

REPORT TO: AUDIT SUB-COMMITTEE 24 SEPTEMBER 2001
REPORT ON: DUNDEE CITY COUNCIL'S GUIDANCE ON FUNDING
EXTERNAL BODIES AND FOLLOWING THE PUBLIC POUND
REPORT BY: DIRECTOR OF FINANCE
REPORT NO: 833-2001

ITEM 3



GUIDANCE ON FUNDING EXTERNAL BODIES AND
FOLLOWING THE PUBLIC POUND

Contents

Page

Introduction	1
1 Overview of Principles of Best Practice	1
2 Areas to be considered for inclusion within a formal agreement with an External Body	2
3 Reporting Funding Arrangements to Committee	4
4 Finance Department Monitoring Arrangements	5
5 Roles & Responsibilities of Council Elected Members and Officers	5

Appendix

A	Proforma for details of Bodies/Projects falling within the scope of funding External Bodies and following the Public Pound
B	Summary of insurance details for bodies/projects falling within the scope of funding External Bodies and following the Public Pound (position as at April 2000)

Introduction

For a number of years there have been concerns about the increasing use by Councils of companies, trusts and other arms-length bodies. These concerns are derived from the basic premise that where public funds are utilised there is an expectation of a high degree of control and accountability.

In order to address this matter, the Accounts Commission and COSLA drafted a Code of Guidance on Funding External Bodies and Following the Public Pound. In this guidance the approach adopted is based on self regulation by Councils and monitoring through the external audit process. The guidance lays out the principles of best practice in establishing relationships with companies, trusts and other bodies where there is a substantial funding relationship with the Council.

It is, however, recognised by the Accounts Commission and COSLA that it will be for each Council to address the issues which are dealt with in the Code in light of its own particular circumstances. This procedural guidance has therefore been drafted to reflect the operation of Funding External Bodies and Following the Public Pound by Dundee City Council.

1 **Overview of Principles of Best Practice**

The Accounts Commission/COSLA Code of Guidance on Funding External Bodies and following the Public Pound outlined certain key requirements. The five main areas are summarised below:

- i To identify all arrangements where a substantial funding relationship exists. In broad terms this is considered to be the case where:
 - a Council expenditure is equal to the product of at least £1 on the Council Tax. For the City Council in the 2000/01 financial year this represents funding of £45,000 or greater; and/or
 - b The Council's financial contribution represents 30% or more of the organisation's funding.

Note: When interpreting "substantial", regard should be taken of the significance of the funding in relation to the Department's budget and its significance in relation to the budget of the external body. The term funding is intended to include all resources which the Council transfers to the body. The Code does not apply to straightforward contractual relationships.
- ii To determine the areas to be included in the specification when a financial commitment is entered into.
- iii To determine the monitoring arrangements required for each body where there is a significant funding relationship. In practice the detailed requirements will vary depending on the level of contribution. However, certain basic elements will be common to all.
- iv To report to the appropriate Council Committee on an annual basis covering such areas as financial and performance information.
- v To give proper advice to members and officers involved in external bodies on their responsibilities to the Council and to the body.

2 **Areas to be considered for inclusion within a formal agreement with an External Body**

A formal agreement should be entered into with each body where there is deemed to be a substantial funding relationship. In drafting this document consideration must be given to various aspects of the arrangement to ensure that all relevant areas are covered. The headings below

summarise the key themes which should be included along with examples of the types of areas to be covered.

i Expectation of the use of funding

- General statement of aims and goals of the body
- Annual plans of the body
- Targets, including timescales which require to be achieved by the body
- Any specific conditions and/or reporting requirements

ii Council Representation of Elected Members and Officers

- Level of representation from the Council ie Elected Members and/or Officers
- Name, designation/status within the body eg A Smith, Director of the Board

iii Financial regime

- Extent of financial commitment by the Council
- Nature of financial relationship eg loan, grant, shareholding
- Criteria for making and receiving payments
- Details of any transfer of assets and destination of such assets
- Accounting and reporting procedures to be adopted
- Council policies to be adhered to by the body eg purchasing policy
- Council's exit strategy
- The Council's criteria and arrangements for terminating the funding agreement with the body

iv Accounting, reporting and audit requirements

- Minimum standard of management arrangements and accounts required by the Council
- Responsibility and accountability of the Management Committee of the body
- Access to records and accounts of the body by Council representatives
- Access to records and accounts of the body by Council's External Auditors
- Arrangements for accessing the External Auditor of the body

v Financial and performance monitoring requirements

- Proposed methods of measurement
- Frequency of monitoring reports to the Council on such areas as income, expenditure, profitability, liquidity and other financial matters
- Reporting of achievement of targets by the body
- Details of the annual budget and comparison with actual spend
- Methodology of the reporting of future plans of the body
- Notification to the Council of criteria which may trigger a review eg change of lead personnel in the external body.
- Details of the reporting requirements for Council Committees

Note: A Council Officer who is designated to act in a supervisory or monitoring role or assigned a similar capacity should be briefed on their responsibility and of the relevant monitoring procedures.

vi Expectation in terms of employment and other practices

- Policy regarding Equal Opportunities
- Recruitment and Selection Policies and Procedures
- Policies regarding Conditions of Employment.

vii **Other practices**

- Any other relevant information, eg insurance arrangements.

viii **Complaints**

- Procedures for the Council to obtain information in respect of complaints made to the body.

viii **Local Agenda 21**

- Agreement to support the Council's Local Agenda 21 Strategy.

3 **Reporting Funding Arrangements to Committee**

- i Where a new funding arrangement is entered into, a report may be required to be submitted to the relevant committee for approval. This report should provide a summary of the proposed agreement including details of the reason for the funding, value, accountability and monitoring procedures. Below are summarised the criteria to be applied to decide whether or not the funding arrangement has to be reported to Committee:

Assessment of Arrangement	Reporting Requirements
Falls within the definition of substantial funding arrangement (Refer 1i)	Requires to be reported
Does not fall within the definition of substantial funding arrangement	Report optional. As part of the decision whether or not to report consideration should be given to the possible impact of the funding on the Council
Funding £5,000 or less	No report required

Notes: a) If there is uncertainty as to whether or not to report a funding arrangement, advice should be sought from the Director of Finance.

b) A copy of the finalised Committee Reports should be forwarded, for information, to Rod McKay, Principal Accountant (Best Value/Performance Review).

c) A report for funding arrangements entered into prior to the implementation of these procedures is not required. However, all such funding arrangements must continue to be monitored in accordance with the foregoing guidance.

- ii An Annual Report should be prepared and submitted to the appropriate Committee detailing financial and performance information relating to bodies which are being substantially funded by the Council. The timing of such reports will vary depending on each body's financial year end, but should take place after audited accounts are available. In order to minimise the delay in this process every effort should be made to ensure audited accounts are received timeously.

4 **Finance Department Monitoring Arrangements**

Below are outlined the monitoring arrangements which are to be undertaken by the Finance Department.

- i A pro-forma detailing the previous years arrangements will be issued as part of the Council's annual budget cycle. The purpose of this exercise is to update the information held to reflect the current arrangements which require to be monitored. Attached in Appendix A is a copy of the pro-forma and guidance notes on the completion of the pro-forma.
- ii If any significant events, which may affect funding arrangements, occur during the financial year, these must be formally notified immediately to Rod McKay, Principal Accountant (Best Value/Performance Review).
- iii As part of the City Council's Internal Audit Strategic Plan such arrangements will be included and will be subject to periodic review.

5 **Roles & Responsibilities of Council Elected Members and Officers**

It is essential that proper advice, particularly in relation to legal and insurance requirements, should be given to Elected Members and Council officers who are involved in external bodies regarding their responsibilities to the Council and to the body. Such advice is critical because the legal duties owed by members or officers to the outside bodies they may sit on can obviously give rise to confusion of roles, conflicts of interests and place additional difficult obligations on them.

Detailed below is the guidance which has been prepared by the City Council for such representatives. Clarification of specific queries regarding roles and responsibilities should be sought from the appropriate department.

The insurance cover available to members and officers involved in external bodies via the Council's own insurance cover, reflects the legal position as far as the ability of Councils to provide indemnities to such members and officers. Legal opinion appears agreed that authorities can provide an indemnity to individual members and employees in limited circumstances only. Those circumstances are:

- i Where an individual acts solely on behalf of his or her authority, within the terms of reference laid down by the authority and solely in pursuance of the local authority's statutory powers.
- ii Where an individual acts solely in an advisory capacity in connection with the local authority's functions.
- iii Where the individual occupies an observational role on the board or committee of an outside organisation, representing the local authority's interests (rather than in a decision-making capacity).
- iv Where the individual acts on behalf of a joint committee established by two or more local authorities.

Accordingly, the Council's official indemnity policy covers elected members or officers when they act in a purely advisory capacity in connection with the Council's functions on outside bodies' board/committee meetings.

Where the individual acts in a decision-making/executive capacity or in any respects outside the four categories specified above, no Council cover would be in place and the external organisation would have the responsibility for ensuring appropriate insurance for all of their activities exist. Accordingly, those officers and members who are appointed to outside bodies as Directors, trustees, office bearers, etc should make sure that appropriate insurance cover is in place and should ask to see the policy documents.

This is important because the potential for civil or even criminal liability that flow from sitting on outside bodies as "Council representatives" is great. Should those bodies be companies, limited or otherwise, then the Companies Acts impose legal obligations. Directors also owe fiduciary duties to

the company itself, they have a duty to disclose personal interests and a duty to exercise care and skill in their dealings with company matters as a whole and particularly where third parties are involved. Should the company find itself trading while insolvent, then the potential liabilities of directors are very considerable indeed. Representatives on bodies which are not companies such as Trusts or Management Committees of voluntary organisations also have responsibilities which, although not so precise, are nonetheless extensive and could lead to substantial claims being made against them.

For information, the Finance Department's Insurance and Risk Management Section maintain a database of the relevant organisations' insurance details. The position as at May 2000 is detailed in Appendix B. Clearly this is the position at a particular point in time and may be subject to amendment in the future. Further guidance for individual members or officers can be sought from Graeme Mackenzie, Principal Insurance and Risk Management Officer (extension 3301).

SMD/RMK/HG
12-Mar-02
Intaud/FPP-GUID



FUNDING EXTERNAL BODIES AND FOLLOWING THE PUBLIC POUND

DEPARTMENT: _____

DEPARTMENTAL CONTACT:

FINANCIAL YEAR:

Body/Project	Council Funding			Legal Constitution	Representatives/ Observers	Monitoring Arrangements			Other Comments
	£	As a % of Total Funding	Type			Audited Accounts		Other	
						Available	Reviewed		

GUIDANCE NOTES ON COMPLETION OF PRO-FORMA

<u>Body/Project</u>	Name of body/project
<u>Council Funding</u>	
£	Monetary amount of Council Funding
As a % of Total Funding	Council contribution expressed as a percentage of total funding of body/project
Type	Categorisation of funding provided by Council eg Revenue Grant, Capital Grant, in kind support, Loans, Service Agreement
<u>Legal Constitution</u>	Classification of legal constitution eg Company Limited by Guarantee, Registered Charity, Statutory Body, Trust
<u>Representatives on Body</u>	Name of representative and position/role eg Councillor Smith, Director A N Other, Monitoring Officer A Jones, Lead Officer
<u>Monitoring Arrangements</u>	
Audited Accounts	Position regarding audited accounts ie whether or not they are made available and reviewed
Other	Details of other monitoring arrangements pertaining to the project eg under review, monthly management meetings, monthly statistics, attend board meetings, service level agreement
<u>Other Comments</u>	Details of any other specific parts of relevance with regard to the body/project eg partnership with SET and Chamber of Commerce

SMDRMK/HG/12-Mar-02/Intaud/FPP-APP.A

APPENDIX B

FUNDING EXTERNAL BODIES AND FOLLOWING THE PUBLIC POUND SUMMARY OF INSURANCE DETAILS - POSITION AS AT MAY 2000

Note: This schedule represents the position as at May 2000. This information is, however, updated on an ongoing basis. Specific queries by members or officers should be addressed to Graeme Mackenzie, Principal Insurance and Risk Management Officer (extension 3301).

Key: EL Employer's Liability
PL Public Liability
PI Professional Indemnity
D + O Directors and Officers Indemnity
OI Officers Indemnity

Name of Organisation	EL	PL	PI	D + O	OI	Legal Status	Renewal Date	Comments
Alzheimer's Scotland								
Anton House	10m	2m				Charitable Limited Company	Apr 2000 Requested	Liability of members limited to £1 by Articles of Association
Angus & Dundee Tourist Board	10m	5m	250,000	250,000		Statutory	Apr 2000 Requested	
Ardler Information Project								
Barnardo's Family Support Team								
Bield								
Business Shop				1m		Limited Company	Apr 2000 Requested	
Capability Scotland								
Carolina House Trust	10m	2m		1m		Charitable Trust	EL PL D+O April 2000 Requested	
Children First								
Citizens Advice Bureau	10m	2m	3m			Charitable Ltd Co limited by guarantee	Dec 2000	
City of Dundee Sports Council		2m				Voluntary Association	Apr 2001	
Claverhouse Group	10m	2.5m				Charitable Ltd Co limited by guarantee	Apr 2000 Requested	
COSLA Forums and Partnership Organisations						Voluntary Associations of Statutory Bodies		

APPENDIX B (Contd)

Name of Organisation	EL	PL	PI	D + O	OI	Legal Status	Renewal Date	Comments
Crossroads								
Dovetail Enterprises	10m	5m		1m		Charitable Trust Co limited by guarantee	April 2000 Requested	
Dundee & Angus Oil Venture Group	10m	2m				Unincorporated Association	Oct 2000	Partners SET, Angus Council and Others
Dundee Association for Mental Health (Befriending)								
Dundee Association of Youth Clubs						Charitable Organisation	Sept 2000	
Dundee Comfort and Support Centre - RSI								Advisory capacity only
Dundee Contemporary Arts Ltd	10m	2m	1m				Apr 2001	
Dundee Cyrenians	10m	2m				Limited Company Charity	Apr 2001	
Dundee Festival Trust								
Dundee Science Centre								
Dundee Homestart								
Dundee Ice Arena Ltd				1m			April 2001	
Dundee Advocacy Service								
Dundee Industrial Heritage Ltd Part of Dundee Heritage Trust	10m	5m				Charitable Ltd Co	Oct 2000	
Dundee International Women's Centre						Voluntary Association	Unable to get info	
Dundee Repertory Theatre Board	10m	5m		500,000		Limited Company	Apr 2000 Requested	
Dundee Sitter Service								
Dundee Society for the Visually Impaired	10m	1m				Limited Company	Apr 2000 Requested	

APPENDIX B (Contd)

Name of Organisation	EL	PL	PI	D + O	OI	Legal Status	Renewal Date	Comments
Dundee Sports Association for the Disabled		2m				Voluntary Association	Apr 2001	No insurance Low risk activity Affiliated to National Organisations cover
Dundee Survival Group	10m	2m				Limited Company Charity	March 2001	
Dundee Voluntary Action	10m	2m				University Charitable Company limited by guarantee	Nov 2000	
Dundee Vocational Training Initiative	10m	1m	1m	Trustee Indemnity 250,000			Sept 2000	
Dundee Women's Aid	10m	5m				Limited Company Charity	April 2001	
Equality Action (including Tayside Racial Equality Council)						Limited Company		Advisory capacity only
Grey Lodge Settlement						Charitable Voluntary Association		Advisory capacity only
Jean Drummond Centre								
Mid Craigie Parish Church								
National Schizophrenic Society								
NCH Action for Children Dundee Stopover						Limited Company Charity		Advisory capacity only
Nuclear Free Local Authorities						Voluntary Association of Statutory Bodies		Joint Committee. No separate status in law from participating authorities

APPENDIX B (Contd)

Name of Organisation	EL	PL	PI	D + O	OI	Legal Status	Renewal Date	Comments
Ogilvie Centre								
One Parent Families Scotland								
Parent to Parent								
Personal Assistance Scheme								
Princess Royal Trust								
Royal Scottish National Orchestra Society	27m	5m		500,000			Apr 2000 Requested	
Scottish Association for Mental Health								
Scottish Local Government Information Unit								Joint Local Authority
Scottish Pre School Play Association						Registered Charity		Subject to Council Pre-School Provision Review
Shopmobility								
Tayside - Charente Twinning Association	10m	10m					Apr 2000 Requested	
Tayside Association for the Deaf	10m	5m				Voluntary Association	Jan 2001	
Tayside Council on Alcohol						Voluntary Association		Advisory capacity only
Urban Programme/PPA/SIPS (Various)								
Whitfield Activity Complex	5m	5m				Registered Charity	Sept 2000	
Wishart Centre								
Women's Forum Scotland						Charitable Voluntary Association		No insurance Low risk activity
WRVS								