
- **Acceptable** - weaknesses are capable of remedy but need to be addressed prior to contract or subject to specific conditions in offer letter
- **Unacceptable** – the information provided is insufficient to allow for an effective assessment to be made or assessor satisfied that criterion cannot be met

Some questions are “gateway” questions as indicated in the appraisal framework below. If any gateway question is given a rating of “unacceptable”, it means that the whole application will be rejected.

Taking each question in turn, with the respective rating for the question, the appraisal team will apply the expected standards and will make a formal signed and dated record of the appraisal.

Business plan item	Criteria
<b>Part 2: Project Description and contribution to the regional ESF framework</b>	
3.2. Project description  <b>Gateway question</b>	<p>The call for proposals will have set the call within the context of the regional ESF framework and complementary activities set out in CFO plans.</p> <p>The main criterion here is to ensure that the proposed activity does fit the call for proposals and the regional ESF framework and does not duplicate activity that will be managed through co-financing.</p> <p>There should be evidence of working with the CFOs in partnership to ensure complementarity.</p> <p>There should also be evidence that planned ESF activity will complement ERDF activity.</p>

Business plan item	Criteria
	<p>If the project plans to provide direct support to business the application should show how it will meet the requirements of the Business Support Simplification Programme.</p> <p>The project must give a breakdown against the costs of the planned number of participants, outcomes and results, which again should fit with the call for proposals.</p> <p>The key milestones should give an indication as to the viability and deliverability of the project.</p>
3.3. Sub-contracting	<p>If sub-contracting will not be used, then no rating should be given.</p> <p>If sub-contracting is to be used, it must be clear how sub-contractors will be selected in a transparent way; how their performance will be managed, and how value for money will be ensured.</p>
3.4. Added value	<p>Must indicate how ESF will bring added value to the project in terms of quantity (egg numbers supported; additional outcomes) and/or quality (egg additional support such as carer care; ESOL training).</p>
<b>Part 4 State aids</b>	
4.1. Will any activity funded through this project be a State Aid?	<p>The answer is likely to be “no”, and if so no rating should be given. The applicant should explain why activity will not be a State Aid.</p>
4.2. State aids processes	<p>If the answer to 4.1. is “yes”, there must be evidence that the applicant has the capacity to collect and collate the required information, and understands what the obligations on them are.</p>
<b>Part 5 Cross cutting themes</b>	
<p>5.1. Equal opportunities theme</p> <p><b>Gateway question</b></p>	<p>Proposals for implementation and mainstreaming the theme of equal opportunities and gender equality must be as required by EU regulations, and as set out in the Operational Programme and regional ESF frameworks, and be compliant with UK legislation on this theme. The proposal must describe how this theme will be embedded across the whole of the project, including any activities delivered by sub-contractors.</p>

<b>Business plan item</b>	<b>Criteria</b>
5.2. Sustainable development theme <b>Gateway question</b>	Proposals for implementation and mainstreaming the theme of sustainable development are as required by EU regulations, and as set out in the Operational Programme and regional ESF frameworks, and compliant with UK legislation on these themes. The proposal must describe how this theme will be embedded across the whole of the project, including any activities delivered by sub-contractors.
<b>Part 6 Capacity</b>	
6.1. Management arrangements	The application should describe the arrangements in place to ensure how the project will be managed effectively.
6.2. People	There needs to be enough people with the right skills, knowledge base and abilities to cover the range of functions required.
6.3. Accounting systems	These must enable ESF and match funding expenditure to be separately identified and to meet audit trail requirements.
6.4. Monitoring & audit	There must be assurance that all the costs claimed will be eligible and that all aspects of project activity will be monitored against planned financial, output and results targets.
6.5. Management information.	Systems will be in place to collect participant level data (from sub-contractors if relevant), validate and collate and send it to the managing authority
6.6. Evaluation	This should set out how the contribution of delivering the project to the regional ESF framework and operational programme will be subject to a qualitative evaluation.
6.7. Quality	As ESF funded provision will be subject to inspection by OFSTED, there must be systems in place to ensure quality standards and continuous improvement, and support to any sub-contractors to enable them to meet the standards.
6.8. Publicity	The application must show how the regulations will be met so that, amongst other requirements, all participants are made aware that the provision is part funded by the European Union.

<b>Business plan item</b>	<b>Criteria</b>
<b>Part 7 Financial viability</b>	
7.1. Legal status	<b>Gateway question when taken together</b>  Full information must be provided for all the questions, otherwise the risks of proceeding are likely to outweigh the benefits.
7.2. Audited accounts for last three years	
7.3. Auditor name and address	
7.4. How long in existence	
<b>Part 8 Track record</b>	
Details of previous ESF and other government funded projects	Evidence should be compiled in the form of, for example, accuracy and timeliness of claims; Article 4 visits; Article 10 visits; other GO contacts, to assess previous performance of the applicant
<b>Part 9 Project expenditure details and Part 10 Financial summary</b>	
Total project costs	Do the projected costs give value for money when set against the projected number and type of participants, outcomes and results. How well do the costs and associated targets relate to the broad costs and targets in the regional ESF framework.
<b>Part 11 Public match funding</b>	
Amount and source <b>Gateway question</b>	There must be evidence of the amount and source of clean cash match funding.
<b>Part 12 Declaration</b>	
Declaration	Must be signed and dated.

The appraisal will make an overall assessment of the application and make a recommendation as to whether the project should receive funding. Where several applications have been received and there are not sufficient funds to enable all acceptable applications to be funded, the appraisers will rank the applications, giving a justification for the ranking. As with CFO plans, project selection arrangements will be endorsed by the regional ESF committees.

### **3.14 Community Grants**

For further details of Community Grants requirements and procedures see ESF Guidance Manual 2 for CFO led activity [[web link](#)] and Guidance Manual 3 for non-CFO activity [[web link](#)].

The central Managing Authority has developed arrangements to implement a small grants scheme that builds on the experience of the Global Grants initiative operating under the 2000 – 2006 ESF programme. The arrangements for the new small grants scheme, known as ‘Community Grants’, have been endorsed by the national ESF monitoring committee.

ESF Community Grants will enable small third sector organisations that would not otherwise be able to access ESF to access small grants through simplified application arrangements. Grants will focus on progression towards the labour market but will not duplicate provision that is available through mainstream ESF activity. Grants will strengthen the ability of small third sector organisations to deliver employment and skills activities to disadvantaged people.

#### *Grant Co-ordinating Bodies*

ESF Community Grants will be awarded and administered by Grant Co-ordinating Bodies. It is the intention to deliver Community Grants primarily through Co-financing arrangements with Grant Co-ordinating Bodies selected through open and competitive tendering. Grant Co-ordinating Bodies will be responsible for:

- publicising the availability of grants and making calls for applications in line with agreed regional priorities;
- selecting successful third sector applicants, agreeing level of approved grant and planned outcomes (for many grant awards outcomes are likely to focus on progress towards mainstream ESF and other provision);
- providing support, where necessary, to grant recipients to help them manage ESF effectively;
- monitoring performance and delivery of grant recipients and reporting back to the CFO.

#### *Eligible activity*

ESF Community Grants will support a range of activities aimed at assisting the disadvantaged or excluded to move closer to the labour market by improving their access to mainstream ESF and domestic employment and skills provision. Activities will support participants from the target groups in the Operational Programme but because the focus will be on individuals who have difficulty in accessing ESF or mainstream provision outcomes are more likely to be based on progression rather than achievement of jobs and qualifications.

Grants must not be used to duplicate provision that is available through other ESF co-financing – they will provide support to hardest to reach communities and individuals to access and succeed in this or other provision. The small third sector organisations that access grants are likely to be well placed to reach excluded individuals facing barriers which hinder access to the mainstream. The grants will support a wide range of activities including:

- initial help with basic skills;
- taster work experience including voluntary work;
  
- training, advice and counselling;
  
- job search assistance including the provision of equipment and other assistance necessary to secure employment;
  
- confidence building;
  
- first contact engagement activities, for example to provide support to engage individuals with barriers in a non-threatening environment.

In addition, there will be limited scope (up to 10% of the ESF available to support Community Grants) for grants to provide support to small third sector organisations themselves. Such support might include:

- training for staff and volunteers in third sector organisations on mainstream routes to employment and training;
  
- actions to support the development of delivery and accreditation arrangements in-house.

Care should be taken to avoid funding activities that are more appropriate for Technical Assistance.

If there were situations where third sector organisations had common needs, for example accreditation of staff for a particular qualification it might be more cost effective for the co-ordinating body to provide this through the provision of a service rather than a grant.

### *Funding*

ESF Community Grants will operate in priorities 1 and 4 of the Operational Programme. Ministers have agreed that up to 2.5% of ESF in these priorities can support small grants. Up to 4% of Priority 1 allocations for 2007-2010 may be allocated to Community Grant activity in phasing-in areas.

The maximum amount of ESF grant awarded will be £12,000 per small third sector organisation per year. Regions will have the flexibility to decide a lower maximum.

### *Delivery arrangements through Co-financing*

ESF Community Grants will be delivered at regional level with a separate scheme in each region. Regional ESF frameworks may identify issues or areas where grants should be targeted. Regions will also decide on the level of ESF from Priority 1 to support Community Grants within the 2.5% limit (4% in phasing-in areas for 2007-2010 allocations).

Community Grants will be delivered primarily through Co-financing arrangements in England (through the LSC and the LDA). Non-CFO delivery has been agreed in the Merseyside phasing-in area for 2007-2010 to enable activities supported under the Objective 1 programme to be completed. The Grant Co-ordinating Body in Merseyside will be selected through a call for proposals and must be able to provide all required public match funding.

Community Grants will be awarded to small third sector organisations to support particular groups and achieve agreed outcomes and objectives. It will be necessary to capture and report on the outcomes achieved by the grant recipients including soft outcomes. There are likely to be some variations in the objectives of Community Grants schemes at regional level depending on specific regional priorities or targeting.

Grant Co-ordinating Bodies will need an appropriate level of resource to meet their administration costs. Contract cost payments will need to reflect necessary administration costs and provide the cash-flow for co-ordinating bodies and grant recipients where necessary. An appropriate level of administration costs will be agreed, normally within a limit of 10% of the ESF awarded to the grant co-ordinating body. It may be necessary to exceed the normal limit of 10%, for example in regions with below average Priority 1 allocations. Administrative costs will reflect necessary administrative, overhead and support costs to be undertaken and would be agreed as part of the normal tendering and contracting arrangements within Co-financing.

### *Allocation of grants*

Grant Co-ordinating Bodies are required to allocate grants to small third sector organisations through an open, transparent and competitive process. They should advertise the call for applications for small grants widely and specify what activities can be supported including any targeting of participant groups.

The allocation of grants will be made on the basis of selecting third sector applicants against specific criteria set out in calls for grant applications. Selection arrangements must be clear and transparent and published alongside the call for applications. A list of third sector organisations who are awarded grants following the selection process must be published. Grant recipients will receive 100% ESF. To avoid the risk of duplication Grant Co-ordinating Bodies should liaise with Community Development Foundations appointed to deliver the 'grassroots grants' scheme on behalf of the Office for the Third Sector.

Given the nature of the grants and delivery through small third sector organisations, it would not be appropriate to award them through full open and competitive tendering arrangements. As the grants themselves will not be awarded through tendering, grant recipients will be required to maintain records of actual grant expenditure to ensure a full audit trail.

### *Monitoring and reporting arrangements*

There is likely to be significant interest in the outcome and achievements of Community grants at regional and England level. The regional Managing Authority and the LDA will cooperate with the LSC (in Merseyside with the organisation holding the CG contract) to provide reports on progress to regional ESF committees and the ESF national monitoring committee. Grant Co-ordinating Bodies will need to ensure that reporting arrangements fully reflect the objectives and priorities of regional Community Grant schemes.

To ensure that certain key information on progress can be provided to ESF committees and reported for example in the Annual Implementation Report, Grant Co-ordinating Bodies will be required to supply the following key data to CFOs (Local Authority in Merseyside):

- number of applications for grants received;
- number of grants awarded;
- average value of grants awarded;
- number of participants supported through grants;
- achievement of soft outcomes, jobs and qualifications;
- short case studies of how grants have supported specific targets groups and specific outcomes achieved (case studies to be provided for 10% of completed projects);
- summary of how grants are supporting regional priorities.

## **3.15 Technical Assistance**

Details of procedures, requirements and application forms for Technical Assistance activity can be found in the non-CFO Manual 3 (Annexes 4, 5 and 6 deal with the application process).

The requirements for the use of Technical Assistance by Member States are set out in Article 46 of Council Regulation 1083/2006. The England ESF

Operational Programme sets out the eligibility of TA funding to support the management and implementation of the programme.

The Managing Authority is responsible for the development of a Technical Assistance strategy that sets out the allocation of funding, procedures and requirements for the programme. The national ESF monitoring committee considered and commented on the TA strategy at its meeting in October 2007.

Details of the allocation of funding to support TA activity are set out in section 3.11.

Technical Assistance is eligible to support:

- preparatory, management, monitoring, evaluation, information and control activities of the Operational Programme;
- activities to reinforce the administrative capacity for implementing the funds at national and regional levels;
- the Operational Programme's publicity and communication strategy;
- support for the cross-cutting themes of gender equality and equal opportunities and sustainable development;
- the development and implementation of programme monitoring and evaluation systems;
- support for the delivery of transnational and inter-regional activity;
- support to third sector networks to support participation by voluntary and community organisations in the programme, and;
- in the Convergence Objective only, technical assistance can be used to invest in administrative capacity to facilitate programme delivery and strengthen capacity in input analysis and evaluation, including supporting the implementation of the programme in such a way that it is aligned with the Local Area Agreement for Cornwall where appropriate.

Applications for Technical Assistance must be in accordance with either:

- the England TA strategy for applications for central funding; or
- the appropriate regional TA strategy for applications for regional funding.

#### *Priorities for National TA spending*

For the programming period 2007-2013, the amount of ESF set aside to

support national TA activity is £31.1m (around £4.7m p.a.). National TA will support the following activities:

*(i) Programme evaluation*

The Managing Authority will commission the ESF evaluation team to produce an evaluation strategy and plan covering the Convergence Objective and the Competitiveness and Employment objectives. See section 3.30 in this Manual for more information on the evaluation strategy).

*(ii) Publicity and information*

The Communication Plan for the Operational Programme was presented to the national ESF monitoring committee. See section 3.37 in this Manual for more detail.

*(iii) Programme implementation*

The Managing Authority intends to use national TA to support key implementation issues:

- resource to support the implementation of the cross-cutting themes (gender equality and equal opportunities, and sustainable development) at national and regional level;
- the use of external support to undertake, under the direction of the Managing Authority certain elements of Article 13 verification activity;
- the costs of developing and implementing new ESF IT systems to support the delivery of the new programme.

The Managing Authority will produce an implementation plan setting out implementation arrangements for each of the above items together with an indicative budget will be presented to the national ESF monitoring committee which will then provide the basis for TA support.

*(iv) Adult learners' week*

TA will be available to support Adult Learners' Week which is delivered by NIACE. It promotes education and training for adults, provides access to information and guidance, motivates more and different adults to participate in learning and celebrates the learning achievements of adults. Publicity is a key part of the design and purpose and therefore a key contributor to the ESF publicity effort.

*(v) Third sector support*

TA will be available to support third sector networks in order to enable participation by voluntary and community sector organisations in the programme. This will include building the capacity of providers to publicise the ESF elements of their work.

*(vi) Higher education support*

TA will be available to support the higher education sector to continue to participate in the programme and ensure higher education institutions can make a full contribution to the achievement of ESF objectives.

*(vii) National CFO support*

Co-financing organisations (CFOs) will manage ESF regionally and as beneficiaries, be entitled to claim for actual ESF administration costs within set limits, through their agreements with the Managing Authority. TA will however be available for national CFOs (DWP and LSC) to support national implementation costs e.g. national IT systems development to meet ESF requirements.

*(viii) Other*

National TA may support other eligible activities not identified in this manual but which meet the eligibility criteria set out in the Operational Programme.

For items (i) – (iii), the Managing Authority will manage TA activity in line with the strategies and implementation plans considered by the PMC. The Managing Authority will identify match funding for these items. For items (iv) – (viii) the Managing Authority will request proposals from relevant providers and seek national ESF monitoring committee endorsement for individual projects. These providers will need to supply the required match funding.

Although some national TA activity will indirectly benefit the Convergence region, e.g. national publicity requirements there is not a case for apportionment against Convergence budgets.

*Regional TA strategies*

In the Competitiveness and Employment Objective, each region will develop a regional TA strategy to be considered by the regional ESF committees. In North West and Yorkshire and the Humber the regional TA strategies will need to identify the specific needs and budget requirements of the phasing-in areas. Regional TA strategies will take account of the priorities in the regional ESF frameworks, will set out the arrangements for approving TA projects and will include an indicative budget. Regions will need to identify their own match funding.

The central Managing Authority will consider all regional ESF strategies in order to ensure there is no duplication with national TA activity and to agree any additional TA allocation from the funds set aside for regional TA activity.

The Convergence area has its own TA budget and will develop its own Convergence TA strategy taking account of the needs of Cornwall and priorities in the convergence ESF framework.

### *Eligibility*

The normal eligible date for TA expenditure will be no earlier than the date a TA application is received by the Managing Authority. However, for any applications received in 2007 the eligible date can be from 9 August 2007 – the date the Commission adopted the Operational Programme – providing a suitable case can be made.

### *Reviewing TA implementation*

The Managing Authority will report annually to the national ESF monitoring committee on TA progress and implementation at national and regional level. The proposed allocations for the Competitiveness and Employment Objective will be reviewed as soon as the detailed national TA activities and indicative budgets have been agreed and the regional TA strategies have been endorsed by regional ESF committees. Any proposals to amend the TA allocations will be agreed with the national monitoring committee.

## **3.16 Innovation and transnational activity**

A sub-committee of the national ESF PMC has considered the arrangements for implementing innovative ESF projects outside of co-financing arrangements. LSC and DWP CFO have indicated that they could not tender for separate innovative projects. The Managing Authority will therefore issue its own call for proposals for regional innovative and transnational projects. Applicants will be required to provide their own match funding in accordance with section 3.13 of Manual 3.

Up to 2% ESF allocations in Priorities 1, 2, 4 and 5 are available to support innovative projects in the first half of the programme. Innovative ESF projects will test out new ways of addressing difficult skills and employment issues in the labour market. Projects will need to have at least one transnational partner so that experience from other member states can be taken into account. It is important that there is 'buy-in' from relevant policy colleagues so that the results of innovative activities can be mainstreamed at national or regional level.

The ESF regulation requires member states to identify the themes for innovative activity which innovative projects should address. The innovation sub-committee has developed these themes taking into account priorities set out in regional ESF frameworks. Regional committees will be invited to select one or more themes that best reflect regional priorities. The sub-committee has also agreed that given overall resource constraints, the number of innovative projects should be limited to up to three projects per region (four in London) in the first half of the programme. In addition it was considered that there must be some co-ordination of innovative and transnational activity to

assist regions in selecting projects and co-ordinating activities subsequently. A co-ordinating body, Birmingham City Council, has been selected through a competitive process and will be funded through national ESF Technical Assistance. The role of the co-ordinating body is will be to assist the Managing Authority at national and regional level rather than to take responsibility from them. The Managing Authority will retain responsibility for appraising applications, contracting with projects, and undertaking Article 13 verifications.

Action Note 008 2007 – 2013 issued in August 2008 set out plans to launch a call for proposals for innovative and transnational activity at the end of October 2008.

### **3.17 Cross cutting themes**

There are two cross-cutting themes:

- gender equality and equal opportunities; and
- sustainable development (which incorporates environmental sustainability).

EU Regulation 1083/2006 Articles 16 and 17 require these themes to be promoted during the various stages of the implementation of the programme. The cross-cutting themes, and the provider's role in promoting them, will be evaluated during the life of the programme. Their implementation will also be covered by monitoring and audit activities. All providers are expected to comply with relevant legislation.

Cross-cutting themes will be promoted through the dual approach of:

- mainstreaming the themes into the delivery of all projects; and
- supporting specific actions (for example, activities aimed to improve women's participation, or to provide training in environmental management).

Guidance and requirements for beneficiaries on the cross cutting themes is set out in:

- **Manual 2** – CFO Beneficiary Guidance and Requirements, Section 2.34; and
- **Manual 3** – Non-CFO Beneficiary Guidance and Requirements, Section 3.19.

The central and regional Managing Authorities and the Intermediate Bodies will examine progress in implementing the cross-cutting themes (including the targets on the participation of women, ethnic minorities, disabled people and older people) when they hold reviews with CFOs as part of its Article 13 programme. CFOs will be expected to explain action taken to address any under-performance. The Managing Authority/Intermediate Body will request case studies and examples of good practice (for publicity purposes).

The ESF Gender Equality and Equal Opportunities and Sustainable Development Sub Committees have agreed national mainstreaming plans for the 2007-2013 programme.

#### *Sustainable development*

The ESF Sustainable Development Sub Committee has agreed a national mainstreaming plan for the 2007-2013 programme.

Further guidance and training materials on the cross cutting themes will be developed by the central Managing Authority as required during the course of the programme.

### **3.18 Funding Agreements**

The central Managing Authority has drawn up a series of funding agreements that will be signed by the Managing Authority and CFOs, and non-CFO beneficiaries. **Annex 6** contains copies of the different types of funding agreements including variations.

The Managing Authority and Intermediate Bodies will be responsible for the servicing of these contractual agreements including any variations that may need to be made during the life of the programme.

#### *CFOs*

The contracts between the Managing Authority and CFOs are termed 'beneficiary agreements'. The beneficiary agreement authorises the CFO to select and approve ESF projects in accordance with EU and national procurement legislation.

#### *DWP*

The contracts between the Managing Authority and DWP are termed a 'Memorandum of Understanding', as both parties are part of the same Government Department.

The purpose of this Memorandum, is to set out the obligations of DWP CFO in delivering performance and compliance requirements that constitute this

agreement on the arrangements for selection and approval of ESF projects. Annex 6 includes a copy of the Memorandum of Understanding

#### *Non CFOs*

The contracts between the Managing Authority and the non CFO applicant are termed non CFO Agreements. In this Agreement the applicant agrees to deliver the project in line with the Operational Programme and the application for ESF support. Annex 6 includes a copy of the non CFO Agreement.

#### *Technical Assistance*

For Technical Assistance the contracts between the Managing Authority and the applicant are termed Technical Assistance Agreements. In this Agreement the applicant agrees to deliver the project in line with the Operational Programme and the application for TA. Annex 6 includes a copy of the Technical Assistance Agreement.

#### *Variations*

The Managing Authority has drawn up documentation to record any variations to the contracts and agreements set out above. Annex 6 includes copies of the variations agreement.

### **3.19 Payments to beneficiaries**

Please refer to Manual 1 sections 1.9 and 1.10 for the detailed expenditure eligibility rules for CFO and non-CFO organisations respectively.

#### *CFO expenditure*

For co-financed provision, claims for reimbursement of ESF will normally be based on payments made to providers on the basis of contractual arrangements between the CFO and its providers. Since providers are selected through competitive tendering, there is no requirement for them to provide evidence of actual eligible expenditure although CFOs must retain evidence that services agreed and paid through contract cost arrangements have been provided in accordance with the contract. If, exceptionally, the contract between the CFO and a provider stipulates the use of actual eligible expenditure, then the rules governing the eligibility of expenditure must be followed. Claims from CFOs for reimbursement of ESF relating to administrative costs must also follow the rules on actual eligible expenditure.

#### *Non CFO expenditure*

Non CFO and Technical Assistance expenditure must be declared on the

basis of actual ESF expenditure (including match funding) because projects are not selected through open and competitive tendering. Expenditure declared must be justified by supporting paid invoices or other appropriate accounting documents.

Claims based on actual eligible expenditure can cover staff, participant and other costs.

### **3.20 Making Claims**

*Action Note 2007 – 2013, 007* issued in August 2008 provides the latest position concerning the submission of manual ESF claims. These arrangements will remain in place until the IT system (INES) is up and running. Further guidance will be issued to update the position and this section of the manual will be revised in due course.

Further information on making claims is available in ESF Guidance Manual 2 for CFO activity and ESF Guidance Manual 3 for non-CFO activity.

The central Managing Authority in cooperation with the Certifying Authority is developing a claims procedure that enables beneficiaries to declare eligible expenditure included in the beneficiary or funding agreement and for payments to be based on expenditure declared.

The central Managing Authority will not make advance payments to CFOs or non-CFO providers. Reimbursement will be for actual ESF expenditure declared. There will be no retention of payments and claims will be paid in full subject to satisfactory submission of the claim.

#### *Processing of claims*

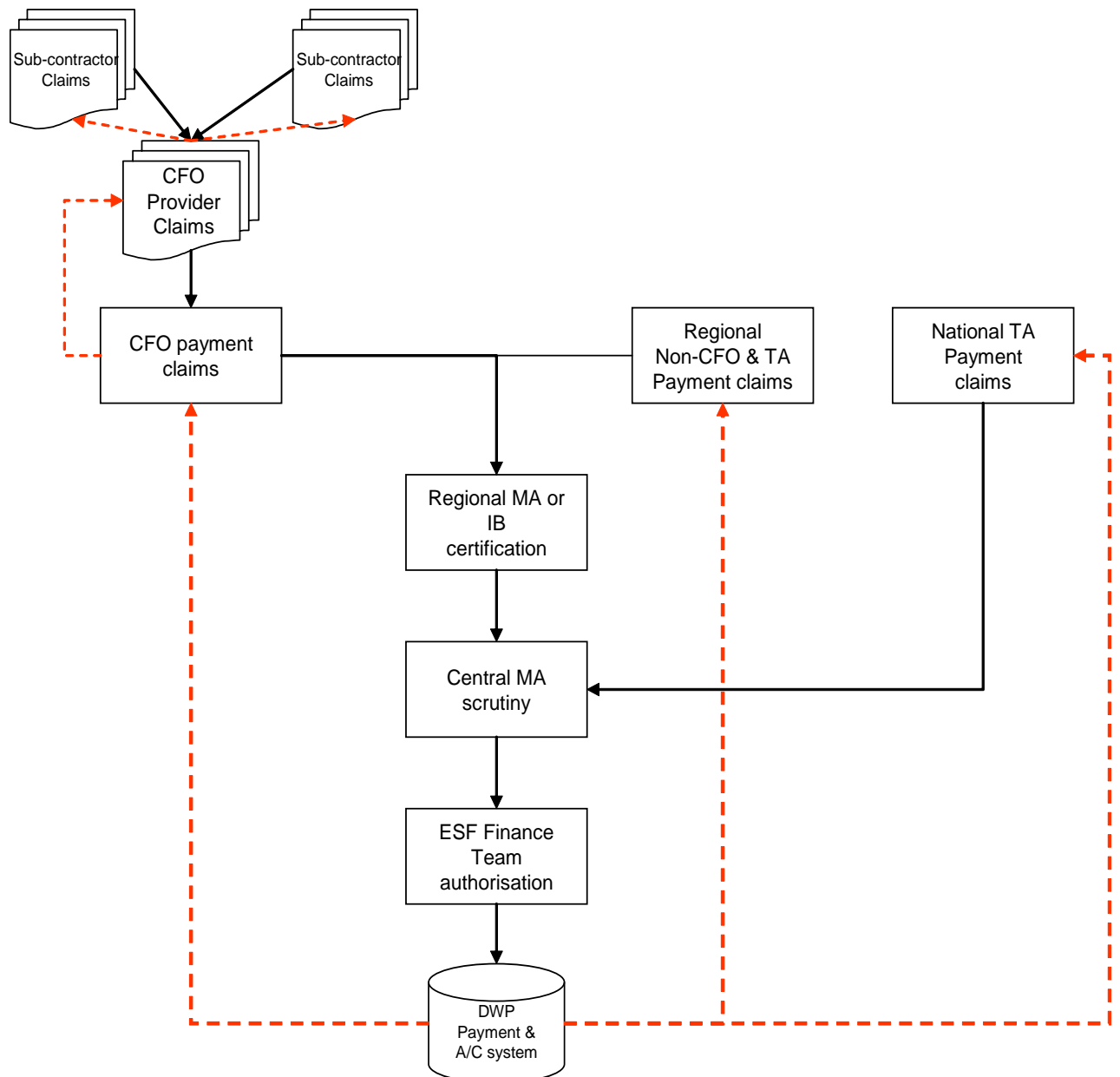
Application for reimbursement of ESF will be submitted, received, verified, validated and authorised through the ESF IT system for the 2007-2013 programme.

Beneficiaries will submit their claims for reimbursement electronically to the regional Managing Authority or Intermediate Body for approval. The regional Managing Authority/Intermediate Body will undertake a number of checks to certify (verify and validate) the claim for payment of ESF. Once certified, claims will be submitted to the central Managing Authority for scrutiny and authorisation. Initially all claims will be subject to a series of management scrutiny checks by the Managing Authority: delivery team, however this will be reviewed after 12 months and may be reduced dependent on the level of risk.

Following scrutiny, claims will be forwarded to the Finance team who will conduct a final set of checks for authorisation. The Finance team will then

submit an application for payment of the claim using the DWP Resource Management payment system. The amount paid to the beneficiary will be the actual amount of ESF claimed in Sterling.

Once authorised the expenditure for the claim will enter into the electronic reports that will form part of any claim for reimbursement to the Commission. Conversion to Euro will be made electronically using the appropriate monthly accounting exchange rate as published by the Commission.



and claim arrangements (including the manual system to be adopted prior to the implementation of the IT system) are summarised below. Detailed information on claim and payment arrangements are provided in the guidance notes which accompany the claim forms.

*Interim manual claims process*

Until the ESF IT system is available an interim manual process is being put in place to ensure that there is a fully functional and auditable claims process. Action Note 007/2007 – 2013 issued in August 2008 provides full details of the manual process to be followed when claims are submitted.

### *Claims*

Beneficiaries must submit claims for payment for the quarters ending on the last day of February, May, August and November within 20 working days of the quarter end. The Managing Authority must be informed if this timetable cannot be met. There is scope to submit claims outside of these periods if the need arises.

Claims must include expenditure only for the period covered by the claim together with any expenditure for previous periods that has not been previously declared. Claims must show the amount of ESF and match funding. For CFO claims, a breakdown of expenditure by contract cost payments to providers, other costs, administration costs and revenue received is required. For non-CFO activity, claims must show a breakdown of expenditure by staff costs, participant costs, other costs, and any revenue received. Beneficiaries are also required to declare any ineligible expenditure included in previous claims and recoveries of funds identified and confirmed as irregularities from previous claim periods.

Where actual expenditure varies by more than plus or minus 15% beneficiaries must provide a reason for the variance. If the next quarterly claim also has variances in excess of 15% the beneficiary must provide a revised profile with that claim. Failure to revise profiles may result in payments being suspended. The number of participant starts in the period must also be provided as must participant management information for the period up to the end date of the previous claim.

The claim also requires the beneficiary to provide narrative comments on ESF performance in the period covered by the claim including any significant issues affecting delivery of the funding agreement. Claims submitted for the period to the end of February will be required to provide a narrative report on performance over the previous year. The Managing Authority will provide guidance in good time on any specific issues that should be covered in the narrative comments for the February claim. The information will provide background to the annual strategic review between the managing authority and the CFO. The information provided will also be used to contribute to the Annual Implementation Report that is sent to the European Commission.

### *Claims*

The claim for final payment is similar in format to the claim and provides the final declaration of expenditure and revenue for the agreement.

### 3.21 Irregularities and Recoveries

The central Managing Authority in ESF Division will be responsible for the coordination of irregularities for the 2007-2013 programme. ESF Division are currently developing systems and procedures to ensure compliance with Regulation 1828/06 Articles 27-36 and streamline/simplify the processes which have existed for the 2000-2006 programme.

Government Offices will retain responsibility for notifying and reporting irregularities detected as a result of delegated financial control activities. The central Managing Authority will be responsible for reporting irregularities arising from Article 13 controls, and DWP RAD for those irregularities found during Article 16 audits.

It is intended that the IT system for the new programme will be used to record and manage irregularities as well as provide most, if not all, of the reports required by key stakeholders. Initially, the recording of irregularities onto the IT system will be managed centrally in ESF Division from information provided in SFIRs and Irregularity Claim Breakdown Forms. ESF Division will also be responsible for maintaining the debtor's register.

The irregularly aspect of the IT system is still work in progress. Until this part of the system development is completed and arrangements firmed up and detailed in this manual, interim arrangements are as follows:

- Irregularities both above and below the reporting de minimis of €10,000 should be notified electronically to Eileen Townend in ESF Division **Eileen.townend@jiu.gsi.gov.uk** on the revised version of the Structural Fund Irregularity Report Form (SFIR 2007-13 version1) shown at **Annex 7**. This contains instructions on completing the SFIR. ESFD will retain the de minimis cases for future input to the IT system and for recording on the centralised debtor's register.
- ESFD will convert sterling to Euros at the relevant exchange rates and complete these entries on SFIRs. To enable ESFD to do this accurately each SFIR submitted to ESFD is required to be accompanied by a completed Irregularity Claim Breakdown Form (**Annex 7**), which will be used to record the sterling value of the irregularity broken down across the different claim periods.

The new systems will ensure:

#### *Initial reporting (Article 28)*

- irregularities for individual or multiple de minimis cases above the €10,000 reporting threshold are reported to OLAF within 2 months of the quarter end following detection;

- if irregularities detected are systemic in nature and may therefore entail a risk to other beneficiaries or operations, procedures are in place to take preventative and corrective action;
- the Structural Fund Irregularity Report Form (SFIR) used to report irregularities provides all the information required under Article 28.1;
- irregularities both above and below the €10,000 reporting threshold are notified as irregularities and treated in EC claims

#### *Urgent cases (Article 29)*

The central Managing Authority will report urgent cases to OLAF without delay.

#### *Reporting of follow-up (Article 30)*

The central Managing Authority will submit updated SFIRs to OLAF within 2 months of the quarter end outlining developments in the course of the administrative or judicial process which result in important changes to the information previously reported;.

Debtors' registers are also updated to reflect the latest information reported to OLAF.

#### *Electronic Transmission (Article 31)*

SFIRs are sent electronically for input by the UK irregularity co-ordinating authority onto the OLAF AFIS database via the module provided by the Commission.

#### *Irregularities under the reporting threshold (Article 36)*

Irregularities both above and below the €10,000 reporting threshold are recorded on the debtors' register which holds details of the amounts that are recoverable and amounts that have been recovered or withdrawn from Programme Declarations of Expenditure in line with Regulation 1083/2006 Article 61(f).

#### *Conversion to Euros (Article 36)*

Irregularities both above and below the reporting threshold are converted to Euros in line with Regulation 1083/2006 Article 81.3.

As part of the overall assurance process, the central Managing Authority and

Intermediate Bodies are required to provide evidence of quality assurance checks across a sample of cases on a quarterly basis to ensure that:

- irregularities are recorded and reported in line with the regulations;
- information included in SFIRs and Debtors' Registers is accurately recorded;
- irregularities are being properly concluded and satisfactorily treated in EC programme claims;
- irregularities have a verifiable audit trail.

#### *Recycling of cancelled funds*

Funds that have been subject to correction and removed from a claim may be reused subject to certain conditions in accordance with EU Regulation 1083/2006 Article 98(3). The Regulation states:

*'The contribution cancelled in accordance with paragraph 2 may not be reused for the operation or operations that were the subject of the correction, nor, where a financial correction is made for a systemic irregularity, for existing operations within the whole or part of the priority axis where the systemic irregularity occurred.'*

In the case of a one-off irregularity i.e. not systemic, the cancelled funds can be re-used with a different project in the operation supported by the CFO. If the irregularity is systemic and affects all the projects in the operation, then the money cannot be re-used by the CFO in that priority axis.

#### *Financial corrections*

Irregularities are required to be identified and reported against either ESF or public match funding. Depending upon whether the irregularity can be divisible between ESF and matched funds the following action is required:

- Where an irregularity can be split between either ESF or match the financial correction should be applied on the same principle. For example, where an irregularity is identified on the match element only of a CFO project, then the financial correction is only applied to the match element of the project;
- Where, on the other hand, the irregularity is not divisible between ESF and match funds, the financial correction should be applied to the Total Declared Expenditure (TDE) and then split via the intervention rate e.g. for an alternative bid project where the costs are indivisible or difficult to split by fund.

The central Managing Authority should decide the most appropriate methodology for the financial correction on a case-by-case basis, keeping a

record of the method used.

### *Potential Irregularities*

Where the irregularity impacts on claims that have been received but not yet been paid the financial impact on the unpaid claims must be assessed and corrective action taken to prevent the ineligible funds being drawn down in Programme declarations of Expenditure.

### *Self corrections*

Where either a CFO or a project provider identifies voluntarily that it has claimed expenditure which is ineligible and alerts the MA to this, provided no notification of either an Article 13 and or Article 16 visit has been made this should be treated as a self correction and should not be notified as an irregularity. The value of the voluntary adjustment must be recorded in the debtor's register to evidence that it has been satisfactorily treated in Programme Declarations of Expenditure

### *Recoveries*

The ESF payment system for the 2007-13 programmes supports the prompt recovery of irregular expenditure.

Recoveries are processed as follows:

- once an irregularity is quantified the details of the irregular expenditure by claim period and heading is recorded on ESF Division's electronic payment system;
- where a beneficiary agreement / memorandum of understanding / non-CFO agreement is still current an automatic deduction of the irregular expenditure is made from the next beneficiary claim and the subsequent Programme Declarations of Expenditure (recovery);
- where a beneficiary agreement / memorandum of understanding / non-CFO agreement is closed and a payment has been made the system generates the removal of the irregular expenditure from subsequent Programme Declarations of Expenditure and transfers the responsibility for the debt to the managing authority (withdrawal).

### *Debtors' ledger and deductions from expenditure to be declared*

The Finance Team within ESF Division is responsible for the maintenance of the debtor's ledger which:

- records all irregularities and keeps account of the amounts that are recoverable and of the amounts recovered or withdrawn from Programme

Declarations of Expenditure;

- provides the data source for the amounts recorded on the Annexes to accompany Programme Declarations of Expenditure and the annual declaration on recoveries as laid down in annex XI of Regulation 1828/2006 and described in Regulation 1083/2006 Article 20.2.
- under article 30.2 ESFD will notify the EC in a special report of cases where it is considered that the irregular amount cannot or is not expected to be recovered. This is not necessary for irregularities which are not reportable to EC because the value of the irregular EU contribution in Programme Declarations of Expenditure is below €10,000.

Further guidance will be issued on the recovery of debts including clarification of the respective roles of the regional Managing Authority/Intermediate Body and the central Managing Authority.

### **3.22 Providers in liquidation**

Where a provider goes into liquidation under a co-financing arrangement then that is a matter for the co-financing organisation with whom the provider has a contractual relationship.

When a non-cofinanced ESF provider goes into liquidation then both the EC and DWP funds are put at risk. It is the responsibility of the regional and central Managing Authorities and Intermediate Bodies to put systems in place to minimise the risks to public funds.

As there will only be a limited number of non-cofinanced projects operating in the 2007 – 2013 ESF programme the number of liquidation cases will be small.

The central Managing Authority is currently reviewing guidance relating to liquidations and will update this entry in this manual in the near future. In the meantime, any liquidation cases arising should be referred to the central Managing Authority in ESFD in the first instance. Cases will be considered on an individual basis in consultation with the ESFD Finance Team.

### **3.23 Suspected Fraud**

The Managing Authority and Intermediate Bodies have a responsibility to ensure procedures are in place to:

- Raise awareness among beneficiaries of the dangers of fraudulent activity arising through ESF;
- Ensure any suspected cases of fraud are promptly reported and investigated;

#### *Raising awareness of fraud*

The central Managing Authority will seek to raise and maintain awareness among beneficiaries of the risk of fraudulent activity through:

- the active promotion of fraud awareness in the Managing Authority's Article 13 verification strategy. In cooperation with the regional Managing Authorities and the Intermediate Bodies, the risk of fraud will be raised during quarterly reviews with CFOs and, where appropriate, during the on the spot checks of claims;
- regular discussion of fraud risks and individual cases at Managing Authority quarterly programme meetings involving the regional Managing Authorities and Intermediate Bodies;
- where appropriate, raising the fraud issue at annual review meetings with regional Managing Authorities and Intermediate Bodies;
- discussion with the Audit Authority to review any relevant findings emerging from audit activity.

#### *Procedures for reporting fraud*

The European Commission (EC) has issued Regulation 1681/94 (revised in November 2005 by Regulation 2035/05) concerning the reporting of irregularities and the recovery of related sums wrongly paid. This regulation continues to apply in the 2000-2006 programme. It is an EC requirement that Member States carry out fraud and irregularity checks on ESF supported projects on a regular basis and report all irregularities to them on a quarterly basis. In addition to breaches in EC regulations, reportable cases include offences against English law. At present, no distinction is made between deliberate or negligent activity and both types of activity should be reported.

DWP RAD (Investigations) provide a service to the central Managing Authority and undertake investigations where suspected fraud or mismanagement is suspected. **Annex 8** sets out an agreed protocol for actions to be taken by the MA and RAD Investigations following the receipt of evidence relating to suspected fraud in ESF projects.

ESF Division is responsible for conducting a quarterly irregularities reporting exercise in England and for submitting the results to BERR who in turn pass information to the European Commission anti-fraud team (OLAF)

#### *What should be reported?*

The central Managing Authority in ESFD should be informed of all cases where:

- a breach of regulations or ESF administrative procedures has been discovered;
- activity likely to cause a breach of regulations is discovered, particularly if the practice is new, has implications for other Member States or has been designed to exploit a loophole in the regulations;
- fraud is either discovered or suspected (i.e. receipt of any communication suggesting malpractice, even if fraud is not explicitly stated).

All cases of suspected or definite fraud should be reported. Regional and central Managing Authority representatives (LDA in London) should not delay reporting cases until the quarterly irregularities reporting exercise but should report suspected cases to the central Managing Authority immediately.

#### *When is a referral necessary?*

It is not possible to provide an exhaustive list of circumstances where a referral is appropriate. The key factor in determining that a referral is necessary should be that a visit has been ineffective in that subsequent activity or correspondence failed to clear issues arising, and no other action can resolve the issue. The central Managing Authority Delivery team can provide advice and guidance if needed.

Examples where referrals for advice may be appropriate include:

- following desk scrutiny of ESF applications or claims;
- as a result of information received by telephone call or letter (whistleblower);
- an applicant failing to co-operate in rectifying an error or refunding monies following correspondence or a visit;
- following a visit to a related organisation.

Where there is justification for a formal referral, a report should be drawn up using the attached pro-forma included at **Annex 9** and forwarded to the central Managing Authority Delivery Team in ESFD with the following details:

- what the issue is and how the concern arose;
- what action has been taken so far, listing dates;
- what action/support you want ESFD to take to assist in resolving the

issue e.g. advice or visit;

- any relevant background information and supporting documentation; including printouts showing details of dossiers and payments to date.

### *Roles and responsibilities*

The following section sets out in outline the main responsibilities for those involved in the referral process.

The central Managing Authority in ESFD is responsible for:

- identifying the irregularity where it arises from an A13 on the spot check;
- reporting the irregularity as soon as it is quantified (Euro 4000);
- providing advice on action;
- acting as first point of referral;
- liaison between RAD (Investigations) and regional MA (IB in London & Gibraltar);
- coordinating action arising from the RAD investigation;
- updating regional MA/IBs and implementing action;
- disseminating good practice;
- considering the implications for other regions.

The regional Managing Authority/Intermediate Body is responsible for:

- identifying the irregularity (where it arises from non-A13 on the spot activity);
- referring and pursuing the irregularity;
- reporting the irregularity as soon as it is quantified;
- deciding whether to block further payments;
- making decisions on continuing business;
- assessing the impact on other project related funds;
- considering, with the central MA, recommendations made by RAD (Investigations);
- providing support to RAD (Investigations) during the investigation.

RAD (Investigations) is responsible for:

- considering referrals from Managing Authority Delivery Team;
- coordinating investigations;
- updating central MA:D on cases referred;
- liaison with the police and other prosecuting authorities;
- liaison with other organisations and government departments where appropriate.

### 3.24 Management Information requirements

CFO and non-CFO projects are responsible for ensuring that participants are eligible for ESF funded support. See ESF Guidance Manual 1 for eligibility details [\[web link\]](#). In addition, they must ensure that participants are from the target groups in the ESF Operational Programme and regional ESF framework. See CFO Manual 2, Annex 4 for details of the MI requirement [\[web link\]](#)

#### *Beneficiary requirements*

Beneficiaries must report on participant outcomes and results accurately so that programme performance can be monitored and evaluated effectively and accurate feedback on performance can be provided to regional ESF committees, the national ESF monitoring committee and the European Commission.

Beneficiaries are required to provide the Managing Authority with core information on all ESF and match funded participants. Information is collected when participants start and leave ESF and covers particular characteristics of each participant and the results achieved such as qualifications obtained or gained employment. Information on participants supplied to the Managing Authority will be provided anonymously and will comply with Data Protection Act requirements.

Beneficiaries must transfer participant level data electronically to the Managing Authority quarterly. Failure to submit participant data by required dates may result in payments being suspended. If a beneficiary does not have an individual participant database, arrangements will be made to enable it to enter and update individual participant details directly to the ESFD database through a secure website. All CFOs have to provide participant level data by file transfer.

#### *Performance monitoring*

Provision of data at participant level will enable aggregation at various levels e.g. national, regional, by Priority, by participant type. This will enable programme managers to respond appropriately and quickly to emerging performance issues including progress towards outcome and results targets. Data will be available to regions to inform delivery of regional ESF frameworks. It will also be used to provide the European Commission with programme level data on ESF participants as required by Annex XXIII of the Implementing Regulation 1828/2006.

Core participant data will be supplemented by participant follow-up surveys and other evaluation activity to ensure a full picture of programme

performance and activity is available at all levels. There will be two national follow-up surveys of participants which will report in 2010 and 2013 based on a sample of all participants selected by ESF evaluators. Beneficiaries will be required to provide contact details for those participants selected for the surveys, having sought in advance the permission of the individuals concerned to be contacted.

The central Managing Authority will develop and make available standardised performance reports relating to output, indicator, target and financial information collected on the INES system. These reports will be agreed by the national ESF monitoring committee and used to monitor programme performance. Reports will be made available to regional monitoring committees covering information specific to each region. Regional Managing Authorities and Intermediate Bodies should ensure regional committee agendas include regular items covering performance monitoring.

### **3.25 Freedom of Information requests**

The Managing Authority will be responsible for responding to any requests for information made under the Freedom of Information Act 2000. The Freedom of Information Act aims to increase accountability and transparency and was part of public sector reform to build a culture of rights and responsibilities for citizens. The Act gives a statutory right to the public to information held by most public authorities, subject to exemptions to disclosure.

To comply with the requirements of the Freedom of Information Act the Managing Authority will adopt the rules and procedures developed and operated by the Department for Work and Pensions.

### **3.26 Data Protection Act**

The Managing Authority will ensure that all actions are compliant with the Data Protection Act 2000. Data Protection is the regulation of the processing of information about individuals so as to safeguard their right to the privacy of their information. The Data Protection Act imposes obligations on those responsible for the processing of personal data and confers rights on individuals to access their information and be given assurances about the processing of it. The Managing Authority/Intermediate Body will ensure compliance with the Data Protection Act by:

- preserving the privacy of personal information about individuals that is collected and held;

- collecting and holding personal information about individuals only if there is a requirement to do so;
- keeping personal information accurate and up to date and only for as long as it is needed for business needs or the corporate record;
- holding personal information securely and not disclosing it to anyone who has no business need to see it;
- facilitating individuals' access to their information on request and making any corrections;
- ensuring that everything written about individuals is appropriate, accurate and necessary for the Managing Authority's business.

### 3.27 Categorisation of ESF

The Managing Authority will provide updated information at Operational Programme level on the cumulative allocation of ESF by category to operations in its annual and final implementation reports. The information supplied will be based on the relevant thematic categories at Annex II of Commission Regulation (EC) No 1828/2006. The indicative breakdown provided in Annex B of the Operational Programme document [\[web link\]](#) is for information purposes only, and is not a set of targets or allocations.

The indicative breakdown is derived from the description of the priorities and their targets. Most of the ESF expenditure in Priorities 1 and 4 will contribute to active labour market activities (code 66) and employment for disadvantaged people (code 71). Some expenditure will contribute to activities aimed specifically at prolonging working lives (code 67) and women (code 69). In Priorities 2 and 5, most of the expenditure will contribute to the development of lifelong learning (code 62) and some to activities related to restructuring (code 64). In addition, in Priority 5 only, some expenditure will contribute to human resource development in research (code 74). In Priorities 3 and 6 most the expenditure will contribute to the implementation and monitoring of the programme (code 85) and some to evaluation and publicity (code 86).

#### *Lisbon earmarking*

All ESF expenditure within Priorities 1, 2, 4 and 5 will fall within priority theme categories that are 'earmarked' as Lisbon expenditure according to Annex IV of Council Regulation (EC) No. 1083/2006. [\[web link to OP Annex B\]](#) The Managing Authority will be responsible for monitoring expenditure and reporting progress when required.

### **3.28 Monitoring and reporting of expenditure and targets**

The central Managing Authority will monitor programme expenditure, output and results targets and indicators, providing progress reports for:

- the annual and final implementation reports;
- the national ESF monitoring committee and its regional committees and sub-committees;
- the Certifying Authority as part of a commitment to keep them fully informed of overall programme performance;
- DWP Ministers, officials and other government departments as required; and
- the Audit Authority and other audit bodies as required;
- the public, including the presentation of certain performance information on the ESF website.

*Financial monitoring will cover:*

- updated information at Operational Programme level on the cumulative allocation of ESF by thematic categories as set out in Annex II of Commission regulation No 1828/2006;
- total expenditure for the Convergence and Competitiveness and Employment Programmes (including phasing in areas) covering progress toward meeting N+2 targets;
- programme expenditure by priority axis showing the breakdown of ESF and national financial contributions;
- expenditure at regional level including progress against financial targets in regional ESF frameworks.

*Monitoring of targets and indicators will include:*

- the overall programme performance indicators relating to total outputs and results for England based on individual participant data from the ESF Management Information System and follow-up surveys of participants;

- target information at Priority level monitored through output targets and indicators relating to activity (e.g. participation of key target groups) and results targets and indicators relating to the effects of the activity (e.g. participants gaining jobs);
- the production of regular progress reports at regional level; and
- the scope for adjusting targets and indicators in the light of significant socio-economic changes, changes to policy priorities, evaluation findings or the experience of implementation.

### 3.29 Verification of Operations

#### *Background*

The Managing Authority is required to ensure that expenditure declared by beneficiaries has been incurred and complies with community and national rules in accordance with Article 60 of the general regulation and Article 13 of the implementing regulation.

Article 13(4) of Regulation (EC) No 1828/2006 requires that the Managing Authority establishes written standards and procedures for both the administrative and on-the-spot verifications and keeps records for each verification, stating the work performed, the date and results of the verification, and the measures taken in respect of irregularities detected.

The Managing Authority has drawn up an Article 13 verification strategy (**see Annex 10**) that draws on European Commission guidance, specifically, COCOF 08/0020/00 EN Working document concerning good practice in relation to management verifications to be carried out by Member States on projects co-financed by the Structural Funds and the Cohesion Fund for the 2007 –2013 programming period (31-03-2008).

#### *Overview*

Management verifications are part of the internal control system of any well managed organisation. They are the normal day to day controls made by management within an organisation to ensure that the processes for which it is responsible are being properly carried out.

The central Managing Authority is responsible for managing and implementing operational programmes in accordance with the principle of sound financial management, and in particular for:

- ensuring that operations are selected for funding in accordance with the criteria applicable to the operational programme and that they

comply with the applicable Community and national rules for the whole of the implementation period;

- verifying that the co-financed products and services are delivered and that the expenditure declared by the beneficiaries for operations has actually been incurred and complies with Community and national rules;
- ensuring that the Certifying Authority receives all necessary information on the procedures and verifications carried out in relation to expenditure for the purpose of certification;
- ensuring compliance with the obligations concerning information and publicity.

The ESF Article 13 Verification Strategy covers control arrangements for Co Financing Organisations (the vast majority of ESF provision in England) and non CFO beneficiaries including Technical Assistance and projects in Gibraltar. In addition, the central Managing Authority will prepare an Article 13 Delivery Plan that sets out a detailed programme of verification activity.

#### *The Article 13 verification programme*

The Article 13 ESF verification programme in England covers the following key elements:-

##### *1. Initial baseline reviews of each CFO*

Prior to the receipt of initial claims the Managing Authority will build up a comprehensive understanding of the operation of individual CFOs. The central and regional Managing Authority (with the LDA in London) will undertake an initial base-line review with each CFO to focus on procurement, ESF supporting systems, separate accounting for ESF, management information, match funding and reporting requirements. A baseline report, agreed with the CFO with action points where appropriate, will be issued. A copy of the baseline review proforma can be found in **Annex 11**.

##### *2. Quarterly reviews of each CFO*

These quarterly reviews will consider a range of key performance issues including procurement, spend, participant progress, progress against output and results targets, publicity, cross-cutting themes and state aid rules. These reviews are organised by central managing authority staff in conjunction with regional Managing Authority colleagues (LDA staff in London). It is envisaged that two of the reviews will be conducted jointly between regional and central Managing Authority staff. A copy of the quarterly review proforma to be used following the baseline review can be

found in **Annex 11**.

### *3. On the spot check of one CFO claim*

At one of the quarterly reviews referred in 2 above, the Managing Authority will undertake an on the spot check of one claim for each CFO during a twelve month period. This check will verify expenditure claimed against CFO contract cost payments to providers, other provider payments and actual expenditure claimed for administration costs.

As a key element of the verification of the CFO claim, the Managing Authority undertakes selected on the spot verification visits to DWP prime contractors and their sub-contractors, LSC providers and other CFO providers. Each spot check will select a minimum of 20 per cent of claimed expenditure for verification at prime contractor and sub contractor level.

Provider and sub-contractor visits verify that the services agreed in their contracts have been delivered and correspond to expenditure claimed by CFOs in their claims to the managing authority. On-the-spot verifications also confirm existence of participants and compliance with other ESF requirements including publicity and the cross-cutting themes.

The programme of monitoring visits for CFOs will be determined by a combination of random and risk based selection arrangements. The overall approach to the selection of providers for on the spot checks is set out below in the sampling section. Copies of the Article 13 proformas used for the on the spot CFO visit and the on the spot monitoring of contractors and sub-contractors activity can be found in **Annex 11**.

### *4. Verification of non CFO delivered provision*

Article13 control arrangements will also be applicable to non CFO delivered ESF provision (projects in Gibraltar, Technical Assistance, non CFO activity in convergence and phasing in regions and innovation and transnationality projects).

Non- CFO Article 13 activity will cover the following:

a) All non CFO projects will receive an initial baseline monitoring visit from the central managing authority within the first 12 months of operation. The purpose of these initial visits is to ensure that appropriate systems and procedures are in place at an early stage, preferably prior to any initial claims. A baseline report, agreed with the provider with action points where appropriate, will be issued. A copy of the proforma for non-CFO baseline visits can be found in **Annex 11**.

b) For each non CFO and TA project during a twelve month period, one claim will be subject to an on the spot check by the central Managing Authority. All non CFO expenditure is based on actual rather than contract costs and Article13 controls of non CFO provision will reflect this. Control

visits will check expenditure included in a specific claim against supporting documents and invoices. Five invoices will be selected at random for checking. These checks will verify the eligibility of the expenditure claimed by projects and the activity supported. A Copy of the Article 13 proforma used for non CFO including TA activity can be found in **Annex 11**.

c) For TA projects supporting Managing Authority activity, arrangements will be put in place to ensure adequate separation of responsibilities. Article 13 monitoring of Managing Authority TA projects will be undertaken by ESFD staff who have not involved with that specific project.

#### *5. Administrative verifications*

The regional and central Managing Authorities (including the LDA in London and the Government of Gibraltar) are responsible for administrative verifications of all claims submitted by beneficiaries to check reasonableness, accuracy and probity.

The administrative verification work will be computerised but prior to the completion of this work a manual system will be in operation. Action Note 2007 – 2-13 007 sets out the procedures for manual claims. The regional Managing Authority will complete a standard list of certification checks. The central Managing Authority then undertakes a scrutiny check of the claim prior to forwarding to the Finance Team in ESFD for payment authorisation. Details of the checks are set out in **Annex 12**.

#### *Raising awareness of Article 13 work*

An important element of the Article 13 verification strategy is to ensure arrangements are put in place to inform beneficiaries and make them aware of the importance of the monitoring work being undertaken by the Managing Authority.

The Managing Authority verification strategy will address the need to raise awareness through the following actions:

- baseline reviews with CFOs and initial visits to non CFO providers will include a short presentation on the rationale for verification and the importance of cooperating with monitoring activity;
- correspondence and forms sent to beneficiaries and providers will include explanations for the monitoring visits;
- final reports will be returned to all beneficiaries with action points highlighted and deadlines for completion;
- the LSC National Office and DWP WWEG Delivery Division will be closely involved in working up the verification proposals and will be a key channel to inform LSC and JC+ in the regions about the work. As part of the baseline review process, 'walkthrough briefings' of national

LSC and DWP systems will be organised for Article 13 central MA staff;

- quarterly reports on the outcomes of verification work will be made available to key partners including all CFOs.

#### *Implementation and resources*

Article 13 controls will be undertaken by the central Managing Authority delivery team (based in ESF Division) and regional Managing Authority teams based in Government Office (GOs). In London the regional element of the controls will be carried out by the London Development Agency (LDA) acting as an Intermediate Body. The staff responsible for verification activity will be organised on a geographic basis covering the GO regions and Gibraltar. They will be supported by regional staff, who will focus primarily on administrative checks of beneficiary claims and CFO quarterly reviews. Staffing in the Managing Authority delivery team and regions include experienced staff who have undertaken Article 4 controls in the 2000-2006 ESF programme. These staff will be responsible for inducting and training new and less experienced members of the Article13 teams.

The Managing Authority may decide to deploy additional staffing resource to undertake some verification activity at CFO provider level. A decision will be made once the range and number of CFO provider contracts is known after CFOs have completed their tendering arrangements for ESF provision in 2008-2010. If additional staff resource is deployed it will be managed directly by the Managing Authority delivery team to ensure that arrangements are applied consistently. Any additional staff brought in to undertake CFO provider verifications will receive necessary training.

Results of verification activity will be recorded and copied to CFOs and non CFO providers so that remedial action can be agreed and implemented. The managing authority will check that recommendations have been implemented and any irregular expenditure identified is removed from future claims.

Article 13 controls will not be undertaken on projects where activity has finished.

All reports of verification activity will be held and filed electronically in the ESF IT system and available to managing authority, Certifying Authority and Audit Authority staff.

#### *Coverage*

Article 13 on the spot verification of CFO activity is undertaken on a sample basis. The Managing Authority is required to set a sample size that achieves 'reasonable assurance as to the legality and regularity of the underlying transactions' (extract from EC guidance). Following consultation with the audit authority, the sample Article 13 on the spot verification at CFO level aims to

cover a *minimum of 20 per cent of expenditure claimed including match during the lifetime of the 2007 – 2010 phase of the programme*. A key principle is that all providers/sub-contractors may be the subject of an on the spot check during the lifetime of the programme. This level of sampling will be subject to review prior to the start of the second half of the programme. The level and frequency of verification activity is summarised in the tables below. The frequency of verification activity is summarised in the tables below.

### CFO verifications

<b>Verification activity</b>	<b>Undertaken by</b>	<b>Coverage</b>
Administrative verifications	MA regional teams LDA; MA central delivery team	All claims will be checked
Full on-the-spot verifications of claims	MA central delivery team	One claim every 12 months will be checked for each CFO. Facility for more frequent verifications if necessary.
Quarterly reviews	MA regional teams LDA MA central delivery team	All CFOs will be reviewed quarterly. MA regional staff (LDA in London) will participate in all reviews. Two reviews per annum will be joint reviews with the MA delivery team.
On-the-spot verifications of CFO providers	MA central delivery team	During the three year contracting cycle, verifications will be undertaken to: <ul style="list-style-type: none"> <li>- DWP prime contractors</li> <li>- DWP prime contractor sub-contractors</li> <li>- LSC providers</li> <li>- Community Grant Co-ordinating Bodies</li> <li>- other CFO providers</li> </ul> Individual contractors will be visited on the basis of a random and risk selection process.

### Non CFO providers and Technical Assistance projects (including projects in Gibraltar)

<b>Verification activity</b>	<b>Undertaken by</b>	<b>Coverage</b>
Administrative verifications	MA regional teams LDA; Govt of Gibraltar MA central delivery team	All claims will be checked
Full on-the-spot verifications of claims	MA central delivery team	One claim during a 12 month period will be checked for each non CFO and Technical Assistance project. Facility for more frequent verifications if necessary. Five invoices will be selected at random as the basis of the check
Reviews	MA regional teams LDA	All non CFO and Technical Assistance projects will be reviewed

	Govt of Gibraltar MA central delivery team	in the first 12 months of operation. Subsequent reviews will be combined with the on-the spot verification checks held every 12 months. Regional MA staff / LDA / Govt of Gibraltar will be invited to participate in reviews with the MA delivery team.
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*Sampling of providers*

On the spot verification activity is determined by the timing of the submission of quarterly claims. For CFOs, the management information supporting the claim is usually not available until the following quarter.

The process by which a sample of CFO providers and sub-contractors is chosen to achieve the minimum 20 per cent coverage is set in the Article 13 Verification Strategy document in **Annex 9**.

A different approach is adopted for non-CFO projects. These projects account for only 5 per cent of ESF expenditure and will be subject to monitoring visits every 12 months. As all projects are to be visited there is no need to develop a sampling methodology for providers. However, five invoices will be selected at random for checking by the central Managing Authority during the Article 13 monitoring visit. These checks will verify the eligibility of the expenditure claimed by projects and the activity supported.

*Irregularities*

Irregularities may be identified during the course of Article 13 verification work. It will be the responsibility of the officer who identified the irregularity to investigate the matter and eventually clear it. Any irregularity involving grant of €10,000 or more must be reported to the Commission. Further guidance in the form of an Action Note will be issued on irregularities.

*Quality assurance*

Experience of Article 4 work under the 2000-2006 ESF programme demonstrated the importance of the operation of suitable quality systems to maintain standards. In practice this is about the setting up of a checking process which ensures that Article 13 monitoring visits are being done to a standard which is consistent across the managing authority and also that they meet the national guidelines and EC regulations.

The implementation of quality systems will provide the Certifying Authority, Risk Assurance Division and the Commission with a degree of assurance that consistent standards are being applied by the managing authority.

The following procedures will be adopted by the central Managing Authority:

- a) all monitoring files held by the central Managing Authority will contain a standard checklist of actions that will require signatures from staff involved in

the Article 13 monitoring work. The checklist will provide an audit trail of activity relating to that monitoring visit;

b) the SEO team leader in the central Managing Authority will countersign all Article 13 monitoring visit reports including the quarterly CFO reviews undertaken by the regional Managing Authority;

c) for on the spot checks of claims, the SEO team leader will sample the supporting documents to confirm that copies of those important to the process are included in the file and that reports cover all the necessary findings and recommendations. If some documentation cannot be obtained at the CFO/provider, the reason for not taking copies should be clearly stated and signed off by the SEO team leader for audit purposes;

d) the SEO team leader will oversee the process until the HEO Verification Officer confirms that all action points have been addressed, monitoring progress via completion of the spreadsheet maintained of visits made and follow-up carried out;

e) the SEO will accompany each Verification Officer on at least two monitoring visits per year to assess individual standards and review the appropriateness of procedures;

f) the G7 Team Leader of the central Managing Authority team will select at random 10% of monitoring visit files and check to ensure they are compliant and meet agreed standards;

g) timescales for the completion of Article 13 visit reports and clearance of recommendations will be monitored. The following standards have been set:

complete A4 report and send to provider	Within 30 working days of the visit
Provider to respond to report agreeing recommendations and remedial action	Within 30 working days of receipt of report
follow up on outstanding issues	Ongoing by verification officer

### *Monitoring*

The central Managing Authority has established a Standing Group of practitioners to oversee the implementation of the Article 13 verification programme. The Group will:

- work up and endorse the detailed Article verification 13 procedures including monitoring visit proforma documentation and any training

aides;

- provide feedback on the initial implementation of verification work including the effectiveness of forms and procedures;
- contribute to an on-going review of the operation of Article 13 verification activity and input to any developments or changes to the programme;
- Contribute to the review of the Article 13 strategy in 2010.

### *Reporting*

The central Managing Authority will produce reports summarising relevant verification activity undertaken during the previous quarter. The reports will set out the number of monitoring visits undertaken including follow-up activity, the outcome of any on the spot checks including irregularities, any systemic issues of relevance.

The central Managing Authority will include relevant Article 13 verification reports and data in the Annual Implementation Report submitted to the European Commission.

### *Cooperation with the Certifying Authority*

A representative of the Certifying Authority will attend the Article 13 Standing Group meetings and will have the opportunity to contribute to the on-going development of verification work and the review in 2010.

Certifying Authority representatives will be invited to accompany central Managing Authority staff on Article 13 monitoring visits to allow them to assess the adequacy of the procedures in place.

The information relating to Article 13 verification will be made available to the Certifying Authority through access to files and quarterly progress reports. The Certifying Authority will have the opportunity to discuss the findings with the central managing authority at their regular KIT meetings.

### *Cooperation with audits*

The central Managing Authority will retain and record information relating to Article 13 verification in a way that ensures ready access for audit purposes.

Risk Assurance Division (RAD) will advise, comment upon and endorse the Article 13 verification strategy as part of its assessment of the management and control description completed by the central Managing Authority and submitted to the Commission.

### 3.30 Evaluation

Article 60(e) of Council Regulation (EC) 1083/2006 requires the Managing Authority to ensure that evaluations of the operational programme referred to in Article 48(3) are carried out in accordance with Article 47.

The Managing Authority has commissioned an independent ESF Evaluation Team in the Department for Work and Pensions (DWP) to develop and implement a programme level evaluation strategy. The Evaluation Team is also responsible for analysing monitoring and survey data and managing externally commissioned evaluation projects. The evaluation strategy has been endorsed by the Evaluation Sub-committee of the national ESF monitoring committee.

The three strands of the evaluation strategy cover:

- the ESF Participant Database. This is information based on participant monitoring data – this will be used to examine programme performance and consider achievements such as participants' outcomes;
- the ESF Follow Up Study. A sample of participants will be contacted during and after leaving projects. These surveys will provide information on participants' views of the support they receive and on sustainability of outcomes;
- ESF research studies. These projects will focus on specific emerging themes of importance to the programme, such as gender equality and equal opportunities. They may also include assessments of socio-economic changes in the programme environment and changes in Community, national or regional priorities.

The follow-up surveys and research studies will examine a wider range of participant characteristics and outcomes (including soft outcomes) than those available through participant monitoring data.

These evaluation tools will apply to the whole of the programme including the Convergence Objective. In addition, specific studies may be commissioned to evaluate Convergence ESF, in co-operation with the partnership in Cornwall and the Isles of Scilly.

The central Managing Authority will ensure that data and information emerging from the three strands of the evaluation strategy are made available on a regular basis to the national ESF monitoring committee, its sub-committees and regional committees.

The central Managing Authority will ensure that the evaluation strategy is updated annually during the course of the programme. The strategy has been placed on the evaluation page of the **ESF website (www.esf.gov.uk)**.

### **3.31 Document retention and protection of the audit trail**

Article 60(f) of Council Regulation (EC) 1083/2006 requires the Managing Authority and Intermediate Bodies to ensure that all documents regarding expenditure and audits are preserved to maintain an audit trail in accordance with Article 90.

#### *Audit trails*

Article 15 of Commission Regulation 1828/2006 outlines the criteria which must be met in order that the Commission may regard an audit trail as adequate. These are that the audit trail:

- permits the aggregate amounts certified to the Commission to be reconciled with the detailed accounting records and supporting documents held by the Certifying Authority, the Managing Authority, intermediate bodies and beneficiaries as regards operations co-financed under the operational programme;
- permits verification of payment of the public contribution to the beneficiary;
- permits verification of application of the selection criteria established by the monitoring committee for the operational programme;
- contains the technical specifications and financing plan, documents concerning the grant approval, documents relating to public procurement procedures, progress reports and reports on verifications and audits carried out.

This requirement means a sufficient audit trail must be maintained by the central and regional managing authorities, intermediate bodies, co-financing and non co-financing organisations and at the project delivery level.

It is vital that documentary evidence is secured to support the audit trail including all documentation relating to delegations, contracting, payments, monitoring and inspection process such as Article 13 and Article 16.

Organisations must ensure that they have robust systems and arrangements to do this. These key documents need to be categorised and stored in a way that ensures that they can be readily retrieved should they be required.

Audit trails should enable auditors to verify that:

- there is evidence to support the claim and that expenditure has/had been incurred in a proper manner;
- financial management is/was sound;
- applicants comply/ complied with EC regulations and the requirements of their contract;
- interim and project closure report entries are/were supported by evidence of expenditure; and,
- the project represented value for money [not sure that an auditor can verify this and leaves many doors open. What I think this means is that the funding was spent in order to achieve the deliverables set out in the contract]

### *Key documents*

EU regulations also make clear that the maintenance of an audit trail is mandatory. The key documents are those relating to specific processes in the delivery of ESF. In particular these are:

- the decision making process and the roles and responsibilities of organisational staff. This covers:
- the establishment, membership and terms of reference of key committees including sub-committees;
- the minutes of committees reporting decisions taken; and
- delegated authorities.

The retention of documentation relating to all aspects of ESF contracting. Key documents include:

- selection of projects;
- selection of CFOs;
- letters to successful and unsuccessful bidders;
- any notes relating to the selection process;
- all documents relating to any subsequent changes to contracts; and
- All ESF Regional committee decisions relating to the operation of the programme.

The retention of all the evidence supporting Article 13 monitoring including:

- all Article 13 monitoring reports and subsequent follow up action;
- copies of the invoices/timesheets and other evidence of costs relating to the project that have been inspected; and
  - copies of Article 13 plans and reports.

All documents relating to project payments which must be retained and include:

- profiles;
- claim forms;
- copies of the appropriate payment certification and authorisation documents; and
- any documentation relating to refunds, offsets or write offs must also be retained.

All documents relating to audits undertaken within the region by, EC, ECA and internal auditors. All evidence relating to Article 16 controls should be retained. The documentation referred to above is not exhaustive. Please consult the Managing Authority for further clarification on the documents to be retained.

The central Managing Authority will:

- issue guidance on what documents are considered essential to the preservation of the audit trail and the period for which they should be retained;
- ensure that commonly accepted data carriers are certified as retaining versions of documents that are in conformity with the originals;
- establish systems centrally and regionally to store relevant documentation;
- ensure key expenditure and audit documentation is stored in a way that it is readily accessible to requests from auditors; and
- make available to the Commission on request a list of completed operations that were subject to partial closure under Article 88 of Council Regulation (EC) 1083/2006.

Under Structural Fund regulations, organisations are required to retain documents until three years after the European Commission makes the final payment for the programme concerned. As the Managing Authority is unlikely to make a final request for payment until 2016, documents will need to be

retained until 2019 at the earliest. The Managing Authority will advise beneficiaries of the final date for document retention when it receives the final programme payment from the Commission.

The rules regarding document retention apply to all organisations involved in delivering and administering structural funds that is the Managing Authority, Certifying Authority, Audit Authority, Intermediate Bodies, co-financing organisations and applicant bodies.

### *Electronic retention of documents*

Commission regulations allow for documents to be retained as originals or 'in versions certified to be in conformity with the originals on commonly accepted data carriers.' The regulations allow for the electronic storage of documents provided that they are stored on a recognized data carrier, are certified as being copies of the original, meet national standards and are auditable. Documents must be held on an accepted data carrier. These include:

- photocopies of original documents;
- microfiches of original documents;
- electronic versions of original documents on optical carriers

For each data carrier used, a provider must retain a signed declaration that the documents held within the data carrier are certified as being true copies (conforming to) the originals.

The following declaration on provider headed paper satisfies this requirement:

**Name of organisation**

**Name/title of ESF supported projects**

**I certify that this data carrier [specify details of carrier] contains true copies of original documents relating to ESF supported projects**

**Signed..... Date.....**

**Position in organisation.....**

The declaration should be made available to auditors or verification officers who may request the document when undertaking audits or Article 13 monitoring visits to providers.

All organisations involved in the delivery of ESF must keep electronic copies for the same length of time as required for paper copies. It is the organisation's responsibility to ensure that the electronic copy of the

document can be relied on for audit purposes.

### **3.32 Co-operation with ESF audits**

The Managing Authority and Intermediate Bodies will co-operate with requests from DWP, National Audit Office, the European Commission, the European Court of Auditors and other authorised organisations in connection with the audit of ESF operations. Specifically, the Managing Authority will:

- attend and contribute to the ESF Assurance Steering Group chaired by the Audit Authority;
- have the opportunity to comment on the annual plan of audit activity proposed by Audit Authority;
- comment on the Audit Authority ESF Audit Strategy prior to submission to the European Commission;
- assist in pre-audit preparations through the provision of data and information requested by the auditors on the activity or projects to be audited;
- support the auditors during the course of an audit including accompanying the auditors during an audit visit, acting as the first point of contact for any issues arising;
- within agreed deadlines, respond to recommendations arising from audits, consulting key partners where appropriate;

The Managing Authority will establish a database of all ESF audit activity. The audit database will include details of every audit undertaken, copies of reports, and the action taken on recommendations arising from the audit. The database will be kept up to date with the latest findings and will be made available to the Certifying Authority.

### **3.33 Co-operation with the European Commission**

The Managing Authority and Intermediate Bodies will work closely with the European Commission to ensure the successful delivery of the Operational Programme. The Managing Authority and Intermediate Bodies will:

- provide the European Commission with information, including

computerised information, on request relating to the operation and performance of the ESF programme;

- respond within required deadlines to correspondence, audit report recommendations;
- provide key documents required under the regulations including annual implementation reports, management and control descriptions, communications plans and the evaluation strategy;
- invite the Commission to national and regional monitoring committee and subcommittee meetings in their advisory capacity;
- attend joint meetings when required including the annual examination of programmes;
- use and follow guidance issued by the European Commission e.g. verification activity.

### **3.34 Provision of information to the Certifying Authority**

Article 60(g) of Council Regulation (EC) 1083/2006 requires the central Managing Authority to ensure that the Certifying Authority receives all necessary information on the procedures and verification carried out in relation to expenditure for the purpose of certification.

The central Managing Authority will:

- make available relevant management information, relating to the performance of the operational programme on a regular basis;
- involve the Certifying Authority in the development of systems, procedures and instructions with a view to securing their endorsement of these arrangements for certification purposes;
- contribute responses to the quarterly certifying authority reports on the integrity of operations, responding promptly to issues that might prevent the endorsement of claims;
- ensure the Certifying Authority is able to attend and input to the quarterly and annual performance review network meetings with regional partners; and
- consult the Certifying Authority on the Managing Authority responses to audit findings.

The ESF IT system for the 2007-2013 programme, once fully developed, will hold key information about beneficiaries including contractual details, claims for payment, verification and audit reports in electronic format. The central Managing Authority will give the Certifying Authority read only access to all beneficiary claims, Article 13 reports and all other monitoring and control supporting evidence. The Certifying Authority will be able to independently run a series of expenditure reports that will form the evidence for statements of expenditure sent to the Commission.

The central Managing Authority will hold regular 'keep-in-touch' meetings with the Certifying Authority to discuss the day to day operation of the management and control systems.

### **3.35 Establishment and operation of an ESF national monitoring committee and sub-committees**

Article 63 of Council Regulation (EC) 1083/2006 requires the Member State to set up a monitoring committee for each operational programme, in agreement with the Managing Authority, within three months from the date of the notification to the Member State of the decision approving the operational programme.

The terms of reference and rules of procedure for the England and Gibraltar European Social Fund Convergence, Competitiveness and Employment Programme Monitoring Committee 2007 – 2013 were agreed at the first meeting of the committee on 2 October 2007. The responsibilities of the 2007 – 2013 Monitoring Committee also include the work of the 2000 - 2006 ESF England and Gibraltar Objective 3 programme. The Managing Authority is responsible for the establishment and operation of the monitoring committee. The Managing Authority provides a permanent Secretariat responsible for overseeing the organisation of meetings, preparation of documents relating to monitoring reports, agendas, and summary recordings of meetings.

#### *Role of the Monitoring Committee*

The role of the committee is to maximise the benefits of the England and Gibraltar Convergence, Competitiveness and Employment ESF Operational Programme by monitoring the effectiveness and quality of the implementation arrangements.

#### *Monitoring Committee membership*

Membership of the Programme Monitoring Committee includes representatives from the English regions, Convergence partnership, Government of Gibraltar, Co-financing Organisations, Government departments, social partners, third sector, Equality and Human Rights

Commission, Regional Skills Partnerships, Regional Development Agencies, local authorities, Further Education and Higher Education. The European Commission participates in the Monitoring Committee and its sub-committees in an advisory capacity.

#### *Chairperson and agendas*

The Committee is chaired by the Head of ESF Division in the Department for Work and Pensions. The Chairperson will draw up agendas for meetings. Members may request inclusion of particular items in writing to the Chairperson - such requests should normally be received at least 20 working days before the meeting.

The agenda and associated papers will normally be sent at least 10 working days before the meeting where practicable. In exceptional circumstances, the Chairperson may add to the agenda, or distribute papers, less than 10 working days before the meeting.

Minutes of the meeting will be produced by the Secretariat and sent to members within 20 working days of the meeting.

#### *Tasks of the National Monitoring Committee*

In accordance with Article 65 of Council Regulation (EC) 1083/2006 specific tasks of the National Monitoring Committee will include:

- considering and approving the criteria for the selection of CFOs, the development and content of CFO plans and the selection of operations through tendering by CFOs;
- considering and approving the criteria for the selection of projects outside CFO arrangements (in Convergence and Phasing-in areas only);
- considering the guidance to Regional Skills Partnerships on the development of regional ESF frameworks and reviewing the guidance annually;
- reviewing financial progress and examining the results of implementation including the achievement of output and results targets agreed at Operational Programme and Priority level;
- reviewing implementation of equal opportunities, sustainable development and innovation, mainstreaming and transnationality arrangements. The committee will be supported by three sub-committees that will report on progress;
- considering the evaluation strategy and results of evaluations. The Committee will be supported by an evaluation sub-committee;
- considering implementation of ESF publicity measures;
- considering the strategy for Technical Assistance;
- considering regional ESF performance and, if appropriate, agreeing virement of competitiveness and employment funds between regions within Priorities. The committee will be supported by regional ESF committees which will be sub-committees;

- considering performance in the Convergence area. The Committee will be supported and advised by a joint committee which will be the PMC for the convergence ERDF programme and a regional ESF committee
- proposing to the Managing Authority, where appropriate, changes to the Operational Programme in light of programme performance and evaluation results;
- considering and approving the Annual Implementation Reports and the Final report;
- receiving information on the annual control report for the Operational Programme including any comments the Commission may make on it;
- considering and approving any proposal to modify the Commission decision on the approval of funds for the programme;
- in addition to above tasks, the Committee will also take full responsibility for monitoring the effectiveness of implementation of the ESF Objective 3 (2000-2006) programme until the point at which the programme is closed.

The above list is not exhaustive and should not exclude consideration of other issues that may arise with relevance to the Operational Programme.

#### *Procedures*

The Secretariat will arrange up to three meetings a year subject to operational need and can be asked to meet more often, if necessary. The Committee may meet at the initiative of the Member State or the Commission, and will be convened by the Chairperson. A request from members for a meeting will be considered only in very exceptional circumstances and at the Chairperson's discretion. Notice of a meeting will normally be given at least 15 working days in advance.

In exceptional circumstances, proposals may be circulated to members for agreement by written procedure. Members will normally be given 7 days in which to respond. In such cases, no response by the deadline will be taken as approval of the proposal.

Regional representatives are expected to reflect the view of their Regional Committee. They must ensure that Regional Committees are given the opportunity to comment on Monitoring Committee papers and are able to report back to the National ESF Monitoring Committee.

It is expected that decisions will be made by consensus. In the event of disagreement, it will be for the Chairperson, using appropriate channels, to seek to resolve differences.

#### *Sub-committees*

The central Managing Authority, under the direction of the monitoring committee, has established sub-committees for: each English region; the Convergence area; Gibraltar; evaluation; gender equality and equal

opportunities; sustainable development; and innovation, mainstreaming and transnationality. The detailed terms of reference for the sub-committees were agreed at the first meeting of each sub-committee.

The sub-committees will be outward-looking and will invite guest speakers, consultants and other experts as appropriate on an ad-hoc basis. The European Commission will be invited to participate in the sub-committees in an advisory capacity. The final decision on membership of the sub-committees will rest with the managing authority.

The central Managing Authority will chair each of the sub-committees and provide the secretariats. The central Managing Authority will report regularly to the Programme Monitoring Committee on the work of the sub-committees.

The central Managing Authority will share good practice from the sub-committees with colleagues and partners in other UK Structural Fund programmes.

#### *Evaluation sub-committee*

The evaluation sub-committee will consider the evaluation strategy and receive reports from the ESF Evaluation Team on progress and results of evaluation activity. Its membership includes representatives from the Managing Authority, ESF Evaluation Team, Convergence partnership, English regions, social partners, Regional Development Agencies, third sector and Co-financing Organisations.

#### *Gender equality and equal opportunities sub-committee*

The gender equality and equal opportunities sub-committee will be responsible for advising the central Managing Authority on the preparation and delivery of a national mainstreaming plan. It will also consider progress towards meeting equal opportunities targets, examples of good practice and accessibility for people with disabilities. Its membership includes representatives from the Managing Authority, Equality and Human Rights Commission, English regions, Convergence partnership, third sector, ESF Evaluation Team, Equal Support Unit, Office for Disability Issues, Women and Equality Unit and equal opportunities policy experts.

#### *Sustainable development sub-committee*

The sustainable development sub-committee will advise the central Managing Authority on mainstreaming sustainable development. It will devise a national mainstreaming strategy which will include developing a reporting mechanism between the regional committees and sustainable development sub-committee. It will also advise the central Managing Authority on guidance it produces on sustainable development and oversee the launch of an ESF good practice award scheme for sustainable development. Its membership includes representatives from the Managing Authority, Department for the Environment, Food and Rural Affairs, Environment Agency, LANTRA, English regions, Convergence partnership, Regional Development Agencies, third

sector and Co-financing Organisations.

### *Innovation, mainstreaming and transnationality sub-committee*

The innovation and mainstreaming sub-committee will advise the central Managing Authority on innovation, mainstreaming and transnational activity. The sub-committee will agree the themes for innovative activity taking account of the regional ESF frameworks. It is important to get national and regional 'policy buy-in' to the selected themes to facilitate subsequent mainstreaming of the results of innovative activity. The sub-committee will take an overview on progress of innovative projects and assist with co-ordination including transnational elements. Its membership includes representatives from the Managing Authority, Government departments, Regional Development Agencies, social partners, local authorities, third sector and Co-financing Organisations.

### *Regional Committees*

Regional ESF committees have been established in each of the nine English regions. In the four regions with joint ESF/ERDF committees, they act as sub-committees of the England ESF PMC only in respect of the ESF business they undertake.

The membership of regional ESF committees includes the Managing Authority, Regional Skills Partnerships, social partners, Co-financing Organisations, local authorities, third sector, Regional Development Agencies, and other representatives agreed by the regional partnership. They are chaired by the regional Government Office, except in London where the regional committee is chaired by the Mayor or his representative.

The main task of the regional committees in 2007 was to endorse CFO plans, including ESF allocations, to ensure they contribute to the priorities in the regional ESF frameworks. They also began to develop regional Technical Assistance strategies.

The Government of Gibraltar has established an ESF committee known as the Joint Local Advisory Group (JLAG). The Joint Local Advisory group includes representation from Government Departments including the Department of Education and Training, the Department of Transport and the Department for Trade and Industry. Other Government Agencies involved include the Environmental Agency, the Gibraltar Tourist Board and the Employment Service. The social partners are also represented.

In the Convergence Objective, the Monitoring Committee is supported and advised on the performance and management of Convergence ESF by a joint committee which is the PMC for the Convergence ERDF programme and a regional ESF committee

### **3.36 Annual and Final Implementation Reports**

The central Managing Authority is required to provide the Commission with an annual implementation report on the implementation of the operational programme by 30 June each year. In addition, a final implementation report is required by 31 March 2017. The central Managing Authority will submit the reports to the monitoring committee for approval. Failure to submit a report within the required timescales will result in non-payment of an ESF claim by the Commission

The annual implementation reports will include the following information as set out in Article 67 paragraph 2 of Regulation 1083/2006:

- a progress report on implementation of the operational programme and priorities in relation to the specified targets and indicators;
- a progress report on financial implementation, detailing by priority the expenditure paid out to beneficiaries; the total payments received from the Commission and progress with financial targets;
- an indicative breakdown of the allocation of funds by categories;
- the steps taken by the managing authority or the monitoring committee to ensure the quality and effectiveness of the programme including monitoring and evaluation; a summary of any significant problems encountered and remedial measures taken and the use made of technical assistance;
- the measures taken to publicise the programme;
- a report on any significant problems relating to compliance with Community law and the measures taken by the managing authority to deal with them.

#### *Annual examination of the ESF Programme*

Annually, following the submission of the Implementation Report to the Commission, the central Managing Authority and the European Commission will review the progress made in implementing the programme. The central Managing Authority will inform the Commission of any action taken in response to the review and where necessary, advise the monitoring committee.

### **3.37 Actions to publicise the Operational Programme**

Article 69 of Council Regulation (EC) 1083/2006 requires the Managing Authority to be responsible for the publicity of ESF operations in accordance with the implementing rules.

### *Communication Plan*

The central Managing Authority is required to draw up a Communication Plan that sets out the information and publicity measures that will be taken to promote the transparency of the programme.

A draft of the Communication Plan was drawn up by the central Managing Authority and considered by the national ESF monitoring committee at its meeting on 2 October 2007. The Communications Plan takes account of comments made by committee members.

The central Managing Authority formally sent the plan to the European Commission in 2007. The Commission made observations on the plan, and the Managing Authority made adjustments to the document in the light of these. The Communication Plan was approved by the Commission in July 2008. A copy of the Communications Plan is on the ESF website [**web link to plan**].

The Communication Plan is a strategic seven year document. In addition, the Managing Authority will have an annual (calendar year) information and publicity plan from 2008 onwards, which it will develop in consultation with Co-financing Organisations and other delivery partners. The annual plan will identify the main publicity priorities and measures for that year.

The Communication Plan covers the following:

- the aims and target groups;
- the strategy and content of the information and publicity measures to be taken by the Member State or the managing authority, aimed at potential beneficiaries, beneficiaries and the public, having regard to the added value of Community assistance at national, regional and local level;
- the indicative budget for implementation of the plan;
- the administrative departments or bodies responsible for implementation of the information and publicity measures;
- an indication of how the information and publicity measures are to be evaluated in terms of visibility and awareness of operational programmes and of the role played by the Community.

### *Monitoring and reporting*

The central Managing Authority will inform the national ESF monitoring committee of the following:

- progress in the implementation of the Communication Plan;
- information and publicity measures carried out;
- the means of communication used.

The central Managing Authority will provide the monitoring committee with examples of such measures.

The annual implementation reports and the final report on implementation of an operational programme, referred to in Article 67 of Regulation (EC) No 1083/2006, will include:

- examples of information and publicity measures for the operational programme carried out when implementing the communication plan;
- the arrangements for the information and publicity measures referred to in point (d) of Article 7(2) including, where applicable, the electronic address at which such data may be found;
- the content of any major amendments to the Communication Plan.

The annual implementation report for the year 2010 and the final implementation report shall contain a chapter assessing the results of the information and publicity measures in terms of visibility and awareness of operational programmes and of the role played by the Community, as provided for in point (e) of Article 2(2).

#### *Publicising the Operational Programme*

The Managing Authority and Intermediate Bodies will, in accordance with the Communication Plan, ensure that the operational programme is disseminated widely, with details of the financial contributions from the Funds concerned, and that it is made available to all interested parties.

It shall in addition ensure that information on the financing opportunities offered by joint assistance from the Community and the Member State through the operational programme is disseminated as widely as possible.

The Managing Authority and Intermediate Bodies will provide potential beneficiaries with clear and detailed information on at least the following:

- the conditions of eligibility to be met in order to qualify for financing under an operational programme;
- a description of the procedures for examining applications for funding and of the time periods involved;

- the criteria for selecting the operations to be financed;
- the contacts at national, regional or local level who can provide information on the operational programmes.

In addition, the Managing Authority will inform potential beneficiaries of the publication provided for in point (d) of Article 7(2).

The Managing Authority and Intermediate Bodies will ensure that the information and publicity measures are implemented in accordance with the Communication Plan and that they aim at the widest possible media coverage using various forms and methods of communication at the appropriate territorial level.

The central Managing Authority has set up a regional ESF publicity network. The network brings together publicity contacts from the Government Offices/London Development Agency, Gibraltar, Co-financing Organisations (CFOs) and non-CFO beneficiaries in Convergence and phasing-in areas. It will also include representatives from: ESF programmes in Scotland, Wales and Northern Ireland; the Communities and Local Government division responsible for ERDF in England; and the European Commission Representation to the UK.

The network aims to:

- raise the profile of ESF investment in jobs and skills;
- share best practice and promote consistency across regions; and
- ensure regulatory requirements on publicity are understood and implemented.

The Managing Authority and Intermediate Bodies will be responsible for organising the following information and publicity measures:

- a major information activity publicising the launch of an operational programme. This event took place on 29 October 2007 at the Queen Elizabeth II Conference Centre in London [**web link to ESF website**]. DWP issued regional and national press notices on the launch attracting coverage in the regional and specialist press;
- at least one major information activity a year, as set out in the communication plan, presenting the achievements of the operational programme(s) including, where relevant, major projects;
- flying the flag of the European Union for one week starting 9 May, in front of the premises of each managing authority;

- the publication, electronically or otherwise, of the list of beneficiaries, the names of the operations and the amount of public funding allocated to the operations. The list of beneficiaries and operations shall be included on the national ESF website. It will list the CFOs and providers by region. The list will be:
  - generated from information supplied by CFOs to the Managing Authority;
  - updated quarterly;
  - shared with the European Commission and may also be used on the Commission's website.

### **3.38 Complementarity with other EU-funded programmes**

#### *European Regional Development Fund (ERDF)*

ESF skills and employment actions may complement European Regional Development Fund (ERDF) activity as identified in regional ESF frameworks.

Council Regulation 1083/2006 allows ESF programmes to finance activities which fall within the scope of ERDF, up to a limit of 10% of the ESF agreed at Priority level.

The ESF Operational Programme does not anticipate that use will be made of this mechanism but the Managing Authority will consider its use in Priorities 1,2,4 and 5 in exceptional circumstances and should the need arise during the course of the programme. Any use of this mechanism must be agreed with the Managing Authority in advance.

#### *Rural Development and Fisheries Programmes*

The Operational Programme contains the following demarcation criteria with the European Agricultural Fund for Rural Development and the European Fisheries Fund. ESF funding is not available for interventions that target enterprises engaged in agriculture, forestry or fisheries, or enterprises engaged in the primary processing of agricultural, forestry or fisheries products. ESF cannot fund activities which support agri-food schemes or the primary processing of agricultural and/or forestry products. ESF cannot support specific vocational training for individuals employed in enterprises engaged in these activities. However, ESF can support basic skills and other generic training for individuals employed in enterprises engaged in these activities. These principles also apply to the European Fisheries Fund in

respect of fish and shellfish products and processing. Any queries about these initiatives should be referred to the central Managing Authority.

#### *European Investment Bank and European Investment Fund*

There are no plans to use European Investment Bank or European Investment Fund initiatives such as JEREMIE and JESSICA. Any queries about these initiatives should be referred to the central Managing Authority.

#### *Lifelong Learning and Youth in Action Programmes*

ESF cannot support activities, including transnational and inter-regional activities that are being financed through the Lifelong Learning and Youth in Action programmes.

#### *Seventh Framework Programme for Research and Technological Development*

In the Convergence Objective, ESF can support the development of human potential in research and innovation. Priority 5 includes research activities that support training of researchers and post-graduate studies, where related to the knowledge economy, labour market and human capital. These research activities must be linked to employment and skills needs now and in the future. They should complement but not duplicate any research projects in Cornwall and the Isles of Scilly funded by the Seventh Framework Programme for Research and Development.

### **3.39 Programme Closure**

The Managing Authority and Intermediate Bodies will undertake to complete the following actions in connection with the closure of the ESF programme:

- in co-operation with the Certifying Authority and the Audit Authority, develop and circulate appropriate advice and guidance to enable the programme to be closed within the specified timescales;
- establish systems to identify and monitor all irregularities to ensure they are cleared within required timescales for closure;
- inform the national ESF monitoring committee of progress towards closure;
- provide the information and responses required by the Audit Authority to complete a closure declaration by the deadline of March 2017;

- submission of a final implementation report for the operational programme, including the information set out in Regulation 1086/2006 Article 67;
- ensure that all supporting documents regarding expenditure and audits in the operational programme are kept available for the Commission and Court of Auditors for a period of three years following closure as defined under Regulation 1086/2006 Article 89(3).

### *Partial closure*

The central Managing Authority will, if required, undertake action to implement the partial closure of the ESF programme.

Partial closure will relate to operations completed during the period up to 31 December of the previous year. For the purposes of this Regulation, an operation shall be deemed completed where the activities under it have been actually carried out and for which all expenditure by the beneficiaries and the corresponding public contribution has been paid.

Partial closure will be made on the condition that the Managing Authority sends the following to the Commission by 31 December of a given year:

- (a) a statement of expenditure relating to the operations referred to in paragraph 1;
- (b) a declaration for partial closure in accordance with Article 62(1) (d) (iii).

The central Managing Authority will retain all supporting documentation regarding expenditure and audits on the operational programme for a period of three years following the year in which partial closure took place.

## **3.40 Social partner joint actions in the Convergence Objective**

As required by the ESF Regulation, an appropriate amount of the ESF Convergence allocation will be available for social partner capacity-building activities, which can include training, networking measures, strengthening the social dialogue and activities jointly undertaken by the social partners. It is envisaged that this amount will be 2% of the ESF resources for Priority 5. This will enable social partners to contribute to the delivery of Convergence ESF activities and outcomes.

Joint actions with the social partners, particularly employers' organisations and trade unions, will be encouraged to ensure that this is achieved. These

are likely to include activities to provide better access to training and development in the local workforce, and the support and development of social enterprises. These activities will be delivered through Co-financing as specific tender specifications. Further information is set out in the Cornwall and Isles of Scilly ESF Framework and activities will be detailed in the LSC CFO Plan, including any differentiation of capacity building and joint activities.

### **3.41 Business Support Simplification**

The Government is committed through the Business Support Simplification Programme (BSSP) to reducing the number of publicly funded business support schemes by 2010. The majority of ESF provision in the England 2007-2013 programme is likely to be outside the scope of the BSSP because its prime focus is on supporting workless and low skilled individuals to enhance their employability rather than providing direct support to business.

However there will be some areas where ESF projects do provide direct support or seek to influence employers and people starting self-employment and where this is the case ESF provision must be consistent with the plans to simplify business support as set out in the 2007 Pre-budget Report. This confirmed Business Link as the primary gateway to publicly funded business support and announced a high-level summary of the broad areas where the Government believes there is a case for publicly funded intervention. The regional ESF frameworks are fully committed to ensuring that where ESF does provide direct support to business it is consistent with these principles.

Business Link is now the primary gateway to publicly funded business support, and acts as an independent source of information, diagnosis and brokerage for businesses. Most proactive engagement of business should be undertaken through the Business Link brand – any exceptions will need a clear business case. Government is committed to a single integrated brokerage service from April 2009, to include skills brokerage as a major component. This is essential to make it easy for business to engage with one clear access channel to public support. Funding proposals that encourage competition for clients with Business Link must be avoided. To ensure additionality any proposals for funding must demonstrate how they will work with and through Business Link.

There will be a portfolio which will define those business support products where there is a case for publicly funded interventions although this will not be finalised until 2008. ESF should not be supporting business support products or services that fall outside the scope of the portfolio, as these types of activity are unlikely to be justifiable on grounds of market failure or promoting equality and would be contrary to the aims of BSSP. In the interim, before committing funding it is essential that the relationship between ESF funded activity and any similar mainstream offers of support funded by the RDA is made clear.

This is to ensure that ESF projects offer genuine additionality and do not duplicate or displace mainstream activity.

To reduce customer confusion, any addition or enhancement to mainstream activity should also use the same branding as is already in existence. In particular the Business Link brand should be used for self employment activity – this can be discussed with RDAs.

The following eligible activities from the national ESF Operational Programme should be branded using the latest portfolio descriptions:

- For ESF activities that will provide advice and support for self-employment, business creation and social enterprise, the latest descriptions in the portfolio should be used as appropriate: 'Business Creation – helping to overcome barriers to setting up and growing a new business', and 'Local Community Business Coaching – helping hard to reach communities to start up in business';
- For ESF activities that will provide support to develop a skilled and adaptable workforce (including management and leadership activity), the latest description in the portfolio that should be used is: 'Skills Solutions for Business – helping businesses to improve the skills of their employees and individuals to improve their skills for business'.

The Managing Authority will continue to work with the Department for Business Enterprise & Regulatory Reform (BERR) so that BSSP can be built into future ESF programming documents. The business support landscape is complex and simplification will take full effect in 2010 and further guidance will be provided before ESF procurement for 2010-2013 activity commences.

### **3.42 State Aids**

State Aid rules aim to ensure fair competition and a single common market. Giving favoured treatment to some businesses would:

- harm business competitors;
- risk distorting the normal competitive market; and
- hinder the long-term competitiveness of the Community.

That is why the European Community founding Treaty generally forbids State-funded aid that would favour certain businesses or goods production. The State Aid rules contribute to the effective functioning of the Single Market and European Union economic reform in two key ways:

- they prevent State Aid that would seriously distort competition - thereby helping to achieve a fair market for businesses in all Member States;
- they allow State Aid that promotes economic development and other legitimate policy objectives, where this benefit outweighs any distortion of competition.

There is no precise definition of what constitutes a state aid. However there is a very clear statement of principle that any form of aid to a commercial undertaking – whether provided directly by the state or provided indirectly through ‘State resources’ – is incompatible with the Single Market 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. These organisations are only affected when they are involved in commercial activities or compete with commercial organisations.

For most of the 2007-2013 ESF programme the ESF and public match funding provided to providers in Priority will 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 for those elements of the programme in Priority 2 which provide support to individuals in employment there may be state aid implications because their employers are receiving support towards the costs of training. Where ESF supports individuals in employment to achieve full or part qualifications this may constitute an aid.

The new de minimis regulation covering the 2007-2013 programme enables an enterprise to receive up to €200,000 euros in aid (any public resources including ESF) over three fiscal years. Providing such aid is given within the de minimis rules there is no requirement to notify it to the Commission.

To ensure that the requirements of the de minimis regulation are met, scheme administrators must ensure that any award of ESF and other public match funding to an enterprise given under the terms of the de minimis block exemption does not breach the €200,000 (approximately £138,000 at € = 69p exchange rate) ceiling over three fiscal years. The managing authority is required to keep detailed records of any de minimus aid paid for 10 years. The new de minimis regulation:

- extends the scope of the regulation to marketing and processing of agricultural products with certain conditions and the transport sector (but not to road haulage operations for the acquisition of road freight transport vehicles).
- prohibits the cumulation of de minimis with other block exempted or notified aid schemes for the same costs, and;

- **increases the de minimis level from €100,000 to €200,000 except the road transport sector which remains at €100,000.**

Organisations using the de minimis rules must put in place a monitoring system to ensure the limit is not breached. 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;
- checking if previous de minimis aid is involved, to ensure that the combined assistance does not exceed €200,000 over any three-year rolling period. If the limit is breached, the aid may have to be reduced or refused to ensure the limit is not breached.

The BERR (Department for Business, Enterprise and Regulatory Reform) State Aid Branch advises writing to each recipient in the following terms:

“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/1998/2006. European Commission rules prohibit any undertaking from receiving more than €200,000 euros (approximately £138,000) ‘de minimis’ aid over a rolling three-year period. Any ‘de minimis’ aid granted over the €200,000 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.”

Whilst de minimis rules are straightforward in principle they are difficult and complex to operate in practice because they are not project related and as such rely on individual enterprises being able to identify how much aid and under which schemes they have received support over a rolling three-year period. Where enterprises have exhausted their aid ceilings under de minimis, there is no capacity for further aid through ESF.

The European Commission is developing a new block exemption which is expected to be adopted by June 2008. This will mean that the existing exemptions will be replaced by a ‘super’ block exemption regulation covering training, employment and small and medium sized enterprises.

The central Managing Authority will issue further guidance on using this block exemption in ESF supported programmes (if appropriate) when it is adopted. **Until then state aids in the 2007-2013 ESF programme must be dealt with using the de minimis rules.**

### 3.43 ESF MANAGING AUTHORITY ACTION CHECKLIST

This checklist provides a summary of the actions required of the Managing Authority and where appropriate, Intermediate Bodies, their frequency, regulatory basis and reference in the Managing Authority Manual.

<b>Managing Authority Action</b>	<b>Frequency</b>	<b>EC Regulation</b>	<b>Manual reference</b>
1. Adhering to principles of management and control	On-going	1083/2006 Article 58	3.2
2. Managing and implementing the ESF Programme	On-going	1083/2006 Article 60	3.3 & 3. 4
3. Delegating functions to Government Offices	2007-2010	1083/2006 Article 59(1a)	3.5
4. Delegating functions to the LDA (intermediate body)	2007-2010	1083/2006 Article 59(2)	3.6
5. Delegating functions to Gibraltar (intermediate body)	2007-2010	1083/2006 Article 59(2)	3.7
6. Monitoring Intermediate Bodies and Government Offices	2007-2013	1083/2006 Article 60	3.8
7. Description of systems, organisation & procedures of the Managing Authority	2007-2013	1083/2006 Article 71	3.9
8. Developing and reviewing regional ESF Framework documents	2007-2010 and annual	1083/2006 Article 60(a)	3.10
9. Allocating budgets	2007-2010	1083/2006 Article 60(a)	3.11

10. Allocating output and results targets and indicators	2007-2010	1083/2006 Article 60(a)	3.11
11. Devising and implementing CFO selection process	2007- 2013	1083/2006 Article 60(a)	3.12
12. Devising and implementing CFO Plan assessment process	2007-2010	1083/2006 Article 60(a)	3.12
13. Devising and implementing non-CFO selection procedures	2007-2010	1083/2006 Article 60(a)	3.13
14. Devising and implementing procedures to establish Community Grants	2008-2010	1083/2006 Article 60(a)	3.14
15. Monitoring and reporting on Community Grant activity	2008-2010	1083/2006 Article 60(a)	3.14
16. Devising, implementing and reporting on Technical Assistance arrangements	2007-2013	n/a	3.15
17. Devising and implementing delivery arrangements for innovation and transnational activity	2008-2010	1083/2006 Article 37 (7)  1081/2006 Articles 3.6 & 7	3.16
18. Monitoring and reporting on innovation and transnational activity	2008-2010	1083/2006 Article 37 (7)  1081/2006 Article 10.e	3.16

19. Promoting and mainstreaming gender equality and equal opportunities	2007-2013	1083/2006 Article 16  1081/2006 Article 6	3.17
20. Promoting and mainstreaming sustainable development	2007-2013	1083/2006 Article 17	3.17
21. Devising and implementing contract agreements	2007-2013	n/a	3.18
22. Devising and operating beneficiary payment procedures	2007-2013	n/a	3.19
23. Developing and operating claims procedures	2007-2013	n/a	3.20
24. Implementing procedures for handling irregularities and recoveries	2007-2013	1083/2006 Article 81(3)  2035/2005	3.21
25. Dealing with providers in liquidation	2007-2013	2035/2005	3.22
26. Dealing with suspected fraud	2007-2013	2035/2005	3.23
27. Obtaining participant level data from beneficiaries	2007-2013	n/a	3.24
28. Ensuring procedures are compliant with a) Data Protection Act	2007-2013	Data Protection Act 1998	3.25 & 3.26

29. Reporting on MI to national, regional monitoring committees and sub-committees	2008-2013	1083/2006 Articles 60(h) & 65 (b) (c)	3.28
30. Providing EC with participant data	2008-2013	1828/2006 Annex XXIII	3.24
31. Providing EC with cumulative data by category at OP level of allocation of funds to operations	2008-2013	1083/2006 Article 67.1.c  1828/2006 Article 11 and Annex II	3.27
32. Monitoring and reporting expenditure and targets	2008-2013	1083/2006 Article 60(a)	3.28
33. Adjusting targets in light of experience & operational conditions	2008-2013	1083/2006 Article 65(b) & (c)	3.28
34. Responding to Freedom of Information requests	2007-2013	Freedom of Information Act 2000	3.25
35. Verifying expenditure of operations	2008-2013	1083/2006 Article 60(b)	3.29
36. Commissioning independent evaluation strategy	2008-2013	1083/2006 Article 60(e)	3.30
37. Reporting evaluation outputs	2008-2013	1083/2006 Article 60(e)	3.30
38. Reviewing and updating evaluation strategy	annual	1083/2006 Article 60(e)	3.30

39. Issuing guidance on document retention including dates	2008	1083/2006 Article 60(f)  1828/2006 Article 15	3.31
40. Establishing systems centrally and regionally to store documentation	2008-2013	1083/2006 Article 60(f)	3.31
41. Providing the CA with all necessary information for certification purposes	2008-2013	1083/2006 Article 60(g)	3.34
42. Cooperating with ESF audits	2007-2013	1083/2006 Article 60(a)	3.32
43. Establishing ESF audit database	2008	1083/2006 Article 60(a)	3.32
44. Establishing and running ESF National Monitoring Committee	2007-2013	1083/2006 Articles 60(h) & 63 – 65	3.35
45. Establishing and running regional ESF sub-committees	2007-2013	1083/2006 Articles 60(h) & 63 – 65	3.35
46. Establishing and running four national sub-committees (evaluation, sustainable development, equal opportunities & innovation/transnationality)	2007-2013	1083/2006 Articles 60(h) & 63 - 65	3.35
47. Reporting on programme performance to the monitoring committees	2007-2013	1083/2006 Articles 60(h) & 66	3.35

48. Drafting and agreeing the Annual Implementation Report before submission to the Commission	annual	1083/2006 Articles 60(i) & 67	3.36
49. Drafting and agreeing the Final Implementation Report before submission to Commission	2017	1083/2006 Articles 60(i) & 67	3.36
50. Drafting and agreeing Communications Plan before submission to the Commission	2007	1083/2006 Articles 60(j ) & 69  1828/2006 Articles 2&3	3.37
51. Reporting on publicity to the monitoring committees and the annual implementation report	Tri-annual & annual	1083/2006 Articles 60(j), 69 & 67 (2) point (e)  1828/2006 Article 4	3.37
52. Disseminating information about ESF	2007-2013	1083/2006 Articles 60(j), 69 & 7(2) point(d)  1828/2006 Articles 5-9	3.37
53. Implementing key information and publicity measures	2007-2013	1083/2006 Articles 60(j) & 69  1828/2006 Articles 5-9	3.37

54. Publishing list of beneficiaries on ESF web site	2008 (updated quarterly)	1083/2006 Articles 60(j) & 69  1828/2006 Article 7.2.d	3.37
55. Assessing any proposals to use ESF on ERDF type activity	As required	1083/2006 Article 34(2)	3.38
56. Monitoring social partner joint actions in the Convergence objective	2008-2013	1081/2006 Article 5.3	3.40
57. Advising, implementing and reporting on Partial Closure	2008-2013	1083/2006 Article 88	3.39
58. Advising, implementing and reporting on full Programme Closure	2008-2017	1083/2006 Articles 89 & 90	3.39
57. Working with BERR to implement Business Support Simplification	2007-2013	n/a	3.41
60. Issuing guidance and providing advice on State Aids issues	2007-2013	1998/2006 Articles 87 & 88	3.42