



Llywodraeth Cymru
Welsh Government

GUIDANCE

Wales Cultural Recovery and Reconstruction Fund

Scheme SC10245 is a UK-only scheme and cannot be used to provide cover for awards of EU funds.

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Schedule 2

1. Region

Wales

2. Title of aid scheme

Wales Cultural Recovery and Reconstruction Fund

3. UK legal basis

Powers of the Welsh Ministers which allow the Welsh Government to support enterprises under the scheme are contained in:

- The Welsh Development Agency Act 1975 (section 1) (as amended)
- The Housing Grants, Construction and Regeneration Act 1996 (section 126)
- The Industrial Development Act 1982 (section 7), and
- The Government of Wales Act 2006 (sections 58A, 60 70 and 71(1))

All subsidies provided under this scheme must comply with the **UK subsidy control regime** and limits set out in the attached subsidy schedules below align with current EU thresholds to ensure compliance with the TCA. Any subsidies that exceed the specified limit must seek further approval.

All aid under the 'Temporary Framework for State Aid Measures to Support the Economy in the Current COVID-19 Outbreak' must comply with the rules specified in the Temporary Framework.

Full version of the temporary framework on the European Commission website.

4. Definitions

Date of granting of the aid

Means the date when the legal right to receive the aid is conferred on the beneficiary under the applicable national legal regime.

Large enterprise

Means any enterprise that is not an SME (as defined below).

Operating profit

Means the difference between the discounted revenues and the discounted operating costs over the economic lifetime of the investment, where this difference is positive. The operating costs include costs such as personnel costs, materials, contracted services, communications, energy, maintenance, rent, administration, but exclude depreciation charges and the costs of financing if these have been covered by investment aid. Discounting revenues and operating costs using an appropriate discount rate allows a reasonable profit to be made.

Reasonable profit

Shall be determined with respect to the typical profit for the sector concerned. In any event, a rate of return on capital that does not exceed the relevant swap rate plus a premium of 100 basis points will be considered to be reasonable.

Repayable advance

Means a loan for a project which is paid in one or more instalments and the conditions for the reimbursement of which depend on the outcome of the project.

Small and medium-sized enterprises

Means an enterprise that meets the following criteria:

- The category of micro, small and medium-sized enterprises ('SMEs') is made up of enterprises which employ fewer than 250 persons and which have an annual turnover not exceeding EUR 50 million, and/or an annual balance sheet total not exceeding EUR 43 million
- Within the SME category, a small enterprise is defined as an enterprise which employs fewer than 50 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 10 million
- Within the SME category, a micro-enterprise is defined as an enterprise which employs fewer than 10 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 2 million.

Start of works

Means the earlier of either the start of construction works relating to the investment, or the first legally binding commitment to order equipment or any other commitment that makes the investment irreversible. Buying land and preparatory works such as obtaining permits and conducting feasibility studies are not considered start of works. For take-overs 'start of works' means the moment of acquiring assets directly linked to the acquired establishment.

Subsidy

There are 4 key characteristics of a support measure that are likely to indicate that it would be considered a subsidy:

- Firstly, a subsidy must constitute a financial (or in kind) contribution such as a grant, loan or guarantee.
- In addition, the financial contribution must be provided by a 'public authority', including, but not limited to, central, devolved, regional or local government.
- Thirdly, the award of the subsidy must also confer a selective benefit on the recipient in the sense of an economic advantage that is not available on market terms.
- Finally, the subsidy must cause a distortion in or harm to competition, trade or investment.

Subsidy intensity

Means the gross aid amount expressed as a percentage of the eligible costs, before any deduction of tax or other charge.

Undertaking in difficulty

Means an undertaking in respect of which at least one of the following circumstances occurs:

- a. In the case of a limited liability company (other than an SME that has been in existence for less than three years or, for the purposes of eligibility for risk finance aid, an SME within 7 years from its first commercial sale that qualifies for risk finance investments following due diligence by the selected financial intermediary), where more than half of its subscribed share capital

has disappeared as a result of accumulated losses. This is the case when deduction of accumulated losses from reserves (and all other elements generally considered as part of the own funds of the company) leads to a negative cumulative amount that exceeds half of the subscribed share capital.

- b. In the case of a company where at least some members have unlimited liability for the debt of the company (other than an SME that has been in existence for less than three years or, for the purposes of eligibility for risk finance aid, an SME within 7 years from its first commercial sale that qualifies for risk finance investments following due diligence by the selected financial intermediary), where more than half of its capital as shown in the company accounts has disappeared as a result of accumulated losses. For the purposes of this provision, "a company where at least some members have unlimited liability for the debt of the company" refers in particular to the following types of company:
 - partnerships
 - limited partnerships, and
 - unlimited companies
- c. Where the undertaking is subject to collective insolvency proceedings or fulfils the criteria under its domestic law for being placed in collective insolvency proceedings at the request of its creditors.
- d. Where the undertaking has received rescue aid and has not yet reimbursed the loan or terminated the guarantee, or has received restructuring aid and is still subject to a restructuring plan.
- e. In the case of an undertaking that is not an SME, where, for the past 2 years:
 - 1. the undertaking's book debt to equity ratio has been greater than 7,5 and
 - 2. the undertaking's EBITDA interest coverage ratio has been below 1,0.

5. Objective of the scheme

To help protect sustainable organisations and protect jobs in the culture sector

to ensure its survival during the COVID-19 crisis. Enabling it to remain vibrant, viable and sustainable in 2021.

The scheme intends to support transformational change within the sector. This scheme will also support a rescue and recovery package aligning on a policy basis with the terms and conditions of the EU Temporary Framework to support the economy in the context of the COVID-19 outbreak in a separate schedule.

6. Government body authorised to implement the scheme

Welsh Government

7. Scope of the scheme

The scheme will be open to the following cultural and heritage infrastructures:

- music venues
- heritage organisations and sites
- museums
- archives
- libraries
- independent cinemas, and
- events of a cultural or heritage nature.

Aid will not be given where the proposed recipient is:

- Subject to an outstanding order for the recovery of subsidy granted in the UK which has been declared to be illegal subsidy, or

- For subsidy provided under schedule 1; where aid is granted to an undertaking in difficulty (see definition) prior to 31 December 2019 unless they are a small or micro-enterprise that has not received rescue and restructuring aid
- For subsidy provided under schedule 2; where aid is granted to an undertaking in difficulty (see definition).

8. Duration of the scheme

Support under this scheme may be granted between 1st January 2021 and 31st January 2022.

9. Budget for aid under the scheme

Although there is no defined budget for aid under this scheme, it has been estimated that the total expenditure from 1st January 2021 to 31st December 2021 will be in the region of £30 million.

10. Form of support

All subsidy awarded under the scheme will be transparent. Aid may be awarded by way of grants.

11. Eligible activities to be supported under the scheme

The scheme supports culture and heritage conservation activities where the funding is deemed to be a subsidy.

Detailed descriptions of the eligible activities that are intended to remedy a serious disturbance in the economy are set out in Schedule 1.

Detailed descriptions of the eligible activities that are intended to support the conservation of culture and heritage through transformational change are set out in Schedule 2.

Where it is not possible to provide support for eligible recipients accordingly, small amounts of financial assistance may be awarded in line with Article 3.2 paragraph 4 of the UK-EU Trade and Cooperation Agreement.

12. Incentive effect

The subsidy is designed to bring about a change of economic behaviour of the beneficiary. This principle will be considered to be met where the aid meets all the conditions set down in either the **UK's subsidy control regime** or the EU Temporary Framework to support the economy in the context of the COVID-19 outbreak.

13. Cumulation

In determining whether the individual intensity thresholds and the maximum

subsidy intensities are respected, the total amount of public support for the aided activity or project shall be taken into account, regardless of whether that support is financed from local, regional, national or European Union sources.

Subsidy provided under this scheme will not be cumulated with other forms of aid or with aid classed as 'small amounts of aid' in regard to the same eligible costs if the result would breach the applicable aid intensities.

A mechanism is in place as part of the application process to ensure that cumulation of aid does not exceed the maximum allowable intensities of the scheme. Due diligence checks will be carried out during the awarding process.

Where the subsidy is awarded in alignment with the EU Temporary Framework to support the economy in the context of the COVID-19 outbreak a maximum of £1,600,000 may be awarded, taking into account any other subsidy deriving from the EU Temporary Framework that has previously been received by the applicant.

14. Monitoring and reporting requirements

All recipients of subsidy under the scheme will be informed that aid has been provided under the scheme, registered under SC10245, 'Welsh Cultural Recovery & Reconstruction Fund' or the EU Temporary Framework to support the economy in the context of the COVID-19 outbreak.

Records will be kept for 10 years from the date of the last award of subsidy under the scheme. Records will be sufficiently detailed to establish that the conditions of the scheme are met.

Details of any award exceeding £500,000 given under this scheme will be made publicly available via The UK Subsidy Transparency Database website within 6

months of granting.

Annual or biennial reports on expenditure under this Scheme will be published in order to comply with the UK's international subsidy commitments.

In line with the UK's commitments under the UK-EU Trade and Cooperation Agreement, the Welsh Government shall provide interested parties with all the information and documentation considered necessary to demonstrate compliance with the UK subsidy control regime within one month of such a request being made.

Contact information:

State Aid Policy Unit
Welsh Government
Cathays Park
Cardiff CF10 3NQ
United Kingdom
Tel: + 44 (0)3000 253568
E-mail: state.aid@gov.wales

Schedule 1: Cultural Recovery Subsidies intended to remedy a serious disturbance in the economy

The Cultural Recovery Fund will help support and sustain the sector due to the ongoing challenges resulting from the Covid-19 pandemic. The fund is intended to provide essential support to organisations in the sector, including music venues, heritage sites, museums, archives, libraries, events and their technical support services (as defined below), and independent cinemas who have all seen a dramatic loss of revenue due to the pandemic. The fund will help to

support organisations to overcome the crisis. Whilst this is primarily a rescue and recovery package it presents a unique opportunity to deliver transformational change within the sector.

Creative Technical and Support Services whose main business (more than 60%) is in the provision of core services to the following sectors:

- Events (cultural, sporting or business events which are aligned with our Event Wales strategy, as defined in the eligibility criteria at para/page x of this Guidance)
- Independent Cinemas
- Arts Sector (music, dance, theatre, literature, visual and applied arts, combined arts, Digital Art)
- Grassroots Music Venues

Businesses must be operating or employing in Wales and had a significant fall in turnover in the last 12 months. Businesses should be able to demonstrate a track record of delivering for these sectors within the last 3 years.

Businesses under the following headings can apply:

- Sound
- Lighting
- AV, film or photography
- Staging or Production services
- Staging equipment hire and installation
- Accreditation/ticketing solutions (e.g. wristbands)
- Temporary utilities e.g. electricity/power generators
- Specialist IT services (e.g. event apps, sports timing or caption services for the deaf)
- Exhibition/stand designers and installers (for business events only)
- Entertainment agents/agencies providing artists (to eligible events, music venues or professional ACW disciplines)

The following businesses would not be eligible for support:

- Marketing/PR agencies
- Print, design and event branding/dressing
- Signage manufacturers/installers
- Medal/trophy makers
- Individual artists, entertainers, bands (these should apply via the Freelancer Fund)
- Merchandise manufacturers/retailers
- Food and drink suppliers/retailers and catering companies
- Event transport (e.g. park + ride services)/parking

A. Cultural Recovery Business Grant Allowance

Support aligning with the EU 'Temporary Framework for State Aid Measures to Support the Economy in the Current COVID-19 Outbreak' may be paid in compliance with the Principles set out in Article 3.4 of the TCA and in compliance with Article 3.2(3) of the TCA under the COVID-19 Business Grant Allowance (subsidies granted on a temporary basis to respond to a national or global economic emergency).

The maximum allowable support is £1,600,000 per undertaking. This allowance includes any grants previously received under a UK COVID-19 business grant schemes and any State aid previously received under Section 3.1 of the European Commission's Temporary Framework across any other UK scheme.

B. Cultural Recovery Business Grant Special Allowance

Where an applicant has reached its limit under the Schedule 1A Cultural Recovery Business Grant Allowance, it may be able to access a further allowance of funding under these scheme rules of up to £9,000,000 per single

economic actor, provided the following conditions are met:

- i. The Special Allowance covers only the applicant's uncovered fixed costs incurred during the period between 1 March 2020 and 31 March 2022, including such costs incurred in any part of that period ('eligible period')
- ii. Applicants must demonstrate a significant decline in turnover during the eligible period compared to the same period in 2019. The calculation of losses will be based on audited accounts or official statutory accounts filed at Companies House, or approved accounts submitted to HMRC which includes information on the applicant's profit and loss
- iii. 'Uncovered fixed costs' means fixed costs not otherwise covered by profit, insurance or other subsidies
- iv. The grant payment must not exceed 70% of the applicant's uncovered fixed costs, except for micro and small enterprises (for the purposes of this scheme defined as less than 50 employees and less than £9,000,000 of annual turnover and/or annual balance sheet), where the grant payment must not exceed 90% of the uncovered fixed costs
- v. Grant payments under this allowance must not exceed £9,000,000 per single economic actor. This allowance includes any grants previously received in accordance with Section 3.12 of the European Commission's Temporary Framework; all figures used must be gross, that is, before any deduction of tax or other charge
- vi. Grants provided under this allowance shall not be cumulated with other subsidies for the same costs.

Schedule 2: Cultural Reconstruction Subsidies intended to support the conservation of culture and heritage through transformational change

Aid can be granted for the following cultural purposes and activities:

- i. Museums, archives, libraries, artistic and cultural centres or spaces, theatres, cinemas, opera houses, concert halls, other live performance organisations, film heritage institutions and other similar artistic and cultural infrastructures, organisations and institutions
- ii. Tangible heritage including all forms of movable or immovable cultural heritage and archaeological sites, monuments, historical sites and buildings; natural heritage linked to cultural heritage or if formally recognised as cultural or natural heritage by the competent public authorities of a Member State
- iii. Intangible heritage in any form, including folklorist customs and crafts
- iv. Art or cultural events and performances, festivals, exhibitions and other similar cultural activities
- v. Cultural and artistic education activities as well as promotion of the understanding of the importance of protection and promotion of the diversity of cultural expressions through educational and greater public awareness programs, including with the use of new technologies
- vi. Writing, editing, production, distribution, digitisation and publishing of music and literature, including translations.

Eligible forms of aid

The following forms of aid will be granted:

- Investment aid, including aid for the construction or upgrade of culture infrastructure
- Operating aid.

Eligible costs

Eligible costs for investment aid include:

- costs for the construction, upgrade, acquisition, conservation or improvement of infrastructure, if at least 80% of either the time or the space capacity per year is used for cultural purposes
- costs, including leasing, transfer of possession or physical relocation of cultural heritage
- costs for safeguarding, preservation, restoration and rehabilitation of tangible and intangible cultural heritage, including extra costs for storage under appropriate conditions, special tools, materials and costs for documentation, research, digitalisation and publication
- costs for improving the accessibility of cultural heritage to the public, including costs for digitisation and other new technologies, costs to improve accessibility for persons with special needs (in particular, ramps and lifts for disabled persons, braille indications and hands-on exhibits in museums) and for promoting cultural diversity with respect to presentations, programmes and visitors
- costs for cultural projects and activities, cooperation and exchange programmes and grants including costs for selection procedures, costs for promotion and costs incurred directly as a result of the project.

The eligible costs for operating aid are:

- the cultural institution's or heritage site's costs linked to continuous or periodic activities including exhibitions, performances and events and similar cultural activities that occur in the ordinary course of business
- costs of cultural and artistic education activities as well as promotion of the understanding of the importance of protection and promotion of diversity of cultural expressions through educational and greater public awareness programs, including with the use of new technologies
- costs of the improvement of public access to the cultural institution or heritage sites and activities including costs of digitisation and of use of new technologies as well as costs of improving accessibility for persons with disabilities
- operating costs directly or staff costs relating to the cultural project or

activity, such as rent or lease of real estate and cultural venues, travel expenses, materials and supplies directly related to the cultural project or activity, architectural structures for exhibitions and stage sets, loan, lease and depreciation of tools, software and equipment, costs for access rights to copyright works and other related intellectual property rights protected contents, costs for promotion and costs incurred directly as a result of the project or activity: depreciation charges and the costs of financing are only eligible if they have not been covered by investment aid.

- costs for personnel working for the cultural institution or heritage site or for a project
- Costs for publishing music and literature are the cost of publishing of music and literature, including the authors' fees (copyright costs), translators' fees, editors fees, other editorial costs (proofreading, correcting, reviewing), layout and pre-press costs and printing or e-publication costs.
- costs for advisory and support services provided by outside consultants and service providers, incurred directly as a result of the project.

Aid intensities applicable

- i. Investment aid – the aid amount shall not exceed the difference between the eligible costs and the operating profit of the investment. The operating profit shall be deducted from the eligible costs ex-ante, on the basis of reasonable projections, or through a claw-back mechanism. The operator of the infrastructure is allowed to keep a reasonable profit over the relevant period.
- ii. Operating aid – the aid amount shall not exceed what is necessary to cover operating losses and a reasonable profit over the relevant period. This shall be ensured ex ante, on the basis of reasonable projections, or through a claw-back mechanism.
- iii. Where the total amount of aid does not exceed £1.75 million for investment aid and operating aid, up to 80% of total eligible costs can be supported without taking account of the difference between eligible costs and operating

profit or operating losses.

- iv. For the writing, editing, production, distribution, digitisation and publishing of music and literature, including translations, the maximum aid amount shall not exceed either:
 - a. the difference between the eligible costs and the project's discounted revenues, or
 - b. 70% of the eligible costs.

The revenues shall be deducted from the eligible costs ex ante or through a clawback mechanism.

- v. Aid to press and magazines, published in print or electronically published, shall not be eligible to receive support under this scheme.

Individual notification thresholds

The maximum support that can be provided under this scheme is identified in the table below. Any grant award exceeding these levels will be awarded on an ad hoc basis and will respect the Transparency requirements of ad hoc awards under the UK subsidy control regime accordingly.

Type of support	Notification threshold (£)
Investment Aid	£130 million per project
Operating Aid	£65 million per undertaking, per year

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